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Before the Earth is Hollow: The Case of Land and Oil on the Fort Berthold Indian Reservation

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Before the Earth is Hollow:
The Case of Land and Oil on the Fort Berthold Indian Reservation

Senior Project Submitted to
The Division of Social Studies
of Bard College

by
Kalen Goodluck

Annandale-on-Hudson, New York
May 2016

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First and foremost, I would like to thank those who agreed to meet with me and share their stories. It's truly inspiring to meet and pick the brains of such passionate and incredibly knowledgeable individuals. I remember telling Lisa Lone Fight that there was a moment in her interview that I couldn't wait to be a journalist and get to *hear* stories for a living. I would like to thank Joletta and Theodora Bird Bear for their commitment to their people and the land the three tribes who have lived on their land for thousands of years. I would like to thank Dorothy Atkinson, my grandmother, who I must admit was why I started the project—I wanted to get to know my tribe in Fort Berthold and about our family history. I love you grandma. The family's unofficial documentarian and archivist, Marilyn Hudson (Dorothy's sister), was an immense help and loaned me stack after stack of reports, newspaper articles, testimony, and photographs—things I struggled to wrap my head around. Thank you, auntie. And thank you Clement Baker, Jr. who was gracious enough to give me a ride-along.

I am thankful for my friend and mentor, Lissa Yellow Bird Chase, and her work seeking the missing and the murdered on our land in Fort Berthold. I know it means the world to those families who lost loved ones and just want to bring them home. You seek justice with humility, a sense of humor and the necessary grit to do this job, but most importantly with love and compassion. You lead by example and inspire me everyday to be my best self.

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This gratitude also extends to my ancestors who came before me, who resisted, struggled and persevered through the unimaginable while keeping their love and sense of humor. You have shown me the fire I carry is worth the endeavor to keep aflame.

-Kalen Goodluck
May 2, 2016

My dedication,

Dorothy Atkinson was born in Elbowoods, North Dakota on the Fort Berthold Indian Reservation in 1939. She grew up on a farm with her ten brothers and sisters. She remembers playing outside all of the time.

“You know our life on the farm was really fun. You know there was no drudgery; you know when you read about kids living on farms post-Depression. We had a lot of fun. Making mud pies when we were little, using real eggs if we wanted to do. We played hide and seek in the barn, and we would play play games! Phyllis, my sister, would make us do little plays where the villain captures the girl and ties her to the railroad tracks. The villain would shout ‘You must pay the rent!’
‘I can’t pay the rent!’ we all groaned.
‘You must pay the rent!’
And here comes the hero ‘I’ll pay the rent!’
Those were some of the lines that she would make us recite as kids.”

“We had deer meat most of the winter. We were very lucky growing up as kids. We were really shocked to go to school in the towns outside of the reservation because that’s when we found out how poor we were. We said ‘Doggone it! We really are poor.’ We were refugees I guess you’d call us. You’d never think to see Indian women drinking, but then you did. A lot of drinking started in these new towns after the flood. There was nothing to do, but drink. Nobody farmed or ranched like we did in Elbowoods. It took us about a good 10-20 years to get ourselves back together as a tribe. It was sad to walk around Parshall and see it. I was happy to get my education and go out to the cities and find work.”

Before the Garrison Dam flooded the reservation and long before the oil development began, she remembers riding her horses to Mandaree on the opposite side of the reservation. “We even ran some horses there. Everybody’s horses would mix. Then there would be a big roundup to brand the colts. We would take the horses to give them our brand, then herd them back. That’s how we thought of it, land across the river. Way before New Town, way before Four Bears.”

To begin our conversation, I asked her ‘What did you like about living in Fort Berthold, and why?’ She answered, “A lot of my memories were doing a lot of playing with my brothers and sisters. I think we certainly enjoyed our life out on the farm. Everybody lived about the same. We were self-sufficient. You had your own chickens, cows, farm animals—cows for milk. My dad had some beef cattle that he could sell and that would be money for school clothes in the fall. We were pretty self-sufficient on the reservation. Everybody had gardens. Everyone in Elbowoods—or ‘Town,’ that’s what we called Elbowoods because that’s where the Agency was.”

“We had all the animals and could have them as pets if we wanted them as pets. Our main chores were working in the garden. My brother’s main chores were making hay and

maintaining the horses. We knew what we had to do and you did it!” she laughed, “Our family provided ready-made playmates. We made up plays, games, playing school—whatever we wanted to do.”

“The first time you kind of knew that the dam was coming—you heard the adults talking about it, but we didn’t quite know what to think. We would ride our horses down to the river. We saw stakes that said ‘USBM’ and we made up that it said “YOU SKUNKS BETTER MOVE” hahaha. A white family whose kids we’d play with would say that to us: ‘you skunks better move.’ We thought it was just funny,” she broke out laughing again, “We imagined that a huge flood of water would just come our way, but it We used to call it ‘the flood’ instead of the ‘dam’ I guess. I wasn’t there when it happened. I was in school. Once they closed the high school I had to go away to one of the high schools in a town off the reservation. That was about the time they started moving buildings and that’s about the time that you would have realized that’s when things were changing. And there I was in school with very little Indians going to school there. I had very little time to think about what was going on back home.”

“Can you give me instructions on how to hypnotize a chicken?” I asked her. This is my favorite story she tells and I’ve heard it a hundred times.

“I think if I remember right that you hold them so they are not scared with their wings down. You hold them to the ground and their body is to the side. Then you draw a line in the dirt continuously. You draw a straight line in the dirt. We would do that! You do the same thing and make them go to sleep. You can put there head in between their wings and you put its head under its wing, tell it its gonna be okay and pet it. Then you could let it go and it would be asleep!” she explained while I was cracking up on the phone line, “Sometimes we would have a whole row of them—some would be asleep and some would be hypnotized and that would be the fun for the whole day!”

“In 1954, this movie comes out called ‘Brigadoon.’ It was really a good movie when we moved to this town called Parshall and it had a movie theater. Back then they had double features and they switched them every week. It was a story about a family in Scotland or one of those countries and if you were in the woods at a certain time once every hundred years and you could see Brigadoon for one day, and then it would be gone. As kids we thought maybe one day Elbowoods would come back and if we waited one hundred years, we could see it one more time.”

“I really wish you could have seen Elbowoods, Kalen. That’s one thing I really wanted your mom, Laurie, and your aunt, Karen, to do. Play on the farm and in the barn.”

I wish I could have, too, grandma. Thank you for raising me and showering me with all your love. I dedicate my work to you. I love you.

-Your grandson,
May 3, 2016

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Responsibility. Because I think when people extract things, they're taking and they're running and they're using it for just their own good. What's missing is the responsibility. If you're not developing relationships with the people, you're not giving back, you're not sticking around to see the impact of the extraction. You're moving to someplace else.

The alternative is deep reciprocity. It's respect, it's relationship, it's responsibility, and it's local. If you're forced to stay in your 50-mile radius, then you very much are going to experience the impacts of extractivist behavior. The only way you can shield yourself from that is when you get your food from around the world or from someplace else. So the more distance and the more globalization then the more shielded I am from the negative impacts of extractivist behavior.

-Leanne Simpson

Introduction: The Story

The Fort Berthold Indian Reservation is the indigenous territory of the Mandan, Hidatsa, and Arikara people—designated the Three Affiliated Tribes by the federal government. Fort Berthold, located in central North Dakota, underwent a massive oil boom development along with half of the state from 2007. This boom was largely known as the Bakken oil boom, named after the “Bakken” layer of thin layer of shale rock formation that hosts the oil and gas along with the Williston Basin shale rock formation. Oil booms, like the name, are an explosion of not just oil production, but an eruption of new social, cultural, economic, and political conditions often unheard of in recent history for such a rural and tribal environment; many of them controversial.

Many have tried to drill for oil in North Dakota with little to no success since the beginning of the last century. This all changed with the advent of horizontal drilling and hydraulic fracturing: the controversial and unconventional method of fossil fuel extraction by highly pressurized injection of chemicals and fluids lubricants to release oil and gas in a pre-drilled hole. The debate around the use of hydraulic fracturing revolves around its regulation, its possible danger to ground water contamination, earthquakes, its generation of large volumes of chemical fused water and concentrated radioactive waste that is naturally occurring within the earth’s crust, methane and gaseous emissions due to flaring (the burning of natural gas), and more. Because of this technological advancement in oil and gas production, transient workers flocked to man the rigs seeking those oil wages, money flowed into the pockets of industry, state and tribal governments, lucky land owners, and caught many tribal and state citizens caught off guard, unprepared for

the magnitude of crime, traffic, new faces, and environmental dangers about to detonate. Before diving into the complicated nuances of oil and gas production on the reservation, knowledge of the three tribes' historical trajectory is important context that informs current tribal-US-Corporate relations and how a tribe lives through an oil boom.

The United States was formed by forceful settler colonialism. The slave trade and labor was a major part of building the US economy, but the US needed a strong land base, too. Westward expansion was achieved through warfare, displacement of indigenous peoples, ransacking of precious natural resources and over-hunting, disease, and white settlement. Each tribe has a historical experience with these forms of genocide and colonialism. The members of the Mandan, Hidatsa, and Arikara tribes, through the centuries, have undergone massive change, loss of ancestral homes, deprivation of hunting and gathering practices, genocide and warfare, two small pox epidemics, and forced to band together for survival, arriving on a 12 million acre piece of land in 1870 called the Fort Berthold Indian Reservation. But it doesn't end there. A series of Executive decisions, Congressional Acts, and development projects began to open up Indian land title for the greater US market, impositions of Indian sovereignty,

There is much written on Indian economic dependency on the US government, but knowing economic dependency and its implications for the tribe also means understanding that economic dependency is not destiny. A series of historical events, decisions, and attacks created those conditions through the century. By rejecting the "destiny" meta-narrative and underlying racism in blaming indigenous peoples for their current economic and social status, we come to understand how economic dependency of tribal nations doesn't come from a vacuum, but was carefully calculated and developed

by the US settler colonial project and its own reliance on capitalism's need for growth and energy production.

The Bakken oil boom situation asks the question, "What happens when oil is discovered on indigenous land in the United States?" First, one might ask 'what makes this question relevant when oil is discovered all over the world and is ransacked?' You cannot separate the origins of the US's nation-state formation from its ideological values of dominion of man over nature, and man over savage, especially when these settler colonial laws are still in affect and indigenous peoples are confined to their present social, cultural, political conditions that were created out of the settler colonial project. Just because these events don't seem "new" or "novel" does not take away from significance by displaying the current relationship between tribes and their occupying settler colonial government and their corporate counterparts: the oil and gas industry.

My research heavily relied on interviews and tribal member perspective to tell the tribe's history and the present boom. Here, there perspectives help to characterize these interconnected subjects through time and space, while gaining an understanding of who these tribal people are and what is important to them

Oil and gas affect people of all Diasporas. Everyone has a heritage that is always influx through the centuries, further than the beginning of state formation. People and their relationship to the land, I would argue, is universally important, even if people personally don't think about it on a day-to-day basis. Tracing that history and knowing how government, industry, social and political and economic actors shape those histories imparts a greater knowledge to understand current conditions; in this case, an oil boom on an Indian reservation.

The creation of Indian land was not to empower Indians and increase their agency and quality of life; much of the land allotted to Indians during allotment period was arid land and largely unwanted by whites for settlement or previously used as unsuccessful farmland. The US government would have never given this land the Indians if they knew there were valuable natural resources like oil found on Fort Berthold Indian reservation. Man-camps are forms of white settlement on Indian land for the development of oil and gas, which were banned on the reservation, but were nevertheless used. Mapping the historical transformations the tribes and their land faced over the centuries illuminates the making of tribal sacrifice zones created for profit, assimilation, and the disintegration of tribal culture: genocide and taking advantage of a nation unequipped to negotiate and advance their own agenda, survival of social relations between their tribe, and saving the environment.

The next question is, how did the tribes live with the boom? Looking back at history, many elderly tribal members remember the events leading up the construction of the Garrison Dam, a hydroelectric development the tribes fought with all the legal power they could muster. Eventually, the US government achieved what they wanted and displaced the tribal members of MHA Nation, further eroding sovereignty of Indian Territory and continuing major displacement of indigenous peoples as a form of settler colonial power in the name of energy development. The oil boom was not a development that was fought the same way the Pick-Sloan Plan was for the construction of the Garrison dam, but many find similarities to the result of its implementation. For one, the oil boom was not a development that caused forced displacement as the dam was.

The Mandan, Hidatsa, and Arikara's survived the massive transformation of history and the making of the United States to the present boom on Fort Berthold. They are, in many ways, shaped through their own agency that led to their survival by having to adapt and survive through the United State's settler colonial project. This led to the tribes' economic and sovereign dependency on the United States and informed how they experienced the oil boom after the reservation was leased for oil development. This history of settler colonialism cannot be separated from understanding the most recent boom and the present lull. When the dust cleared after heavy oil production, Fort Berthold is marked from an obvious ransacking of oil by the industry that did not only disrupt life on the reservation, but did not improve any social services of public lives from oil tax revenue.

This history is often untold, unheard of, and pushed aside, leaving indigenous peoples of North America unrecognizable, but land is an issue for everyone. No matter how a person has come to live on the land they call their home now, we all belong to the push-pull of global development that can directly be felt at the individual, personal, social, and familial level. This paper explains a chronology of transformation of the Mandan, Hidatsa, and Arikara tribes as the relate to their land, economic dependency building, US government colonial Indian law, predatory decisions made US government officials and energy development.

The 2006 Oil Boom to the Present

The next question is, "what happened during the oil boom on Fort Berthold?" Tex Hall was the tribe's Tribal Chairman, the highest member of the Tribal Council among 7 other council members. Crime on Fort Berthold was rampant. Law enforcement

on both tribal and state land were overstretched, under resourced, and unprepared for the thousands of workers who flooded into apartments, trailers, man-camps, and hotels to work in the oil fields. What followed the men were human trafficking, drugs rings, and a rise in violence crime. Environmental “incidences” spiked as industry produced oil at break neck speed with lawmakers and law enforcement tried to keep up.

Human Trafficking and Violence Against (indigenous) Women

Like the thousands of men seeking oil wages in North Dakota and Fort Berthold, human traffickers are transient workers seeking to make off with those paychecks as well. Follow the men seems to be a rule for human trafficking and new routes were drawn toward the oil fields from all over the United States. Human trafficking was a new crime for Fort Berthold.

Man-camps and Crime

Worker camps began to spring up all over the state and reservation when the boom began. These workers camps are formal (living quarters provided by the employer), private trailer park residences, informal (non-private trailer park), and even camps of tents, campers and vehicles as living quarters. The camps are a sight for much the crime, human trafficking, new drugs on the reservation (heroin and crack), violent crime, sexual abuse and more. These camps proved difficult to respond to by law enforcement, because of their informal addresses. One police officer recalls having to dress in full swat gear with one other officer to raid a trailer; a measure she never had to take working in South Dakota or North Dakota.

Federal, State, and Tribal regulations

There is a variety of push-pull by Federal, State and Tribal regulators to manage the production, environmental incidences, worker hazards, tribal citizen input/concern that complicates matters. Industry has largely been free to do as they please with little oversight and strict regulation. The Bureau of Indian Affairs has a history of mismanagement of Indian land, royalties, land lease consent issues that trump tribal sovereignty and the tribe's well-being in favor of industry profit. Other environmental issues that directly affect the well-being of tribal members are discussed, such as hydraulic fracturing, radioactive waste, produced water, spills, blowouts, flaring, and well pad construction.

The Lull

The boom unofficially ended around 2014. With oil production all but ceased by a glut created unexpectedly by the global market, the mancamps have thinned out, traffic is bearable again, violence has decreased, and tribal citizens and their government feel like they can catch their breath. Boom conditions still exist; the tribal government, state government, few tribal members, but especially industry made money off of oil production. The boom left a huge mark on the Fort Berthold Indian Reservation.

My last question is what do tribal members see as the future of Fort Berthold and what do they hope for Fort Berthold? This question was addressed in my field research when I travelled to the Fort Berthold Indian Reservation to interview tribal members about their experience with the oil boom. Largely, it means protecting the land for future generations.

Chapter 1: A History of Dispossession

“I repeat it again, that policy and economy point very strongly to the expediency of being upon good terms with the Indians, and the propriety of purchasing their land in preference to attempting to drive them by force of arms out their country; which as we have already experienced is like driving the Wild Beasts of the Forest which will return as soon as the pursuit is at an end and fall perhaps on those that are left there; when the gradual extension of our settlements will as certainly cause the Savage as the Wolf to retire; both being beasts of prey though they differ in shape.”¹-George Washington

“Surviving genocide, by whatever means, is resistance: Non-Indians should know this in order to more-accurately understand the history of the United States”² -Roxanne Dunbar-Ortiz

We sat in the heart of oil development on the Fort Berthold Indian Reservation. Flares burned quietly amidst the prairie’s many rolling hillsides, signaling a pad of red scoria and a well dug thousands of feet below the surface. Theodora Bird Bear and her younger sister, Jolleta Bird Bear, sipped their coffee after a meal of pot roast and mashed potatoes. Living all their lives in Mandaree, the western ‘segment’ of the reservation, both have experienced massive change over the past decades, most recently the Bakken

¹ Reprinted in Robert A. Williams, Jr. *Like A Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America* (Minneapolis: University of Minnesota Press 2005), 42, from the reprint “George Washington to James Duane, September 7, 1783,” *Documents of United States Indian Policy*, ed. Francis Paul Prucha, 2nd ed. (Lincoln: University of Nebraska Press, 1990), 1-2.

² Roxanne Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States* (Boston: Beacon Press, 2014), xiii.

oil boom. “This land where we are at now is our—the land of our tribes prior to the 1851 Treaty. Where we are today is our pre-treaty lands. We have never left it. Our family—I don’t know how many generations you are talking about, but our family has always been here,” Theodora explained to me. Rustle, their grandson, played with his hot wheels in the next room and proudly declared each car’s name and model to my father who listened playfully attentive. The Bird Bear sisters would detail for me their lives pre-oil boom when the tribe began to anticipate its development within the reservation territory and the oil boom as it progressed into around-the-clock production. At its peak, the oil boom’s presence was marked by constant traffic of elephantine semi trucks roaring up and down the tiny town roads and long stretches of highways that crisscross the reservation. Now, these roads are quieter as production has slowed to a near halt due to the global decline in the price of oil. However, this oil boom is not Fort Berthold’s first energy development on their land. No, Fort Berthold, as it exists today, was a long time in the making.

Theodora and Jolletta Bird Bear are among the founders of the group People for Fort Berthold Environmental Awareness. As elders, prominent voices of the community, and residents at the heart of the reservation’s oil development, they witnessed the oil boom since the beginning and have a history of concern for the health and safety of their land and community. Marilyn Hudson, another elder and distinguished voice in Fort Berthold, joins the Bird Bear sisters in their concern for the safety of their land and community as oil boomed on the reservation. She is a survivor of the Garrison Dam, a hydro-electric dam project that flooded nearly half of the reservation in the 1950s, forcing her to move to higher ground along with 325 other families—approximately 80 percent

of the tribal membership on Fort Berthold.³ The oil boom, in the visions of these women, is largely characterized by the past as experienced by the three tribes—a continuation of predatory decisions made by the United States to diminish Indian assets. These contexts don't go away and contribute to how the Mandan, Hidatsa, and Arikara tribes—three tribes rich in oil and natural gas—encountered and experienced the Bakken oil boom.

*[Disclaimer: This paper is not, by any means, meant to be a comprehensive nor authoritative history of the Mandan, Hidatsa, or Arikara.]

The Bakken oil boom truly marked an era on the Fort Berthold Indian Reservation and had a large impact on the daily lives of tribal members. Theodora Bird Bear constantly thought about what she saw was a wide range of lacking oil development regulation in her home of Mandaree. Throughout the lifespan of the boom and after its bust around 2014, both Theodora and her younger sister Joletta Bird Bear would testify in many public hearings on and off the reservation to support stronger regulation. “I’m an elder and I think about the people that will be coming after me. I want them to be able to breathe the air, to drink the water and feel safe about it. I fear that that might not be their future,” Theodora said with a solemn look, “This is our land. This is pre-treaty land as I have said before. We’ve always lived here. Our decision-making should be made viewing it from that point. This is where we come from.” Since colonization, the Three Tribes made innumerable sacrifices for resistance and survival at the cost of much of their culture and livelihood. The tribe has a long history of grappling for their right to self-determination—the simple idea of making one’s own decisions to choose their own

³ Michael L. Lawson, *Dammed Indians: The Pick-Sloan Plan and the Missouri River Sioux, 1944-1980* (Norman: University of Oklahoma Press 1982), 27.

destiny. Theodora and Joletta both recognize that residing on pre-treaty lands is a connection to those original homelands. They retain their cultural distinctness in many ways and this bond with their homelands sits at the essence.

These traditional homelands of the Mandan, Hidatsa, and Arikara extended more than 12 million acres, east of the Missouri River into present-day Montana and as far south as Nebraska and Wyoming⁴. The ancestral Mandans appeared on the Missouri River in present-day central South Dakota around 1000 C.E., which was their primary settlement before the Arikaras (traditionally called Sahnish) dislodged their village community in ca. 1250-1300 C.E. to escape a drought in present-day Nebraska. The Mandan inched up the Missouri River over the centuries, eventually creating new ancestral settlements along the river ca. 1350-1450 C.E. These Mandan villages have come to be known as Larson, Double Ditch, Boley, Sperry, Motsiff, and On-A-Slant. Pre-contact trade routes expanded even further, and items were exchanged with tribes of the Northwest Coast, through many villages and pueblos in the Mid- and Southwest, even reaching present-day's Gulf of Mexico.⁵ Indeed, these lands the Mandan, Hidatsa, and Arikara reside have been their country of wide-open plains beside the Missouri River for over a millennium. Though the Bird Bear sisters situated themselves snug inside their traditional home, the Mandan, Hidatsa, and Arikara's homelands stretches far beyond their reservation.

⁴ "The History and Culture of the Mandan, Hidatsa, and Sahnish: Land Base," North Dakota Studies, visited December 21, 2015, http://www.ndstudies.org/resources/IndianStudies/threeaffiliated/demographics_land.html.

⁵ Elizabeth A. Fenn, *Encounters at the Heart of the World* (Hill and Wang: New York 2014), 9, 18, 23.

The Mandan, Hidatsa, and Arikara tribes—like all indigenous peoples of North America—have a long history of subjection genocidal practices, ethnic cleansing, broken treaties, warfare, devastating epidemics, and economic disenfranchisement since colonization first began and into the formation of the United States. The control of land and resources has been a key issue since the beginning of America’s settler colonial project collided with the three tribes. One of the most well known examples of tribal resource destruction attributed to the Plains Indians, like the Mandan, Hidatsa, Arikara tribes in question as well as the Lakota, Pawnee and others, were devastated by the destruction of a key basis of life sustenance: the buffalo. As Roxanne Dunbar-Ortiz writes in her book *An indigenous Peoples’ History of the United States*, “In effort to create Indigenous economic dependency and compliance in land transfers, the US Policy directed the army to destroy the economic base of the Plains Nations—the buffalo. The buffalo were killed to near extinction, tens of millions dead within a few decades and only a few hundred left by the 1880s.”⁶ The buffalo was only a part of the strain and deprivation project. Land and resource control by the United States led to a dependency on the government and its economy to sustain itself. The United States, in many ways, overpowered indigenous resistance to colonialism throughout history, carrying out numerous racist and economically predatory decisions based on the control of land and resources. Assessing this history of dispossession is to understand the scope of US Indian policy and colonialism as it affected the Mandan, Hidatsa, and Arikara people. This encroachment not only shaped the land base of Fort Berthold over the centuries, but also strongly influenced the struggles and social ills of reservation life creating a heavy

⁶ Roxanne Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States* (Boston: Beacon Press, 2014), 142.

vulnerability to assert its own interests of self-determination and nation-building capacities.

In 1792, a plague spread across the northern plains. This would be the first small pox epidemic sustained by many of the tribes residing in the prairie. As historian Ken Rogers told journalist and author Paul Vandevelder “When that first wave of smallpox hit in 178[1] the Mandan died by the thousands. For all they knew, this was a curse from God. Whatever the cause, the tribal leaders knew that they had arrived at a defining crossroads. They [had] to make a decision.”⁷ At the time, the Mandan, Hidatsa, and Arikara were culturally distinct groups that, at times, banded together to war against the Sioux. Nevertheless, they were distinct and each controlled their own autonomous villages. After the devastation of the second small pox epidemic in 1831, the Mandan and Hidatsa travelled north together and were eventually joined by the Arikara in 1862⁸. “The period from 1845 to 1886 was wrought with famine, social disorganization and dependence on white traders.”⁹ Missionaries entered the scene and installed the Congressional Church of Christ, which restructured the three tribe’s social organization, creating a “village-church” dynamic. The Church took advantage of the dwindling traditional practices of the three tribes and began to impress the “nuclear family” institution to replace matrilineal clan structures¹⁰. The devastation of small pox that fell two-fold onto the Mandan, Hidatsa, and Arikara tribes was a convenience for

⁷ Paul VanDevelder, *Coyote Warrior: One Man, Three Tribes, and the Trial that Forged a Nation* (), 81.

⁸ Terri Berman, “For the Taking: The Garrison Dam and the Tribal Taking Area,” *Cultural Survival*, 12.2 (Summer 1988) Hydroelectric Dams and Indigenous Peoples, <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/united-states/taking-garrison-dam-and-tribal-taking-area>

⁹ Ibid.

¹⁰ Ibid.

Missionaries and the Federal government to begin their resource plundering and assimilative force that would eventually transform these three tribes from a “semi-sedentary horticulturalist and warrior society into full-scale agriculturalists and wage laborers.”¹¹ Each person I interviewed was proud to say they were self-sustaining.

In 1838, seven years after a second wave of smallpox decimated various Mandan, Hidatsa, and Sahnish (Arikara) villages along the Missouri, Fort James was established in 1845 as the first trading post in central North Dakota. This post was later renamed Fort Berthold after the last prominent fur trading family of St. Louis¹². In 1851, after a meeting of Mandan, Hidatsa, and Arikara delegates and the Indian Bureau at Fort Laramie that lasted 18 days, the Treaty of Fort Laramie was developed that defined a territory of 12,618,301 acres for the three tribes¹³. A Presidential Executive Order established the Fort Berthold Indian Reservation in 1870,¹⁴ which decreased the territory’s land base by 7,833,043 acres, while a small tract of land was added to establish Like-A-Fishhook Village as a part of Fort Berthold¹⁵. As land was plundered and indigenous persevered despite all on the surface, a bed of oil below lay dormant, awaiting its removal. Over the next century, Fort Berthold’s land base would be reduced numerous times, as would every tribal nation’s territory all over the North American continent.

The control of land has been a key issue since the beginning of America’s settler colonial project. The settler expansion westward prompted a policy of Indian removal by

¹¹ *Ibid.*

¹² “Timeline,” North Dakota Studies, visited December 21, 2015, <http://www.ndstudies.org/resources/IndianStudies/threeaffiliated/timeline900.html>.

¹³ *Ibid.*

¹⁴ “Laws and Treaties,” North Dakota Studies, visited December 22, 2015, http://www.ndstudies.org/resources/IndianStudies/threeaffiliated/historical_laws2.html.

¹⁵ “Timeline,” North Dakota Studies.

President Andrew Jackson and containment beyond the Mississippi River after the war of 1812. The removal policy was largely led by frontiersmen to violently clear the way for White settlement¹⁶. In 1830, Congress enacted the Indian Removal Act, whereby the US Government would remove and relocate tribes based on their “consent” to the designated “Indian Territory” in present-day Oklahoma. However, when consent wasn’t given, threats and coercion won the day and many were forcefully removed. The Cherokees, one of the wider known examples, were rounded up and imprisoned until they “consented” to be removed and embarked on what is now called the Trail of Tears to the Indian Territory in modern-day Oklahoma. Many voluntarily relocated to escape the violence of President Andrew Jackson’s Indian policy¹⁷.

Andrew Jackson’s policy of removal to the Indian Territory turned unfeasible as the settler government entrenched itself in the Mexican-American War, a gold rush in California and the founding of the Oregon Trail. Instead, tribes were confined to reservations in the hands of the Bureau of Indian Affairs (BIA), a policy that opened up immense expanses of land to white settlement. However, Indian removal and forced relocation didn’t end in 1830 after Congress sanctioned the infamous Trail of Tears. The threat of forced relocation would devastate the Mandan, Hidatsa, and Arikara tribes well into the 20th century and eventually become a policy to entice Indians to leave reservations and migrate to inner cities to find jobs in hopes of breaking up the reservations yet again.

¹⁶ Robert J. Miller, *Reservation “Capitalism” : Economic Development in Indian Country* (California: Praeger 2012), 34.

¹⁷ *Ibid.*, 35.

The reservation system, the system the three tribes are a part of now, has a history as well that describes the evolving relationship between tribes and the federal and state government of the United States. The idea of a reservation, during the era in which the United States made treaties since its independence to 1871, was narrowing the land base of Indigenous territories in exchange for protection from settlers and a supply of social services. This changed in the late 19th century “as Indigenous resistance was weakened, the concept of the reservation changed to one of land being carved out of the public domain of the United States as a benevolent gesture, a ‘gift’ to the Indigenous peoples.”¹⁸. As Robert Miller puts it in his book *Reservation “Capitalism,”* “Reservations became life prisons for Indians because they were not allowed to leave without a pass from the Bureau of Indian Affairs (BIA) agent and the BIA gained a stranglehold over reservation life.”¹⁹ Living on these reservations was no easy feat and many starved on their arid land or were forced to sell in exchange for food and clothing²⁰.

Surviving removal and the prison-like conditions of reservation life came at price for the Mandan, Hidatsa, and Arikara. Much of the history Theodora and Joletta read is to help explain the present to them. Through combing through historical documents, Theodora deduced that the United States government was cultivating fear that would be felt generationally for her tribe. “I think it really has something to do with the trauma, the historical trauma that people have experienced. They may not feel that directly like our family members before us, but it reverberates.” Theodora found meaning in the fear she saw manifesting in tribal members today rooted deep in history; a history of forced

¹⁸ Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States*, 11.

¹⁹ *Ibid.*, 36.

²⁰ *Ibid.*, 36.

encampment, dispossession land and loss cultural identity and practice. “I’ve been thinking about—I was reading some documents on Fort Berthold when the military were here and tribal members were starving. Literally starving. There was nothing to eat. The buffalo was gone. People were pretty much corralled up and didn’t have the gardens and all that sort of thing. They were hungry, literally hungry and starving. I think about that because I think there is a fear indefinitely in that.” Theodora described to me a certain alienation from the cultural value of the land and attributes much of the social problems to this historical loss of identity as her tribe survived these long drawn-out forced transformations. However, do not misunderstand Theodora’s view as victimizing her tribe. She sees much potential and much love and recovering in her people—but more on that later.

The Homestead Act

En-route about 30 miles north of the Fort Berthold Indian Reservation to the small town of Stanley, North Dakota, my great-Aunt Marilyn was eager to pick up her sister, Carol Juneau, at the Amtrac train station. I sat in the back seat of her van. The prairie grasslands are so flat that I was astounded that during the summer month of June the sun rose around 5:00 in the morning and set close to 10:30 at night. It was golden-hour as we drove down highway 8 toward Stanley. “The train station we are going to, Kalen, is the old station that the homesteaders came to settle on the reservation,” Marilyn told me. She knew I was writing my senior project on Fort Berthold and the oil boom, but knew I wanted to know the long history of the reservation too. Marilyn Hudson was the tribe’s unofficial historian for years who ran the Three Affiliated Tribe’s Museum in the Four

Bears Segment of the reservation that shares a parking lot with the tribe's casino. She retired in June of 2015.

While the Union soldiers battled against southern Secessionists in the Civil War, Abraham Lincoln signed the Homestead Act into law in 1862, not a decade before Fort Berthold's land base was cut in half when it became a reservation by Presidential Executive Order. This act would become a gateway moment in governmental policy to begin settling the western territories as well as Alaska and Florida. Homesteading was a government program and function of the General Land Office that bestowed 160 acres of public land to American settlers for free. The Homestead program was also open to immigrants and was a mechanism to obtain not only land, but also citizenship. Land was awarded to homesteaders after completing a set of legal requirements, such as living on the land for five years of continuous residence and paying a small filing fee. The Act also gave settlers an option to purchase their homestead from the US government for \$1.25 an acre after six months of occupying the land. By 1900, the US government dealt 80 million acres of public land in hopes of settlers making a living off of the land they were given²¹. For settlers, the end result of acquiring a homestead was fee patent ownership of their 160-acre plot²². In 1910, homesteaders gained new territory on Indian reservations, but more on that soon.

The Homestead Act was a massive appropriation and privatization of indigenous land to individual settlement—namely white settlers, but was also opened up to immigrants and eventually opened up to indigenous peoples as well. “Under the

²¹ “Homestead Act,” Library of Congress, March 19, 2015, accessed April 5, 2016, <https://www.loc.gov/rr/program/bib/ourdocs/Homestead.html>.

²² “What is a homestead?” Bureau of Land Management,

Homestead Act, 1.5 million homesteads were granted to settlers west of the Mississippi, comprising nearly three hundred million acres (a half-million square miles) taken from the indigenous collective estates and privatized for the market.”²³ At the time of the Homestead Act, the west was still awaiting colonial settlement and state formation. Commodifying the land as the United States government expanded its territory into the west was its goal and purpose.

In 1871, Northern Pacific Railroad opened up land to homesteaders with a land grant signed by President Abraham Lincoln. The railroad made up 2,093 miles of track as it breached the North Dakota territory, which would enter statehood in 1889. “The Northern Pacific’s main line crossed the state from Fargo to Beach; the Manitoba ran from Grand Forks to Williston. And the railroads built hundreds of miles of branch lines, tracks that ran to areas north and south from the main line.”²⁴ These railroad tracks injected new settlers into the state just a year after the Mandan, Hidatsa, and Arikara tribe’s territory was reduced from 12,618,301 acres to 7,833,043 acres in 1870; a 4,758,258 acre difference in land base. A network of settlement was under construction.

The Mandan, Hidatsa, and Arikara’s traditional homelands were shrinking as it was taken and given to homesteaders. These lands were thrust into the United States economy along with brand new homeowners. At this time, the three tribes had almost 8 million acres to call their own on their newly established reservation named Fort Berthold. Land has always been influx for these tribes since colonization. Land would change ownership and statuses into the present and soon after its creation. Soon after the

²³ Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States*, 141.

²⁴ “Railroads Open up Dakota for Settlement,” *North Dakota Studies*, accessed April 21, 2016,

US government began granting lands to settler homesteaders after the Homestead Act was passed, a new Indian policy was instituted to break up the landmass of Indian reservations. The Dawes Act of 1887, also called the General Allotment Act, would change land status and allow for white settlement onto the reservation.

The General Allotment Act: 1887

In collusion with the Homestead Act, the General Allotment Act—also known as the Dawes Act—was another method of obtaining tribal lands, usually lands retained by indigenous peoples by treaty. The American economy began to consume these lands and open up tribal lands for trade. In 1887, reservation land was opened up to the American economy, no longer solely land reserved collectively by tribes, but land that was open to the larger market and white settlement. This era is defined by the General Allotment Act (along with other tribally specific allotment acts) divided reservation land bases, once communally owned by the tribe, into 160 and 80 acre tracts and distributed to adults while 40 acre plots were reserved for minors²⁵. This decision to allot land to individual Indians was intended to break up the communal land base of the reservation, develop the indigenous economy by “assimilation” into the American economy, teach the indigenous people to farm, manage business and eventually come to own their own private land in fee simple status—or at least, this was the justification given. There was often land left over after the government distributed the allotted land to tribal members, which opened up the “surplus land” to sale, paving the way for white settlement within the reservation²⁶.

²⁵ Ibid., 43-43.

²⁶ Ibid., 43.

Fractioning the once communal land had a two-faced ideology underlying its implementation. “The idea was that Indians would learn business affairs and farming and could then handle the full ownership of their lands in fee simple status” and the “surplus land” undistributed among tribal members “was sold to non-Indians.”²⁷ Part of reconstructing the identities of the three tribes (and all tribes) was to teach them the value of private property and trade as practiced by the colonial government—assimilation. This assimilation didn’t just transmute land into property and tribal members into private landowners, but it ingested and plundered “surplus land,” giving it up for sale and new settlement. “The real goal of Allotment was to destroy the tribal governments and to break up the reservation landmass for the use of the majority society.”²⁸ Dividing the reservation lands was a method of sabotaging social cohesion and governance of tribal people over themselves.

Consequently, Fort Berthold’s land is a checkerboard of many different land statuses and a mix of landowners ranging from tribal government, Indians and non-Indians. “As a result of Allotment and surplus lands sales, some reservations today have a much higher non-Indian population than Indian populations.”²⁹ Today, Fort Berthold’s total acreage adds up to 988,000 with 378,604 acres of Allotted land, 79,233 acres of Tribal land, 3,280 of government land, and 526,883 acres of privately owned land.³⁰

The Indian Reorganization Act and Era: 1934-1945

²⁷ Miller, *Reservation “Capitalism,”* 43.

²⁸ *Ibid.*, 43.

²⁹ *Ibid.*, 43.

³⁰ “The History and Culture of the Mandan, Hidatsa, and Sahnish: Demographics,” North Dakota Studies, accessed April 21, 2016, <http://ndstudies.gov/demographics>.

When Theodora and Joletta Bird Bear speak publicly at a hearing or go before the tribal council and read out loud letters they carefully constructed from their research collected over numerous late nights, they are usually the few who express themselves from their community. Joletta believes, and Theodora would agree, that many are afraid to speak out in public, especially in defense of the environment in Fort Berthold. That night over coffee and pot roast, I asked them why they thought people were afraid to speak out. Joletta gave me an answer that was almost a century old. “I would say its because of the Indian Reorganization Act [IRA],” she explain, “You go all the way back there where a majority rules and nothing else matters. Prior to that [what mattered] was more [based on] consensus. You arrived at a decision in a thoughtful process and you supported that decision. In this IRA thing, [its] whoever has the votes—whoever has that block of power.” Joletta’s major problems with how decisions are made at MHA Nation (the tribal government) are based in the government structure the IRA installed on Fort Berthold. “How you protect that vote is you are in a position of power to provide benefits to your voting block to keep yourself in that position so you can maintain that position of power.” Joletta was describing that ways in which the new Indian Reorganization Act is, in some ways, incompatible with how the three tribes traditionally made collective decisions. Some of this fear, as Joletta detailed to me, was fear of tribal government retribution.

The Allotment period ended in 1934 with the passage of the Indian Reorganization Act (IRA). This Act, in some ways, sought to empower while also assimilate tribes by installing the blueprints of a constitutional government for each tribe. The IRA would begin to transform the ways in which the tribe made decisions for itself.

At this time, tribes adopted their own constitutions. The MHA Nation of Fort Berthold was among those tribes who opted for a tribal chairman who sits among a council of around 8-15 members. These council members, as a governing body, sit on tribal “business committees” or “business councils,” because the IRA pressured tribes to model their governments “along the lines of business corporations,”³¹ further entrenching them into the culture of American-corporate capitalism. This “one-size-fits-all”³² style of constitutional government imposed by the IRA proved problematic for many newly christened tribal governments who were accustomed to their own explicitly cultural methods of consensus³³.

Several tribes lacked a dispute resolution mechanism and no explicit separation of powers. By giving tribes an IRA style government, tribes received a level of control back over their lands and some form of legitimacy as distinct and self-determining nations recognized by the federal government. This was not the case during the Allotment Era. However, the question of effectiveness as governments was another matter.³⁴ In the midst of installing an IRA-style governing body and rebuilding their economy, they still remained “under extensive federal control of tribal economic activities,” “federal control of tribal decisions and assets, it is no surprise that reservation economies and economic conditions did not improve much under the IRA.”³⁵ Effective decision-making is critical for any Nation of people in order to create impactful and meaningful action. Without full

³¹ Miner, *Reservation “Capitalism,”* 45.

³² The Harvard Project on American Indian Economic Development, *The State of Native Nations: Conditions Under U.S. Policies of Self-Determination* (Oxford: Oxford University Press 2008), 126.

³³ *Ibid.*, 19.

³⁴ *Ibid.*, 19.

³⁵ Miller, *Reservation “Capitalism,”* 46.

possession and management authority of all the land held in trust by the federal government, tribes will continue to be obstructed by an inefficient and paternalistic system.

A critique Joletta brought up of the installed system is corruption and instances of utilizing fear. She also finds it significant because this system of government, politics and decision-making was imposed on a community that had different notions of how self-determination functioned for them. “Because you have that power you are able to influence people, you are able to influence the vote, you are able to take things away and by that I mean its leases, jobs, houses, things that people depend on here.” Retribution became a culture of the tribal government once voting blocks were won. “Every single family is tied into your tribal government. When you have a tribal government that wills its power to seven people, you think twice about speaking up in public, because you know very well that your job could be eliminated tomorrow. That’s a real fear with families. It shouldn’t be. It shouldn’t be. Your government should feel confident enough to operate without using fear as its source of power. It should never do that to people, but it does.”

This would not be the last time Joletta or Theodora spoke on fear. Actually, they wouldn’t drop the subject. The next era is that of devastation wrought by the United States government—an epoch that still exists in living memory of elderly tribal members.

The Garrison Dam and the Great Flood: 1940s-50s

“The trust is, as everyone knows,” he said, “our Treaty of Fort Laramie...and our constitution are being torn to shreds by this contract.”³⁶

³⁶ Berman, “For the Taking”

In 1944, Congress began to draw up plans to develop the Missouri River basin with the first two plans under the Flood Control Act without input or consultation from the Mandan, Hidatsa, and Arikara Nation where a majority of the tribal members would soon face a deluge in their bottomlands. The Three Tribes fought back and even offered an alternative dam site “free of charge” where they would not be affected. This offer would be rejected by the Army Corps of Engineers, because it would “not permit adequate storage capacity”—meaning the proposed alternative dam’s reservoir would not hold as much water as wanted.³⁷ The tribe was not only protecting their villages, but their agriculturally rich bottomlands that sustained their community. “The project required the relocation of 325 families, or approximately 80 percent of the tribal membership. For many successful years as ranchers and farmers, these industrious people lost 94 percent of their agricultural lands.”³⁸

Joletta and Theodora Bird Bear were very young when the Garrison dam was proposed and its following aftermath. “What was it like growing up post-dam?” I asked. I wanted a sense of the living conditions people faced. It wasn’t good. “Poor. Poverty,” Joletta took a long silence, “by design.” After the dam was built, Joletta began to dig into her people’s history and question the Army’s decision to flood the reservation. “When you grow up and you read about what happened just what the Army Corps of Engineers did and who proposed what, and the tribe had said ‘no, don’t take this land and flood us out, take this land.’ The tribe even had posed a solution and [the Army Corps of Engineers] wouldn’t seriously consider it.” The tribe’s alternative offer would have

³⁷ Lawson, *Dammed Indians*, 61.

³⁸ Berman, “For the Taking”

mitigated the flooding, because of the new location. “[The tribe’s offer] was for flood control. And now ask yourself ‘why did we get flooded? Why were we allowed to be treated that way?’” Growing up with the question “why us?” stuck with her throughout her life, shaping her world view and understanding of how the United States perceives her people. The threat of flooding brought much outrage to tribal members who can remember sustaining the hardships that forced them to give up their culture and land.

At a hearing in Elbowoods that took place in 1946, tribal members gathered to meet with General Lewis Pick (who began as Col. Pick during the first dam proposals). In attendance was Thomas Spotted Wolf. Wearing a full-feathered war bonnet, Spotted Wolf shouted “You have come to destroy us! If you look around in our town, we build schools, churches... We’re becoming civilized! We’re becoming acculturated! Isn’t that what you white people wanted us to do? So we’re doing that! And now you’ll flood our homeland?”³⁹ The memory and experience of undergoing forced change, whether is converting your faith, losing your culture, fractioning off your land, learning a new “civilized” language while being told your tradition tongue and way of life was the inverse—uncivilized. The coming of the dam was new forced traumatic dislocation from land and culture, but seemed like an old iteration of past US Indian policy.

The Three Affiliated Tribes fought a battle they could not win. Ultimately, the “Pick-Sloan Plan” was adopted by Congress that incorporated Col. Lewis A. Pick’s proposal of suitable taking areas, W. Glenn Sloan’s surveys that favored predominantly

³⁹ Lisa Jones, “Three Tribes, a Dam and a Diabetes Epidemic,” May 23, 2011, accessed April 23, 2016, <https://www.hcn.org/issues/43.8/three-tribes-a-dam-and-a-diabetes-epidemic>.

white settlements, but largely ignored Sloan's evaluation of leaving out tribal holdings⁴⁰. All that was left was consented approval by the Three Affiliated Tribes. The U.S. government offered \$5 million in exchange for the affected taking area on the reservation, namely the inhabitants of Elbowoods⁴¹. On May 20, 1948, the tribe's Chairman, George Gillette, attended the signing ceremony in Washington, D.C to accept the terms of the plan and the governments offer of compensation⁴². The tribe feared that if they did not consent to the Garrison Dam's flooding, the offer of compensation would shrink the next time they were pressured⁴³. As the Secretary of the Interior signed the plan into law, George Gillette removed his glasses and wept into his hand.

Theodora remembers a late-August day. She was pre-school about to enter into the first grade after the dam was constructed. She must have been six then, she remembers, and she was outside sitting in the back of her family's toolshed. "I was thinking 'I know you have to have a pencil and you have to have paper when you are in school'" and six-year-old Theodora began to think of where she could find a pencil inside the house. "I thought of each room in the house and thought 'there is no pencil in any of those rooms. I have a tablet and I know you need to have a tablet to write your ABCs.'" As a child and from that moment on, Theodora felt a sense of financial deprivation—of not having basic needs met. "I think a lot of families were going through that in different ways," she sighed, "I would say its pretty tough." Later that night, Theodora told me "You know, talking about this brings up a lot of memories. Just remember that."

⁴⁰ Berman, "For the Taking"

⁴¹ Jones, "Three Tribes, a Dam and a Diabetes Epidemic"

⁴² Ibid.

⁴³ Berman, "For the Taking"

The Garrison Dam, a hydroelectric dam project, sits beside the town of Garrison and Riverdale, ND just outside the reservation. Lake Sakakawea, named after the Mandan-Crow? Woman who guided Lewis and Clarke on their expedition, slices diagonally through the reservation, dividing it into five “segments.” The lake is a result of the Garrison Dam that was built by the Army Corps of Engineers and completed in 1953. In the end, the dam not only took 152,360 acres of land by construction and flooding, but also displaced and relocated more than 80% of the tribe⁴⁴. Construction of the dam had permanently changed the physical and cultural landscape of the Mandan, Hidatsa, and Arikara Nation on Fort Berthold. “The Garrison Dam, conceived in the 1940s and constructed in the 1950s, has had the greatest impact on the Indians of Fort Berthold, North Dakota, since the nineteenth-century smallpox epidemics reduced their numbers to near cultural extinction.”⁴⁵ The Mandan, Hidatsa, and Arikara are among three other reservations that were included in the Pick-Sloan plan, relocating Sioux tribes in the same manner. “We are not the only ones, but how does a tribe society, community, ever say that was a good thing? And why did it recur repeatedly in the United States government practice?” The two Bird Bear sisters continue to question why this massive taking of land was acceptable.

The rise of hydraulic fracturing and the Bakken’s Two-man rule

While the Three Affiliated Tribes was fighting the Army Corps of Engineers—the architects of the Garrison dam—a new method of extracting energy from the earth was in

⁴⁴ “Tribal Historical Overview – 1900s – Garrison Dam,” *North Dakota State Government* website, accessed November 23, 2014, http://www.ndstudies.org/resources/IndianStudies/threeaffiliated/historical_1900s_garrison.html.

⁴⁵ Berman, “For the Taking”

the final stages of creation. The unconventional method of hydraulic fracturing (also called “fracking”) was first applied experimentally in Hugoton, Kansas in 1946 and existed in commercial use since March 17, 1949 on a well 12 miles outside of Duncan, Oklahoma and then in a well outside of Holliday, Texas that same day. Stanolind (later known as the Pan American Oil Company) first developed and patented hydraulic fracturing technology and methods, issuing Halliburton sole authorization to perform its necessary functions—a permit that was later expanded to include all qualified service company providers⁴⁶.

Hydraulic fracturing requires a high-pressurized injection of millions of gallons of water mixed with a large cocktail of chemicals and sand in order to break open the shale rock layer to release oil and natural gas at depths as far as 10,000 feet below the surface. Sand is added to this mixture in order to keep the fissures open allowing natural gas and oil to flow out⁴⁷. As oil and gas wells are drilled vertically and, more recently, horizontally, the hydraulic fracturing process stimulates the flow of oil and gas where conventional methods are less economical and/or difficult to extract.

Hydraulic fracturing expanded when oil and gas wells could be drilled horizontally. While the United States was undergoing a shortage of natural gas in the 1970s and the government was funding Research and Development (R&D) projects for unconventional oil and gas extraction, Mitchell Energy & Development Corp. experimented with, and developed, methods for hydraulic fracturing of horizontally

⁴⁶ “Shooters—A “fracking” History,” *American Oil & Gas Historical Society*, accessed November 27, 2015, <http://aoghs.org/technology/hydraulic-fracturing/>.

⁴⁷ Alan Granberg, “What is Hydraulic Fracturing?,” *ProPublica*, accessed November 23, 2014, <http://www.propublica.org/special/hydraulic-fracturing-national>.

drilled wells privately and independently⁴⁸. The company set a course for future unconventional drilling plays. After Mitchell Energy & Development Corp. began extracting from hydraulically fractured horizontal wells in the Barnett Shale near Fort Worth, Texas in the 1980s, the floodgates were opened for developing shale formations in Arkansas, Pennsylvania, and North Dakota⁴⁹.

North Dakota just finished undergoing its third-generation oil boom. North Dakota achieved its first discovery well on April 4, 1951 after numerous failed exploration attempts of the Williston Basin dating back to the 1930s. The Bakken shale formation first produced oil from a well drilled on the land of Henry Bakken in 1953, just five miles from the very first discovery well. Amerada Petroleum drilled both the discovery well and the first Bakken well.⁵⁰ A second boom began in the 1980s that didn't last long either. Technologically speaking, the Bakken shale formation was a Two-man rule operation. Hydraulic fracturing and horizontal drilling were partners in the tapping the combination lock of thin shale and the global economy of oil. All that was left was the order to execute the launch of oil development on federal lands—these included tribal lands held in trust by the federal government. This authority would come in the form of a newly crafted Energy bill, but more on this later.

Joletta and Theodora Bird Bear knew oil development would come to the reservation as it has done before—there were signs—but no one could have anticipated the affects that this boom has brought.

⁴⁸ Zhongmin Wang and Alan Krupnick, “US Shale Gas Development: What led to the boom?” Resources for the Future, May 2013: Issue Brief 13-04, accessed November 29, 2015, <http://www.rff.org/files/sharepoint/WorkImages/Download/RFF-IB-13-04.pdf>.

⁴⁹ “Shooters—A “fracking” History,” *American Oil & Gas Historical Society*.

⁵⁰ “First North Dakota Oil Well,” *American Oil & Gas Historical Society*, accessed November 29, 2015, <http://aoghs.org/states/north-dakota-williston-basin/>.

The grass that lined the prairie in Mandaree was still. The night was clear for the stars and moon to gently glow on over the reservation's vast valley. Theodora Bird Bear shoveled out the donut blend coffee grounds to brew and our evening began. What tribes are both of you? I ask. "Mandan and Hidatsa," replies Joletta and looks at Theodora, "You better be the same" and they both broke into laughter. The Bird Bear sisters are both longtime community activists concerned with energy development and the environmental on Fort Berthold. As previously stated, they were among the founders of the group People for Fort Berthold Environmental Awareness that holds meetings, helps propose draft resolutions to the tribal council, fought for adherence to the National Environmental Protection Act for on-reservation energy development, and organize community members to watch out for the land.

Theodora had with her a family tree that she requested from the tribe's registrar's office and had encouraged me to do the same. My dad borrowed it during dinner to update his ancestry dot com records he so avidly updated like clockwork. "This land where we are at now is our—the land of our tribes prior to the 1851 Treaty. Where we are today is our pre-treaty lands. We have never left it. Our family—I don't know how many generations you are talking about, but our family has always been here." The treaty Theodora refers to, that her ancestors pre-dated, is the Treaty of Fort Laramie that was signed in 1851 that defined the first boundaries of Fort Berthold⁵¹. She is describing the heritage and connection she has to the land that ties her and Joletta here. "Good answer," Joletta nods her head. "Yes, it is. Strike that!" she chuckles, "I was looking at a list of the

⁵¹ "Timeline," North Dakota Studies, visited December 21, 2015, <http://www.ndstudies.org/resources/IndianStudies/threeaffiliated/timeline900.html>.

people that had left Fort Berthold area temporarily and went up to live in Williston—.”

“Fort Bufford?” Joletta asks. “They didn’t agree with what was happening here with the army and efforts to assimilate and contain tribal members here on Fort Berthold,”

Theodora continued, “ So a number of families left Fort Berthold to live in the Williston area—in what is known as the Williston area today kind of near the confluence of the Yellowstone and the Missouri River. One of our ancestors joined that group and lived up there for maybe 20 some years. They had to be escorted back here. They didn’t agree with the efforts being made here by the army and the federal government change our way of life—to change us as people. Other than that, but still I can say that that is a part of our land. This whole area here and down into Wyoming is a part of our tribe’s land.

Technically we didn’t leave. It was a part of our land.”

Before the oil boom began around 2006, Fort Berthold had long been anticipating energy development on their land. In some cases, it had already started. The tribe had plans to construct an oil refinery that would treat the crude extracted from the tar sands in Alberta, Canada. Plans for the refinery called for its placement near the town of Makoti. The project concerned Joletta and Theodora Bird Bear along with other tribal members. They began to ask questions: “Well wait a minute. What is that going to do to the water? It’s located pretty close to tributaries that are connected to the lake. What is that going to do to the release of chemicals that come out of every single joint of pipes and your mechanical structure over there? And who is going to address all that? What is that going to do to the land, when you are setting up this chemical plant on land?” At this time, they formed the Fort Berthold Environmental Awareness Committee began a campaign against the BIA’s actions to place the land into trust and the construction of the refinery.

The refinery was designed for construction on fee patent land owned by the tribe. The tribe reasoned to place this land into trust with the Bureau of Indian Affairs so that the Bureau would sign off on the refinery project and provide funding for the project.

The Bureau of Indian Affairs must adhere to the National Environmental Protection Act (NEPA) when bringing land into trust like every federal agency. “The BIA manual specifically stated that the Bureau cannot bring into trust land that it knows is going to anticipate contamination,” Joletta explained. The BIA fiduciary responsibility to tribes requires them to adhere to NEPA regulations as well as cooperating with tribal law in regard to their sovereign right to govern matters in relation to the environment within their nation’s territory. As written in *Indian Affairs National Environmental Protection Act (NEPA) Guidebook*, NEPA would most likely be triggered when proposals to develop on Indian trust land was made. Some typical developments are listed as “Applications for rights-of-way/easements,” “Land transactions (e.g. fee-to-trust and trust-to-fee transactions),” “Mineral activities including leasing, exploration and development,” “Farm and grazing leases,” and “Homesite and business leases.”⁵² The tribe’s plan to put their land into trust under the management of the BIA would subject it to NEPA’s standards under certain conditions, and a refinery built on top near tributaries that lead to the Missouri River seemed unreasonable to the Bird Bears.

Joletta and Theodora, along with others within the Fort Berthold Environmental Awareness group, began an awareness campaign surrounding the proposed oil refinery. “We went around to all the communities, our group, to bring an awareness to the tribal

⁵² Office of the Secretary of the Interior, *Indian Affairs National Environmental Protection Act (NEPA) Guidebook* 59 IAM 3-H (August 2012), <http://www.bia.gov/cs/groups/xraca/documents/text/idc009157.pdf>, 8.

members of ‘what is a refinery? What are the environmental issues surrounding a refinery?’” and “What is that going to do to the water? It’s located pretty close to tributaries that are connected to the lake. What is that going to do to the release of chemicals that come out of every single joint of pipes and your mechanical structure over there? And who is going to address all that? What is that going to do to the land, when you are setting up this chemical plant on land?” Tribal member responses were a mixed bag. Many were upset at the questions Joletta and Theodora were asking, seeing their opposition as antithetical to the need for more jobs on the reservation. The tribe promoted the oil refinery as not only a source of revenue for the tribe, but also a source of jobs. “People were we’re saying ‘Hey! That’s jobs! How could you say no to jobs? We need them. We got nothing here. Those are jobs,’” recalls Joletta, to which she would counter “When it comes down to looking at a refinery, its not a big source of employment. There are a small set of people who work there and certainly not the person who just walks off the street who can operate over 600 chemicals in a chemical plant.”

The outreach and awareness campaign transcended borders when First Nation tribal people from Canada joined the Environmental Awareness group in Fort Berthold. The First Nations people of Fort McMurray spoke at each community about the tar sands development in Alberta, Canada and how it affected their home reserve. “They were pleading with people here, the people of Mandan and Hidatsa, and the Arikara, ‘Please, don’t do it! What are you doing is only enforcing what is going on in our country. We are having a tough time up there.’” . The tribes coming together to discuss the affects across borders demonstrated a clear connection in the global sphere of energy development. “We hoped to try to develop this awareness of ‘what you do here is not just limited to a

couple acres of land. It really has big implications that go beyond.” “Beyond” meant that Fort Berthold was tied

Sitting across from me, Theodora mused over the exhausting NEPA process. NEPA gave them a voice, a platform, to challenge the oil refinery. “We took advantage of that, because that is a federal requirement and it’s to allow the public to have a comment. It doesn’t guarantee that you will have your way, but if you study enough and know enough about it, you can challenge it. And we challenged that refinery. I think they thought it was going to be an easy cakewalk for them, but it wasn’t.” They testified in hearings, taking with them written statements that compiled from many sleepless nights reading technical documents, learning the language of regulation and environmental science, to raise their concerns publicly. Part of their concerns was making sure an Environmental Impact Statement (EIS) was completed, and thoroughly, to evaluate and determine the impacts that could be anticipated for that specific piece of land in relation to its surrounding environment. “That was kind of a tactic that we used to challenge it by raising issues to stall it hoping that the administration would change.” Stalling the administration seemed to work, because the refinery hasn’t manifested since.

Joletta and Theodora weren’t always the advocates they are today. Joletta worked for the post office in New Town. Little Russell, her grandson, remembers playing games and eating sandwiches behind the counter while his grandma worked the register and prepared the mail. Theodora was a journalist for the *New Town News*. “You know when you believe in the land, when you are connected to the land, there isn’t anything you won’t do.” With full-time jobs and a grandson to look after, they read through document after document, soaking up information. Theodora said she had to overcome a lot of

personal barriers to keep up the commitment to learn about the refinery and eloquently challenge it in public hearings as well as to teach other tribal members about its operation. “I think that is what was really motivating all of us. I would say that’s the first time that I’m aware that we really spoke up on behalf of the Missouri river—that we were concerned of the water quality and safety of the Missouri River.” This would be their first work of public concern of energy development on Fort Berthold.

“It was really that 2005 Energy Bill that opened up federal lands for fossil fuel development. It happened there with the refinery and with the bakken oil. Today is a direct result of that 2005 energy bill. We are paying the consequences for it.”

“Amen,” Joletta greed.

“Mhm,” Theodora nodded.

Indian Sovereignty, Dependency and Resource Curse theory

Sovereignty as defined by the Merriam-Webster dictionary is 1. The unlimited power over a country 2. A country’s independent authority and the right to govern itself⁵³. It’s a big deal and is taken seriously throughout the world. Not surprisingly, sovereignty is important in terms of economic development. Sovereignty is a form of political agency that federally recognized tribal nations retain—to a certain degree. Remember: the federal government has a fiduciary responsibility to Indian nations and largely controls and manages Indian assets like land. “Sovereignty and self-determination allow local desires, preferences, needs, and ways of doing things to be more accurately perceived and acted upon so that institutions and government can function in support of

⁵³ “Merriam-Webster "Sovereignty." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 25 Apr. 2016, <http://www.merriam-webster.com/dictionary/sovereignty>.

economic growth and community change.”⁵⁴ The concept of sovereignty is not typically a culturally mainstream topic for most Americans, but nonetheless is the central focus of political discourse, even when its not mentioned directly. Indian nation sovereignty is a common point of discussion precisely because these nations are attached at the hip in terms of managing assets and its decision-making processes. Increased self-determination relies on many constraining factors, but as the the Harvard Project on American Indian Economic Development states, its largely understood that self-determination and economic growth are mutually beneficial as well as valuable to the Indian community as it makes its own decisions.

Each government has a certain degree of not only sovereign power they can flex, but also effectiveness in making and executing decisions that cover these needs and wants of the governed. “Sovereignty as an idea and self-determination and self-governance as federal policies place resources squarely in the hands of Native officials and citizens. In more cases, this translates to an increased sense of ownership over the resources, a sense that often is augmented still further when a Native nation pools resources garnered through own-revenue generation with federal funds. This sense of ownership then backs up the effectiveness of strategies, plans and programs put in place for community development.”⁵⁵ This is exemplified by the tribe’s People’s Fund explained in the next chapter.

Dependency theory is a widely accepted model for Indian nations’ economic condition in relation to the United States and is actively resisted by tribes asserting

⁵⁴ The Harvard Project on American Indian Economic Development, *The State of Native Nations*, 127.

⁵⁵ The Harvard Project on American Indian Economic Development, *The State of Native Nations*, 127.

economic self-determination and independence. “The collusion of business and government in the theft and exploitation of indigenous lands and resources is the core element of colonization and forms the basis of US wealth and power.”⁵⁶ Unpacking the history of theft and plunder, instances of the last century’s peacetime colonialism in US Indian policy, has an obvious an enormous role in how indigenous nations like the Three Affiliated Tribes are fairing within the colonial condition in terms of economic development. The affects of the three tribe’s traumatic history reverberate through generations. As noted before, by nature of current US policy, much of Indian assets are managed by the BIA as well as business operations. As we have seen, US policy toward Indians had graver consequences in determining an Indian nation’s ability to self-determine their own destiny, their control over their resources on their continually shrunken homelands.

A common definition of Dependency theory is as follows: “a situation in which the economy of certain countries is conditioned by the development and expansion of another economy to which the former is subjected. The relation of interdependence between the two or more economies, and between these and world trade, assumes the form of dependence when some countries (the dominant ones) can expand and be self-sustaining, while other countries (the dependent ones) can do this only as a reflection of that expansion, which can have either a positive or negative effect on their immediate development.”⁵⁷ This issue of dependency of the Mandan, Hidatsa, and Arikara tribes on the Fort Berthold Indian Reservation was a created condition detailed in this history of

⁵⁶ Dunder-Ortiz, *An Indigenos Peoples’ History of the United States*, 208.

⁵⁷ Richard White, *The Roots of Dependency: Subsistence, Environment, and Social Change among the Choctaws, Pawnees, and Navajos* (Lincoln: University of Nebraska Press, 1983), xv-xvii.

dispossession. These three tribes were thrust into an economy with little begin with, with little assets they had that are managed by the state whom repeatedly colonized their land, and are now struggling to provide basic services for themselves in a government model that, for them, is less than a century old. These three tribes rely on not only the United States economy, but the global oil economy to attempt to capitalize on the oil beneath them. The next question is, was oil a blessing or a curse? Or maybe its not that simple.

The resource curse is a term widely used to describe a particular phenomena of resource/mineral rich Nations from the global south. In the case of Equatorial Guinea, they are rich on oil, but suffer from high rates of poverty and high unemployment. In the case of MHA Nation of the Three Affiliated Tribes, they are rich in oil and gas. This “curse” also falls into the Paradox of Plenty. In Douglas A. Yates’ book *The Scramble for African Oil: Oppression, Corruption and War for Control of Africa’s Natural Resources*, Yates makes a point to address the question of “why oil-rich African countries were still so poor” in that the “context matters.”⁵⁸ In other words, countries experience oil booms differently depending on many factors, including “historical legacies that handicap the present possibilities for development, or international actors that dominate and subvert national ones, economic laws that govern political choices, and corrupt political cultures that pervert economic policies.”⁵⁹ Like Africa, the indigenous peoples of the United States were carved up by colonial powers and exploited for all it was worth. What Yates defends the fact that these factors—context like colonial histories—matter when asking ‘why are these people so poor when their land sunbathes on top of a sea of oil?’

⁵⁸ Douglas A. Yates, *The Scramble for African Oil: Oppression, Corruption and War for Control of Africa’s Natural Resources* (London, Pluto Press 2012), 2.

⁵⁹ *Ibid.*, 2.

When investigation countries and nations, the context is always important to evaluate if, indeed, there is a resource curse dilemma occurring, because no country is the same and has the same history. Yates makes a point to address that fact that the resource curse, or the Paradox of Plenty, is not a fated outcome of any one nation: “History cannot be reduced to logic.”⁶⁰ In other words, African countries or, using our example, indigenous tribal nations of the United States that are rich in oil do *not* end up poor by default. “Theory must be a guide for praxis. Therefore it is advantageous to state with a philosophical idea: the oil curse is not necessary”—“‘The natural resource curse is not destiny.’ It does not have to happen.”⁶¹ Countries, nations, even Indian reservations experience natural resource abundances differently. The Southern Ute Indian Tribe in Colorado is the model tribal nations strive for that have untapped energy deposits under their feet, including MHA Nation on Fort Berthold in North Dakota. In 1992, the Southern Ute Indian Tribe incorporated their own energy firm company called Red Willow Production Company to drill for the natural gas under the reservation. A decade after their tribal energy venture the company is valued at \$325 million, a world leader in extracting coal-bed methane gas deposits, a new equity fund with investments valued at almost \$2 billion in energy, real estate, and construction materials⁶².

The effects of the bakken oil boom on the Fort Berthold Indian Reservation are informed by an array of factors. The question of whether the oil boom was a blessing or a curse really asks if the oil boom exacerbated social, economic, and cultural conditions on Fort Berthold—did the benefits outweigh in a significant manner the costs? Theodora

⁶⁰ Ibid., 219.

⁶¹ Ibid., 218-219.

⁶² The Harvard Project on American Indian Economic Development, *The State of Native Nations*, 164.

Bird Bear is concerned with one of Yates' "factors" that are one of the contributors to resource curse, and that is leadership. "Right now, its sad to say, our leadership is primarily interested in the revenue. In a lot of ways, they parallel the industry. They are only concerned about the revenue, not the costs of this [oil] development," she lamented, "They say form time to time they are concerned [with the costs], but when you listen and attend the council meetings, as I have done, you still see the actions do not reflect a view that takes in the bigger picture: the cost of this development." Theodora's unease is generally around how the oil boom is regulated and its possible threat to the environment. The interest of the tribe, in her mind, aligns with corporate desires to solely generate profit while ignoring possible threats to Fort Berthold's land, water and air. Her concern for the environment is for its preservation for the generations to come.

Conclusion:

The long history of dispossession and violence contributes to the ability of the tribe to thrive in today's financial market, their assets and their capacity to manage them, the tribes mobility, capacity to carryout tradition practices, set up an effective government and bureaucracy, and provide adequate public services like health care, education system, infrastructure, agriculture, etc. Attorney Walter R. Echo-Hawk writes "In 1881, Indian landholdings in the United States had plummeted to 156 million acres. By 1934, only about 50 million acres remained (an area the size of Idaho and Washington) as a result of the General Allotment Act of 1887. During World War II, the government took 500,000 more acres for military use. Over one hundred tribes, bands and Rancherias relinquished their lands and various acts of Congress during the termination era of the 1950s. By 1955, the indigenous land base had shrunk to just 2.3

percent of its original size.”⁶³ No tribe escaped the loss of their homelands in whole or in part. The Three Affiliated Tribes was one of the tribes who still reside on a parcel of their original homelands. Many tribes can't say the same.

Elucidating this history demonstrates the predatory nature of the United States, as it was a settler colonial government, to its present federal government and fiduciary manager. Lands and resources were taken from under all tribes in the United States. The Mandan, Hidatsa, and Arikara tribes are not alone in those aspects. These tribes used to be distinct groups before they banded together for survival purposes after small pox and warfare. They are, however, different in that they are rich in one resource: oil and gas (oil being far more valuable). The oil boom offered a wealth of opportunities for not just the tribe, but the state and federal government, the oil and gas industry, and transient workers who flooded the reservation and state of North Dakota for those rig-hand wages.

Resource curse theory and dependency theory offer insight into how to interpret this history. Resource curse and economic dependency are not destiny for anyone or any group of people. These outcomes are determined through a long history of conscious decisions to dispossess the Mandan, Hidatsa, and Arikara tribal people, shrink their homelands and land base multiple times, wage war, target them for relocation to the inner cities, flood their homeland, and seek to exploit their source of oil. Incorporating the Mandan, Hidatsa, and Arikara tribes into the Not only were these federal policies racist in nature and practice, but were predatory decisions to shrink the land base of the indigenous peoples of this continent for white settlement and to develop the American economy.

⁶³ Walter R. Echo-Hawk, *In the Courts of the Conqueror* (Golden: Falcrum Publishing 2010), 77-78.

Who benefitted from the oil extraction and who are left with the costs? Are two valuable questions to ask as North Dakota dipped into a sudden lull in oil production as the price of oil plunged to \$32. The 2005 Energy Bill opened up federal lands for fossil fuel development, which included tribal lands held in trust by the BIA. Favorable market conditions and the advent of hydraulic fracturing were the two other keys that unlocked that bakken oil under Fort Berthold. The next chapter will unravel the oil boom as it affected the Three Affiliated Tribes in hopes of shedding light on the tribe's resource curse or blessing.

Chapter 2: “Sovereignty by the barrel”

“We are of the firm belief we will become more sovereign by the barrel,” Former Tribal Chairman Tex “Red Tipped Arrow” Hall at the North Dakota Legislature in January 2011.

The boom began with an auction. New Town’s Civic Center was jammed with oil industry representatives. Theodora Bird Bear was surprised to see the room packed so tight—a room filled with “non-Indians.” They all sat in rows of folding chairs and tables waiting for the properties to be read by allotment number. “That’s when I knew the oil and gas was coming here for certain,” she said. The bidding began around 1:00 in the afternoon. BIA officials sat in front while the Three Affiliated Tribe members sat in the audience. As lots were won, tribal landowners were approached left and right by industry representatives to sign surface and mineral agreements. Many immediately took up their pen. “The room was filled and tribal members who never dealt with money before, it was kind of astounding that they were hearing these bids (which compared to today were very low), but back then it was just astounding that you might get \$350 per acre if you signed on a lease. And some of them were \$650,” Theodora recalled. Not until around 9pm did the bidding come to a close. Tribal members went home with the oil frenzy on their minds and the room was empty once more.

Before industry representatives sat down on the Civic Center’s folding chairs, they had done their homework. The oil development companies have their eyes glued to the price of oil, watching it rise and fall, speculating where to set their drills. The Bakken

formation was the next profitable play after Texas. The Bakken underground shale formation covers the western half of North Dakota (where Fort Berthold is found), dips into the upper west side corner of South Dakota, parts of eastern Montana, and the lower parts of Saskatchewan and Manitoba in Canada. In 2008, the US Geological Survey estimated 3.0 to 4.3 billion barrels of technically recoverable crude oil rests in the Bakken shale formation, a 25-fold increase from their 1995 estimates. The increase in recoverable oil is largely thanks to the technological advent of hydraulic fracturing and horizontal drilling⁶⁴. According to *Bloomberg*, in 2014 North Dakota produced “more than 1 million barrels of crude a day, surpassing OPEC [Organization of the Petroleum Exporting Countries] members such as Qatar and Ecuador” and is said to help push the United States in producing more than Saudi Arabia in about a year⁶⁵. Oil production more or less follows the same trajectory as its demand rises or falls. The Organization of the Petroleum Exporting Countries (OPEC), an inter-governmental organization of five countries, is a huge controller of the price of oil by determining when to release oil into the market or not.⁶⁶

⁶⁴ US Geological Survey, Press Release, *USGS Newsroom*, April 10, 2008, accessed April 27, 2016, <http://webcache.googleusercontent.com/search?q=cache:yoruJDSZn3QJ:www.usgs.gov/newsroom/article.asp%3FID%3D1911+&cd=1&hl=en&ct=clnk&gl=us#.VyVfIKMrK34>

⁶⁵ Alex Nussbaum and David Voreacos, “Breaking Bad Meets Fargo at Underbelly of Shale Boom,” *Bloomberg*, June 18, 2014, accessed November 15, 2014, <http://www.bloomberg.com/news/2014-06-18/breaking-bad-meets-fargo-reveals-underbelly-of-shale-boom.html>.

⁶⁶ Jeremy Ashkenas, Alicia Parpaliano and Hannah Fairfield, “How the U.S. and OPEC Drive Oil Prices,” *The New York Times*, Updated October 5, 2015, accessed April 27, 2016, <http://www.nytimes.com/interactive/2015/09/30/business/how-the-us-and-opec-drive-oil-prices.html>.

This would contribute to the oil glut almost a decade later, but the moment the oil industry began to carve up the reservation in that small Civic Center room, the tribe would be presented with a unique, though challenging, opportunity. Oil booms, by nature, are massive job opportunities for those in need of work, astounding tax revenue generators for governments, and quick cash for individual landowners. Booms are also sites of social unrest that create problems for the hosting nation and exacerbate already existing social, economic and cultural conditions. In many ways, the Three Affiliated Tribes was not ready to manage the full scope of the oil boom. The Three Tribes were not caught completely by surprise and they received the benefits that everyone gets when they lease their land for mineral development—money in their pockets—but they were not in a position to take full opportunity given the needs of the tribal membership.

In November of 2014, I called my relative George Abe who took a temporary job in Fort Berthold in the environmental department. I caught him cooking a *pasolé* dinner—a flavor he picked up from his home in New Mexico. I began by asking George when the oil boom began on Fort Berthold. “It was the perfect storm,” he told me, “I would say the oil boom started in early 2006. The companies started coming in then and began buying leases.” George described to me the ways in which companies bid for control and their place in the Bakken formation: “when I came up in 2007 to see some of the leasing done there was about a couple dozen companies who wanted to bid on leases, which went to the highest bidder. Nowadays, the leasing is really expensive, but back then farmers leased about maybe \$100 to companies per acre of land. There was so much interest [for these leases] and the BIA advertised for hundreds of thousands of tracts.” At

that time, George put together the bid report recording the companies and their leases. Today, he tells me, leases are going for about \$5-7,000 per acre.

The Fort Berthold Indian Reservation is a mix of land statuses that checkerboard the reservation, complicating the leasing process. Tribal trust land, individual trust land, tribal fee simple land, individual tribal member fee simple land, and non-Indian Fee simple land, as well as federal, state, and/or county land are all possible land tenures⁶⁷ that exist within the Fort Berthold boundaries. Oil leases work like this: a company approaches a landowner to sign a lease form to develop the minerals under the surface. Once the individual landowner signs the form, the company takes the form to the reservation's Bureau of Indian Affairs (BIA) office. The BIA's role is to read over the lease, check the calculations, and confirm the landowner's interests are represented and are met before the BIA's superintendent adds his signature, validating the contract.⁶⁸ After a mineral lease is signed and approved, the company is allowed on the property to conduct tests for minerals (in our case oil and gas), which include drilling and other methods. Once oil and gas are extracted from the property, a royalty payment is made to the landowner, meaning they receive a share of the value of oil produced (usually 12.5% or higher).⁶⁹

⁶⁷ The Harvard Project on American Indian Economic Development, *The State of Native Nations*, 98.

⁶⁸ Sierra Crane-Murdock, "The Other Bakken Boom: America's biggest oil rush brings tribal conflict," *High Country News*, April 23, 2012, accessed January 2016, <https://www.hcn.org/issues/44.6/on-the-fort-berthold-reservation-the-bakken-boom-brings-conflict>.

⁶⁹ Hobart King, "Mineral Rights: Basic information on mineral, surface, oil and gas rights," *Geology.com*, accessed May 2, 2016, <http://geology.com/articles/mineral-rights.shtml>.

By the fall of 2008, almost all of the reservation was leased to companies ready to jump on oil development⁷⁰. Theodora recounted “It didn’t take long before we saw the trucks and pickups from the industry here. The traffic suddenly seemed to increase. It just kept steadily—It came in waves into Mandaree, where we live, because Mandaree was the targeted zone for development,” Theodora recalled. The western and central segments of the reservation began to feel the growing pains of the oil boom as industry brought their massive equipment, trucks, and drills while thousands of transient workers from across the country found temporary settlement.

Like much of the country, many people wondered what exactly a reservation was and how an Indian government is structured. During the boom, oil companies had to adhere to not only federal and state regulation, but tribal law as well. The Fort Berthold Indian Reservation is a constitutional government of by-laws. The reservation is split into six “Segments.” These segments are Four Bears, Mandaree, New Town (North Segment), Parshall (Lucky Mound), Twin Buttes, and White Shield. Each Segment possesses one elected Segment Representative that resides on the Tribal Business Council. A Segment Representative is can hold the position of Vice-Chairman, Executive Secretary, Treasurer, or Councilman. A Segment Representative is also a part of the Natural Resource Committee, Judicial Committee/Human Resources, Health & Human Resource/Committee, Economic Development Committee, or Education Committee. In this form of constitutional government, an elected Tribal Chairman resides on the Tribal Business Council along with the six Segment Representatives.⁷¹ This government would

⁷⁰ Crane-Murdock, “The Other Bakken Boom.”

⁷¹ “MHA Nation Elected Officials,” MHA Nation, accessed April 16, 2016, http://mhanation.com/main2/elected_officials.html.

have a lot to manage and struggle to keep pace with all the decisions and paperwork the boom generated.

Shortly after the oil industry took up temporary residence on Fort Berthold around 2007, the oil revenue began to slip into the pockets of tribal member mineral owners on a monthly basis. Tribal government land—a majority of it held in trust by the federal government—suddenly became a lucrative opportunity, too. This was the chance of a lifetime to invest in services and infrastructure for the benefit of its tribal members. And Lord knows they could use it.

According to the Three Affiliated Tribe's Enrollment report published October, 2015, there are 14,707 tribally enrolled members. 7,600 tribal members are female and 7,107 are male. For 2015—the year the boom went bust—the life expectancy for females was 53.94 years and 47.86 years for males, bringing the average to 50.44 years. From 2005-2015, the Office of Tribal Enrollment calculated a 56.24-year life expectancy for the tribal members of the Three Affiliated Tribes⁷². Responsibility, accountability, self-determination, transparency and empowerment are bound closely for a tribe whose life expectancy is 57 years compared to its federal trustee, the United States, whose overall life expectancy is 80. If the Three Affiliated Tribes were ranked with all other countries of the world by life expectancy, they would fit snug between Zimbabwe and Sierra Leone in 205th place out of 224⁷³.

⁷² Sevant S. Taft, Acting Enrollment Director, "Three Affiliated Tribes Enrollment Report," Office of Tribal Enrollment, October 9, 2015, http://www.mhanation.com/main2/departments/tribal_enrollment/TAT%20Census%20as%20of%2010-9-2015.pdf.

⁷³ Central Intelligence Agency, "The World Factbook: Country Comparison: Life Expectancy at Birth," accessed April 24, 2016, <https://www.cia.gov/library/publicationns/the-world-factbook/rankorder/2102rank.html>.

The poverty rate on Fort Berthold is 23.1% compared to North Dakota's 11.2% and the U.S.'s 15.9%. Children on the reservation (those under the age of 18) make up 31% of those living in poverty. This is compared to North Dakota's 13.2% and the United States' 22.6%.⁷⁴ According to the Census Bureau's American Community Survey 5-year estimates (2008-2012), the unemployment rate on Fort Berthold is 10.9%, much lower than the U.S.'s rate of 16.6%, but nearly double that of North Dakota's 5.6%.⁷⁵ This study also found that almost half the population on the reservation (48.5%) is employed as private wage and salary workers, while over a third of the reservation (38%) are employed in a government position, leaving 12.7% as self-employed⁷⁶. Statistics never describe the people, government, or culture in its entirety by any means, but provide a necessary report nonetheless that can be compared to other places and peoples. Of course, tribal nations are much more than these statistics, so how should this data be perceived and what exactly do they inform? To begin to answer these questions in terms of MHA Nation and its oil boom, the history I dusted off in the previous chapter remains an important backdrop and context that informs how MHA Nation experienced the Bakken oil boom.

Since the Garrison Dam flooded the tribe's main town, Elbowoods, the BIA Agency office relocated to New Town (a town settlement also created in response to the dam's relocation) while the tribal government offices sit in northwest segment of Four Bears, the complete opposite corner of the reservation. The tribal chairman at the time the boom began was Tex "Red Tipped Arrow" Hall. Hall served three terms as Chairman for

⁷⁴ MHA Nation Tomorrow, "Demographic and Socioeconomic Profile," May 2014, 45.

⁷⁵ MHA Nation Tomorrow, "Vital Statistics Office Manual," last updated June 23, 2014, 52.

⁷⁶ *Ibid.*, 53.

the Three Affiliated Tribes and is a chairman for the inter-Tribal Economic Alliance and, quite controversially, is the President and CEO of Maheshu Energy. His leadership on the Tribal Business Council (TBC) will be important to the story of the oil boom. In 2014, his administration began the People's Fund that is set to annually distribute money to all tribal members (ages 21 and up) from a total balance of \$200 million⁷⁷.

The Three Affiliated Tribe's People's Fund is to be understood as an extension of cultural belief and a kind of sustenance that the earth has helped provide for the tribe. "The People's Fund has been created for the membership as a source of revenue long after the last barrel of oil is taken from our lands. As we have been fortunate to be blessed with this natural resource that has taken millions of years for Mother Nature to prepare. We shall extend the benefits of this resource perpetually into the future. The People's Fund will continue to benefit the members of the Three Affiliated Tribes for many generations to come."⁷⁸ Future generations are also a key piece of this program, which seeks to be a benefit long after oil production has ceased, perhaps when the oil runs dry underneath their feet. These distributions are in conjunction with their General Disbursement program that is a separate program, but it also in part generated by oil revenue and royalties.

Those critical of MHA Nation's tribal government argue the tribe isn't doing enough with the funds generated from oil production given the social and economic problems present on the reservation. Many are dissatisfied with the frequency of

⁷⁷ "The People's Fund of the Mandan, Hidatsa, and Arikara Nation," MHA Nation, accessed May 1, 2016, http://mhanation.com/main2/departments/the_peoples_fund/Peoplesfund_Brochure_8-5x11_final_3.pdf.

⁷⁸ MHA Nation, "The People's Fund of the Mandan, Hidatsa, and Arikara Nation," accessed April 24, 2016, http://mhanation.com/main2/departments/the_peoples_fund/the_peoples_fund.html.

disbursement of the People's Fund that amounts to \$200 million and the little social welfare investments being made such as "desperately needed housing."⁷⁹

As usual, Theodora Bird Bear answered by questions with a calm, collected straight face and well-articulated response. Theodora explained to me how the boom began and this time she was gripping her mug, "It was really that 2005 Energy Bill that opened up federal lands for fossil fuel development. It happened there with the refinery and with the Bakken oil. Today is a direct result of that 2005 energy bill. We are paying the consequences for it." In fact, there were two acts passed by Congress that involved energy development on Indian lands. The National Energy Policy Act signed in 2005, which supports an assessment for energy rights-of-way on Indian land, which generated concern with many tribes, fearing hampered ability to negotiate compensation for pipeline and transmission lines on their lands, diminished sovereignty and their right to consent, conditions of consent, no negative effects on their tribal consumers, preservation of their tribal jurisdiction, limited rights-of-way use and duration, best practices of industry, appropriate deference, allottee's best interests in just compensation and treatment⁸⁰.

The other concern The Indian Tribal Energy Development and Self-Determination Act (2005) that gave Indian nations the ability to enter into "tribal energy resource agreement" (TERA) that allowed them to self-regulate energy resources,

⁷⁹ Deborah Sontag and Brent McDonald, "In North Dakota, a Tale of Oil, Corruption and Death," *The New York Times*, December 28, 2014, accessed April 24, 2016, <http://www.nytimes.com/2014/12/29/us/in-north-dakota-where-oil-corruption-and-bodies-surface.html>.

⁸⁰ Ben Nighthorse Campbell, "Commentary for the Section 1813 Tribal Energy Rights-of-Way Study, April 19, 2006; Tweedie Doe, *Assessing Rights-of-Way on Tribal Lands* (Denver, Council of Energy Resource Tribes, 2005), 8, http://teeic.indianaffairs.gov/er/transmission/case/1813/docs/may2006/Ben_Nighthorse_Campbell.pdf

minimizing the trust obligations of the federal government, on tribal lands by undertaking “certain types of leases, business agreements, and rights-of-way on tribal lands without further federal review.”⁸¹ Many, including those at the Indigenous Environmental Network, are concerned tribes don’t have the full capacity to effectively manage their own energy resources with many nations lacking in lawyers, scientists, institutional enforcement and monitoring capabilities. Without these professionals with knowledgeable experience, there is cause for concern among advocates and tribal members that tribes will easily be taken advantage of by the energy developers⁸².

A US Senate Committee of Indian Affairs met in 2012 to discuss the amendments to the TERA program. Among the tribal leaders present at the hearing, Tribal Chairman Tex Hall testified to the Committee on fully taking advantage of oil development on Fort Berthold while addressing the need for an equitable tribal tax law that allowed states to receive 60% of tax revenue while the tribes were left with 40% of on-reservation oil development, his evaluation for the 2011 amendments for the Indian Tribal Energy Development and Self-Determination Act and his recommendations for it. Hall explained that while MHA Nation and allottees made \$182 million on oil and gas royalties, they could be earning far more due to the number of producing wells on the reservation and the wells about to be drilled that were set to double that year⁸³. When the hearing took place, eight years passed without a single tribe signing the agreement.⁸⁴

⁸¹ The Harvard Project on American Indian Economic Development, *The State of Native Nations*, 165.

⁸² *Ibid.*, 165.

⁸³ Tex “Red Tipped Arrow Hall, “Testimony of the Honorable Tex G. Hall: Chairman, Mandan, Hidatsa, and Arikara Nation of the Fort Berthold Indian Reservation,” Legislative Hearing on S. 1684, US Senate Committee of Indian Affairs, April 19, 2012, accessed April 27, 2016, <http://www.indian.senate.gov/sites/default/files/uplo>

Revenue is important for the tribal government to keep functioning just like royalties help families on Fort Berthold. The issue isn't whether or not the tribe and tribal landowners signed leases for the extra income—the social and economic impacts of the oil boom is much more complicated for the tribal members of MHA Nation. Theodora is a mineral rights owner and expects to benefit financially from leasing her land for oil development, but that's not her primary concern. Theodora and Joletta Bird Bear prefer to look at a much larger picture of the boom. Instead, her interests during the boom lay in the quality and health of the land and her people. "Everyone needs revenue to live, but I fear they don't see the costs." This question of risk assessment and possible permanent damage to the environment sticks to the minds of both Theodora and Joletta. They have come to fear that money is the principle objective of the tribal government that distracts from various possible costs of oil development. "I think about the leadership and the need for an improved level of leadership here who can really see a holistic view of our land. Right now, it's sad to say, our leadership is primarily interested in the revenue. In a lot of ways, they parallel the industry. They are only concerned about the revenue not the costs of this development." Their holistic view is not only tied to preserving the integrity of their pre-treaty homelands, but also reflects the questions they demanded of the proposed oil refinery that was set to receive crude from Alberta, Canada's Tar Sand operation.

The Bird Bears are dissatisfied with the quality of regulation of the oil industry and the tribe's ability to enforce the rules—even risks involved in oil development seem

ad/files/Tex-Hall-testimony041912.pdf.

⁸⁴ US Senate Committee of Indian Affairs, "S. 1684, The Indian Tribal Energy Development and Self-Determination Act Amendments of 2011," April 19, 2012, accessed April 27, 2016, <https://www.gpo.gov/fdsys/pkg/CHRG-112shrg76531/pdf/CHRG-112shrg76531.pdf>.

secondary to them. “They say from time to time they are concerned, but when you listen and attend the council meetings, as I have done, you still see the actions do not reflect a view that takes in the bigger picture: the cost of this development.” Taking what they learned from testifying in the National Environmental Protection Act (NEPA) when the tribe’s oil refinery was in discussion, they Bird Bears attended an Environmental Protection Agency (EPA) meeting at the 4 Bears Casino & Lodge that centered around the Bakken oil development on the reservation. There, they demanded the oil development on the reservation submit to an Environmental Impact Statement (EIS) report in compliance with NEPA. They were told that an Environmental Assessment (EA), which is an alternative evaluation process within NEPA guidelines, was being conducted for each well site instead.

The public comment and testimony is an importance piece of the NEPA’s community consultation and comment period before developments take place. The Bird Bears countered, “This project requires an EIS. The scope of it, the duration, the extent of it requires an EIS. That’s a requirement of NEPA. We are not asking for anything more than to adhere to the NEPA Act.” According to Joletta, they were told “ “Oh no, we are going to be doing an EA. An EA is just as good. We look at everything.”” Skeptical, Joletta pressed for more public information regarding the span of the oil development project about to occur: “ “Okay, tell us your oil sites then so that we can make an informed comment in this EA process.’ ‘We can’t tell you those,’ [the EPA official answered]. ‘Well how are we supposed to give you an informed comment if we don’t know what you are going to do?’” They continued to pressure the EPA for more information regarding

the cumulative and long-term impacts of the massive hydraulic fracturing operation on the western half of the reservation.

Outraged, Theodora began to call the Great Plains BIA office in Aberdeen every year and request an EIS for the Bakken oil development. Every year she got the same answer: no. According to Theodora, one of the times she asked why the EIS was never completed, the clerk said “ ‘Tex Hall didn’t want it.’ ” “Well this [oil development] is having significant and cumulative impacts, and that’s one of the criteria of that EIS,” she challenged. The approved 2011 Environmental Impact Statement report for the tribe’s Bakken crude refinery states “since 2008, there have been over 100 EAs (ranging from 1 to 20 wells per EA) prepared for over 550 exploratory oil and gas wells on Fort Berthold.”⁸⁵ Whether or not an EA is sufficient enough to assess these cumulative and long-term impacts of the Bakken oil boom on Fort Berthold is up for debate and beyond the scope of this paper. However, the politics and various stakeholders and interests involved are what make the EIS/EA debate of significance.

Theodora and Joletta hoped an EIS would explain the long-term and cumulative impacts of an oil boom of this magnitude of producing and exploratory wells—what they call looking beyond the money. “Money is good if you manage it well and plan it out, but at what cost is it coming here? And that goes back to that EIS, it goes back to the early questions that were asked [of the oil refinery]: ‘what’s going to happen here?’ ‘What’s going to happen with the roads?’ ‘How many lives are we going to lose?’ ‘What’s that predetermined number that is coming with industry that says: X number of lives will be

⁸⁵ U.S. Environmental Protection Agency, *Supplemental Information Report: Mandan, Hidatsa, and Arikara Proposed Refinery Project Environmental Impact Statement*, July 29, 2011, accessed April 27, 2016, <https://www.epa.gov/sites/production/files/document/s/SIRMHA.pdf>.

lost do to this project.” Because there was no EIS planning document, Joletta argues, the cumulative impacts are not being addressed, remain unknown, and will only further compound over the duration of the oil boom and into the future.

With their concerns unheeded, they see the Tribal Business Council and the BIA as principally self-interested while also being easily manipulated. This dependency on the market relies on the ability for outside companies and workers to extract oil from the reservation while the BIA manages the leases. “I guess what I can say is that we are so hooked into the fossil fuel [dependence], because the industry’s interest is not ours. We are feeding [corporate] interest in this. We are a part of their program in this,” Joletta explained. What Joletta was describing was the lack of choice in the oil development on Fort Berthold; the tribe was not defining the terms of oil development, but had to appeal to the interests and terms of the industry. Revenue keeps a tribe running, royalties puts food on the table (and maybe a new truck), but Joletta’s point is the oil development is serving individuals and the corporate few for profit and not invested back into the tribal member’s needs, nor taking into account the long-term environmental cost. “The Bureau of Indian Affairs, people have been taught ‘that’s our trustee.’ Yeah, it is, but that doesn’t mean you can trust it,” Theodora asserted.

Joletta nodded, “And you shouldn’t.”

“No, you shouldn’t.”

The US Federal Government possesses a fiduciary responsibility to all federally recognized tribes. There are currently 566 tribes that hold federal recognition, with a possible but court disputed July 2015 decision to recognize the Pamunkey Tribe of

Virginia.⁸⁶ The Bureau of Indian Affairs (BIA) is part of the United States' Department of Interior, which has a trust responsibility to all 566 federally recognized tribal nations. A tribe that is federally recognized by the United States government receives trust and service obligations from the United States. Tribal sovereignty is a hot phrase that refers to the right for all federally recognized tribes to self-governance, which allows tribes to “define their own membership, manage tribal property, and regulate tribal business and domestic relations.”⁸⁷ This tribal sovereignty is different from the internationally recognized sovereignty that is spoken of at the United Nations because these tribes are considered domestic dependent nations. The Bureau of Indian Affairs is a part of the government-to-government relationship between the United States and Indian nations that provides various services including education, social services, economic development programs, law enforcement, infrastructure maintenance and repair, administration of tribal courts, and more as well as assistance in the form of contracts and grant programs.

Among the BIA's various roles, the responsibility of “administration and management of 55 million surface acres and 57 million acres of subsurface mineral estates held in trust by the United States for American Indian, Indian tribes, and Alaskan Natives”⁸⁸ is especially relevant to the Bakken oil boom. In short, this means the BIA approves and manages leases on Indian land between oil and gas companies and MHA

⁸⁶ Joe Heim, “Federal recognition put on hold for Virginia's Pamunkey Indian tribe,” *The Washington Post*, October 8, 2015, accessed November 29, 2015, https://www.washingtonpost.com/local/federal-recognition-put-on-hold-for-virginias-pamunkey-indian-tribe/2015/10/08/479dd9e0-6dcf-11e5-b31c-d80d62b53e28_story.html

⁸⁷ “Tribal Sovereignty,” *The Leadership Conference on Civil and Human Rights*, accessed January 30, 2015, <http://www.civilrights.org/indigenous/tribal-sovereignty/>.

⁸⁸ Bureau of Indian Affairs, “Who We Are,” Accessed November 21, 2014, <http://www.bia.gov/WhoWeAre/index.htm>.

tribal members. Because these lands are held “in trust” by the United States government, Indians who reside on this trust land are beneficiaries by federal law.

Unfortunately, many are unsatisfied with this system of trust management of Indian assets. The BIA, both historically and presently, has come under heavy criticism of their management capabilities of Indian assets, particularly over land. Elouise Cobell ended her 15-year class action lawsuit against the Federal Government in 2010 when a judge approved a \$3.4 billion settlement that resolves claims that the “federal government violated its trust duties to individual Indian trust beneficiaries,” including “Land Administration Claims state that the federal government violated its trust responsibilities for management of land, oil, natural gas, mineral, timber, grazing and other resources.”⁸⁹ . The Historical Accounting Claim in the lawsuit asserts that the federal government violated its trust duties “by not providing a proper historical accounting relating to [Individual Indian Money] accounts and other trust assets.”⁹⁰ The other significant Trust Administration Claim, in addition to the various assets claim, asserts the federal government “mismanaged individual Indian trust funds.”⁹¹

During the 15-year lawsuit waged by Elouise Cobell, “the plaintiffs contended that the government had mismanaged trust funds over the years through administrative errors, diversion of money to other programs and even outright theft. They argued that they were owed tens of billions of dollars. The government took the position that it owed

⁸⁹ “Frequently asked questions,” Indian Trust Settlement, accessed April 18, 2016, <http://www.indiantrust.com/faq>

⁹⁰ Ibid.

⁹¹ Ibid.

them little or nothing.”⁹² The mismanagement began, as these claims assert, in the late 1800s as the United States. A settlement was reached in 2010. “President Obama hailed the agreement as an ‘important step towards a sincere reconciliation’ between the federal government and American Indians, many of whom, he said, considered the protracted lawsuit a ‘stain’ on the nation.”⁹³ This backdrop is important because the tribe must rely on the BIA for management of their assets and lease agreements for oil development on their reservation. As one may guess, many had problems with the BIA’s assistance with leases, but not without the help of allegedly corrupt tribal members. A name to watch out for in this story of the boom is Spencer Wilkenson, Jr, but now to assess the effects of the boom.

Drilling and extraction technology, George Abe tells me, has improved greatly over the years. Below Fort Berthold’s lush prairie, well sites stretch down many vertical miles beneath the surface, but also extend horizontally. “Ya know shale is a rock and you have to break it up to get the oil that’s inside of the rock,” George explains to me, “The horizontal drilling, maybe you drill two miles and then you drill another three horizontally, so you are drilling 5 miles in total. There is a way to guide that drill bit in such a way that keeps you within that shale layer.” Hydraulic fracturing, also known as “fracking,” is the high-pressurized injection of millions of gallons of water mixed with a large cocktail of chemicals and sand in order to break open the shale rock layer to release

⁹² Dennis Hevesi, “Elouise Cobell, 65, Dies; Sued US Over Indian Trust Funds,” *The New York Times*, October 17, 2011, accessed April 18, 2016, <http://www.nytimes.com/2011/10/18/us/elouise-cobell-65-dies-sued-us-over-indian-trust-funds.html>

⁹³ Charlie Savage, “US will Settle Indian Lawsuit for \$3.4 Billion,” *The New York Times*, December 8, 2009, accessed April 18, 2016, <http://www.nytimes.com/2009/12/09/us/09tribes.html>

oil and natural gas. Sand is added to this mixture in order to keep the fissures open allowing natural gas and oil to flow out⁹⁴. Like many oil development impacted communities around the world, there is a large concern for the water, air, and land quality in proximity to the use of hydraulic fracturing—and debate has a wide range of answers regarding its safe use.

Lisa Lone Fight, another tribal member, is the senior scientist at the West Segment Regulatory Commission (WSRC). The WSRC holds a wide array of regulatory, monitoring and enforcement power over companies and their service equipment that doing business within the western segment of the reservation. Among their roles, they test soil and water quality⁹⁵. “Our watershed is okay, which thrills me to no end. I live and breathe that, literally,” Lone Fight sighed. Lone Fight was away on the Wind River Reservation directing their Native Field Science Center when the boom began. She returned with a Master’s degree in Environmental Science and Natural Resources monitor the oil development on the Fort Berthold Reservation. “I have a whole new skills set of training,” she told me, “I have HAZWOPER training, I’ve had SafeGulf and Safeland, which means I can be on any rig on land or at sea. I’ve gone through OSHA 10 and OSHA 30 training, so how to keep people safe when they are on rigs and around hazardous waste—hazardous waste period.” As senior scientist, Lone Fight’s expertise is instrumental in creating policy for regulating the oil development on the western segment and keeping the workers, her tribal members, and the land safe.

⁹⁴ Alan Granberg, “What is Hydraulic Fracturing?,” *ProPublica*, accessed November 23, 2014, <http://www.propublica.org/special/hydraulic-fracturing-national>.

⁹⁵ West Segment Regulatory Commission, Fort Berthold Indian Reservation Western Segment Regulatory Commission “About Us” page, <http://www.wsrcinfo.com/#!/about-us/c1btq>.

MHA Nation territory in Fort Berthold reservation has been dealing with a variety of serious issues since the oil boom began. Because of the immense workload, machinery to operate, and drilling rigs to assemble and manage, outside labor has rushed to the Bakken drill sites for high wages. Due to limited and short supply of housing in Fort Berthold and throughout the state of North Dakota, oil workers rent temporary housing, usually in makeshift trailer parks, notoriously branded as “man-camps.” Camps are not only living quarters for oil and gas workers, but have also transformed into sites of sexual abuse and human trafficking.

Not far from the Bakken oil fields, advocacy groups like the Brave Heart Women Society and the Ihanktowan (Yankton Sioux) tribe who are fighting to ban man-camps distinguish them between two types: documented and undocumented camps. Although both types of camps present dangerous and life-threatening conditions to women and a high possibility for abuse, undocumented camps hinder emergency and law enforcement services because these camps aren't officially recorded due to their informal residence, thus increasing the vulnerability of women remaining out of reach from law enforcement protection. Emergency services responding to scenes have trouble locating the callers and even the camps themselves simply because there are no addresses. A statement by Lisa Brunner, White Earth Ojibwe and Program Specialist for the National Indigenous Women's Resource Center, describes the predatory impact of the oil boom at a conference against the Keystone XL Pipeline and violence against women: “They treat Mother Earth like they treat women... They think they can own us, buy us, sell us, trade us, rent us, poison us, rape us, destroy us, use us as entertainment and kill us. I'm happy to see that we are talking about the level of violence that is occurring against Mother

Earth because it equates to us [women]. What happens to her happens to us... We are the creators of life. We carry that water that creates life just as Mother Earth carries the water that maintains our life.”⁹⁶

In Canada, the Royal Canadian Mounted Police came out with a report that found indigenous First Nations women go missing/murdered at pandemic rates, much higher than their white counterparts. The United States has never commissioned a report on this issue, nor do they have comprehensive data on violence against indigenous women.

Despite the lack of comprehensive findings, the Department of Justice, Nation Institute of Justice, and independent studies have found significant data pertaining to violence against indigenous women in the United States. A Bureau of Justice Statistics Statistical Profile found that Native American and Alaskan Native women are 2.5 times more likely to be raped or sexually assaulted than women in the United States in general.⁹⁷ A report by the National Institute of Justice and the Centers for Disease Control and Prevention found that 34% (more than 1 in 3) Native women will be raped in their lifetime, whereas women in general will be raped is 1 in 5 (also epidemic standards). Since the 1817 General Crimes Act, also called the Indian Country Crimes Act, tribes had no legal authority to prosecute non-tribal members on Indian land—this authority was held by the federal government.

⁹⁶ Mary Annette Pember, “Brave Heart Women Fight to Ban Man-Camps, Which Bring Rape and Abuse,” *Indian Country Today Media Network*, August 28, 2013, <http://indiancountrytodaymedianetwork.com/print/2013/08/28/breave-heart-women-fight-ban-mand-camps-which-bring-rape-and-abue-151070>.

⁹⁷ Steven W. Perry, *American Indians and Crime- A BJS Statistical Profile 1992-2002*, Bureau of Justice Statistics, US Department of Justice, Office of Justice Programs, December 2004, <http://www.bjs.gov/content/pub/pdf/aic02.pdf>.

Crime in and around Fort Berthold has spiked since the beginning of the oil boom, tripling in the past two years with 90% of crime drug-related, leaving tribal members feeling a continuous threat from “strangers” now living on the reservation. In recent months, the 2014 National Drug Control Strategy report specifically named the state and local tribal law enforcement agencies as becoming “overwhelmed” by the crime due to its sheer magnitude and law enforcement’s under resourced and overstretched officers⁹⁸. On November 14, 2014, as complaints by tribal members and human rights organizations grew, the Federal Bureau of Investigation announced that it would open a permanent office in Williston, North Dakota⁹⁹ to help with law enforcement efforts. Interstate drug-rings, such as one led by brothers Oscar and Happy Lopez, have targeted this region. In an investigation coordinated by the FBI and tribal officers called Operations Winter’s End, 22 people were indicted including the two brothers for dealing heroin and meth in or around Fort Berthold. Officials say these drugs are reaching tribal lands from southern California¹⁰⁰.

I spoke with tribal member Theodora Bird Bear who has worked extensively to protect the people and lands of Fort Berthold. “You see the most visible evidence of change in the country side with the industrialization. The horizon is lit up with lights

⁹⁸ ICTMN Staff, “Crime & Drug Trafficking Threaten to Overwhelm the Bakken,” *Indian Country Today Media Network*, July 10, 2014, accessed November 15, 2014, <http://indiancountrytodaymedianetwork.com/print/2014/07/10/white-house-organized-drug-trafficking-growing-threat-bakken-155768>.

⁹⁹ ICTMN, “Rising Crime in Bakken Region Leads FBI to Open North Dakota Office,” November 15, 2014, accessed May 2, 2016, <http://indiancountrytodaymedianetwork.com/2014/11/15/rising-crime-bakken-region-leads-fbi-open-north-dakota-office-157862>

¹⁰⁰ Sari Horwitz, “Dark Side Of The Boom: North Dakota’s oil rush brings cash and promise to reservation, along with drug-fueled crime,” *The Washington Post*, September 28, 2014, accessed November 15, 2014, <http://www.washingtonpost.com/sf/national/2014/09/28/dark-side-of-the-boom/>.

when this was a totally undeveloped area before 2008,” she tells me. “Before we could not see our air, but lately it’s a grey haze, with visible particulates. Not only do you breathe it in but it becomes lodged permanently in your lungs and heart.” Another obviously visible presence of the oil industry in MHA Nation is the traffic. Having one central streetlight in town connected to interstate highways, residents share the road with big business. Traffic in and around Fort Berthold is not only tedious, but also degrades roads, backs up service vehicles, and highly increases the amount of road accidents¹⁰¹.

Theodora Bird Bear has worked for the Indian Health Service (IHS) for 19 years and as a writer for New Town News. During her time as a writer, she has had several petitions filed against her by Tex Hall’s administration in a possible attempt to get her “fired” because of her writings on the decisions the tribal council was making in regards to oil, particularly its refinery process on the reservation and the exploitation of tribes in Canada regarding the Tar Sands around the year 2000.

Fort Berthold’s previous administration was notorious for its lack of transparency, especially its decisions and connections to the oil industry. Former tribal chairman, Tex Hall, made numerous questionable financial decisions for the tribe including the purchase of a Yacht, named Island Girl¹⁰², that can usually be found sitting on the banks of Lake Sakakawea. Looking at the financial budget of 2013, the tribal council had set aside \$72 million in a general fund and \$421 million in the loosely defined “special projects”

¹⁰¹ Terri Hansen, “Inside the Bakken: A Documentary Commences to Describe Life on the Fort Berthold Indian Reservation,” *Indian Country Today Media Network*, November 12, 2012, <http://indiancountrytodaymedianetwork.com/2012/11/12/inside-bakken-documentary-commences-describe-life-fort-berthold-indian-reservation-144968>.

¹⁰² Cole Strangler, “An Oil Boom is Ravaging an Indian Reservation in North Dakota,” *Vice*, November 25, 2014, accessed January 6, 2015, <http://www.vice.com/read/the-oil-boom-is-ravaging-an-indian-reservation-in-north-dakota-1124>.

fund¹⁰³. Tribal members regularly question where this money is spent and for many of them, Island Girl has become a symbol of the misplacement of resources from the tribal government.

Tex Hall made possible back-seat private dealings with gas and oil companies as well as a likely criminal connection to James Henrikson, a trucking and oilfield development entrepreneur, who was arrested for felony weapons charges on 11 counts and for allegedly hiring a hit man to murder an associate¹⁰⁴. In 2011, with a few felony charges under his belt, Henrikson set his sights on the Bakken oil fields with plans for big money. James Henrikson's company, Blackstone, worked closely with Tex Hall and the tribal government, gaining access to deals that were never brought forth to public bid, including a trucking contract to water the dusty roads of well sites for \$570,000. Blackstone, controlled by Henrikson and his girlfriend Sara Creveling, was created under the guise of a native-owned business along with a native partner, who was found in businessman Steven A. Kelly. This partnership secured Blackstone with priority contracts on the reservation oil fields. Kelly agreed to a subcontracting deal with Blackstone, opening doors to the Bakken oil fields for Henrikson, but soon discovered he was losing business... to the chairman.¹⁰⁵

Tex Hall created his own company, Maheshu Energy, during his third term as tribal chairman. Maheshu Energy began as a company to broker leasing deals but later offered well site construction, rig transportation and trucking. Despite an ethics ordinance

¹⁰³ Ibid.

¹⁰⁴ Horwitz, "Darkside of the boom."

¹⁰⁵ Deborah Sontag and Brent McDonald, "In North Dakota, a Tale of Oil, Corruption and Death," *New York Times*, December 28, 2014, accessed January 6, 2015, <http://www.nytimes.com/2014/12/29/us/in-north-dakota-where-oil-corruption-and-bodies-surface.html>.

that bans leaders from using their positions for personal profit, Mr. Hall proceeded offering company services. Unfortunately, this ordinance did not specifically prohibit owning an oil-related business and, what's more, when Steven Kelly addressed the tribal council on the matter of Tex Hall's conflict-of-interest (i.e. owning a company while residing as chairman), Tex Hall himself asserted that there was no ethics board to enforce those ordinances. Tex Hall went on to control Maheshu Energy, receiving even more business contracts with oil companies.¹⁰⁶

Business turned for the worst when Kristopher Clarke and Rick Arey, both employed by Blackstone, decided to quit and join another company. After Clarke told Arey he was about to drop off his company credit card at Blackstone on February 22, 2012, he was never heard from again. Lissa Yellowbird-Chase, a tribal member and former bounty hunter, took it upon herself to find missing people on the reservation, including Mr. Clarke who was last seen on Tex Hall's land. As she began her investigation, people stayed away, doors closed, calls dropped, and many warned her not to get involved. The body of Kristopher Clarke is still missing. Despite Clarke's disappearance, Blackstone and Maheshu's business relationship continued on until the end of March 2013.¹⁰⁷

Other ethical activities were called into question when Tex Hall had asked Edmund Baker, director of the TAT Environmental Division, for a favor. A volunteer search party prepared to scour the fields of Williston and Mandaree on July 20 for the body of Mr. Clarke. Mr. Hall asked Mr. Baker to remove "a few frack socks" from his land a day before the search party commenced. Frack socks are oil filters that often

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

contain radioactive waste that surpass the legal limit to dump in the state of North Dakota, commonly resulting in illegal disposal rather than paying the cost of hauling the socks out of state.¹⁰⁸

Naturally occurring radioactive material (NORM) can be found in the earth's crust and include radionuclides such as uranium, thorium, radium, and their decay products as well as lead-210¹⁰⁹. The radioactive waste produced by hydraulic injection of water into the shale formation is a result of “flowback” or “produced water” that is a mixture of salty fluid trapped inside the rock along with mobilized radionuclides. When this produced water reaches the surface, the radioactive waste generated by the extraction process is what’s called “technologically enhanced naturally occurring radioactive material,” or TENORM, which simply means that the naturally occurring radioactive material has been concentrated by human technology and is presently accessible to exposure¹¹⁰ (not to mention at risk of environmental contamination).

Mr. Baker found around 200 of these frack socks scattered over the chairman’s land. The request Tex Hall made had put Mr. Baker in a tough position. Calling upon your environmental director to clean up a gross violation of environmental and community health could only mean one message to Edmund Baker: “Call your regulator, and think he’ll do a favor for you and be quiet about it.” Fearing losing his job and

¹⁰⁸ Ibid.

¹⁰⁹ “Oil and Gas Production Wastes,” U.S. Environmental Protection Agency, last updated December 5, 2014, accessed January 12, 2015, <http://www.epa.gov/radiation/tenorm/oilandgas.html>.

¹¹⁰ Valerie J. Brown, “Radionuclides in Fracking Wastewater: Managing a Toxic Blend,” *Environmental Health Perspectives* 122:2 (Feb 2014), doi: 10.1289/ehp.122-A50.

possibly even his housing, Edmund Baker documented an incident report for his own records and quietly filed it away.¹¹¹

Finally, judgment had fallen onto one Douglas Carlile, a man living in Spokane, Washington with business relations to James Henrikson. The two businessmen had been involved in a \$2 million oil development deal on a tract of 640 acres of land when tensions—and threats—began to arise. The deal went sour when Douglas Carlile sought to find an investor to buy out James Henrikson. “If I disappear or wake up with bullets in my back, promise me you will let everyone know that James Henrikson did it” was what Mr. Carlile told his family¹¹².

Sure enough, on December 15, 2013, Douglas Carlile was shot dead in his Spokane home while his wife fled up stairs to hide. Timothy Suckow was tracked down and arrested a month later as the alleged hit man hired to kill Mr. Carlile. James Henrikson was later charged with the murders of Mr. Carlile and Mr. Clarke, indictment for two counts of murder for hire, four counts each of conspiracy and of solicitation to commit murder for hire, and one count of conspiracy to distribute heroine. To these charges Henrikson pleaded not guilty. His trial is set for July 2015.¹¹³

After the murder of Douglas Carlile, the tribal council issued an emergency amendment to the tribe’s ethics ordinance prohibiting its leaders to do business with oil companies on the Mandan, Hidatsa, and Arikara reservation in Fort Berthold. Tex Hall then, transferred ownership of the company to his girlfriend that January. The tribal

¹¹¹ Sontag and McDonald, “In North Dakota, a Tale of Oil, Corruption and Death.”

¹¹² Nussbaum and Voreacos, “Breaking Bad meets Fargo at Underbelly of Shale Boom.”

¹¹³ Sontag and McDonald, “In North Dakota, a Tale of Oil, Corruption and Death.”

council failed to suspend chairman, Tex Hall, but hired Stephan L. Hill Jr., a former U.S. attorney in Missouri, to investigate Mr. Hall for public corruption¹¹⁴.

Coupled with a controversial chairman and a violent businessman comes North Dakota's Industrial Commission that has its own way of dealing with the oil companies. State regulators with North Dakota's Industrial Commission (which consists of the governor, attorney general, and agricultural commissioner) have stated that they are taking a "collaborative" rather than "punitive" approach to handling oil companies. Continental Resources, an Oklahoma-based oil company, had previously experienced 10 blowouts since 2006, and received no form of penalty from the Industrial Commission until the 11th blow out. That time, a Continental well blew out emitting 173,250 gallons of potential pollutants, the Industrial Commission finally decided to penalize the company a fine that amounted to \$75,000, but was reduced to \$7,000 (%10 of the total penalty). Regulators of the Industrial Commission view oil companies as necessary allies in policing the oil fields and following regulations.¹¹⁵

The corruption doesn't stop there. A class action lawsuit was filed against Spencer Wilkenson, Jr., long-time manager of the 4 Bears Casino & Lodge, board member of the tribe's corporate corporation and became a part-owner of oil company Dakota-3 in 2006 with a white man named Richard Woodward who was receiving \$20,000 a month from tribal funds for his consulting services. The suits allege that

¹¹⁴ Ibid.

¹¹⁵ Deborah Sontag and Robert Gebeloff, "The Downside of the Boom," *New York Times*, November 22, 2014, accessed December 22, 2014, http://www.nytimes.com/interactive/2014/11/23/us/north-dakota-oil-boom-downside.html?smid=fb-nytimes&smtyp=cur&bicmp=AD&bicmlukp=WT.mc_id&bicmst=1409232722000&bicmet=1419773522000&_r=3.

“Wilkinson and others [TAT tribal employees] aided and abetted the U.S. government failing to fulfill its fiduciary responsibility to the tribes” while “Wilkinson’s motion argues, among other things, that the government had no such responsibility.”¹¹⁶

Documents demonstrate that interlinked companies (ultimately Dakota-3 controlled) purchased 42,500 acres of land owned by individuals through separate deals, 44,000 acres of land managed by the Tribal Business Council, about a 1/5 of the rights purchased for \$50 an acre and a royalty rate of 18%. Then, land rights were flipped. In 2010, Oklahoma based company, Williams, bought Dakota-3, which was barely producing oil, for \$952 million, effectively paying \$10,000 per acre for the rights Dakota-3 obtained from the tribal government and landowners. This was not the first flipping of Indian land for oil development. Similar schemes were carried out by Black Rock Resources that purchased 12,800 acres for \$35 per acre and 16.7 royalty rate then selling those rights to Marathon Oil for about \$42 million.¹¹⁷ Kyle Baker, a tribal member, geologist and former environmental and energy official for the Three Affiliated Tribes put it like this:

“Companies will come and find your weaknesses and then drive themselves in. Our Laws, our set up wasn’t ready for it.”¹¹⁸

Since 2008, Fort Berthold has received more than “\$1 billion in oil tax revenue,” but the tribe is still struggling to provide basic services to its tribal members, even as the nation is producing about one third of oil in North Dakota, while North Dakota is second to Texas as the largest producer of oil in the US. The campaign for new tribal chairman

¹¹⁶ Abraham Lustgarten, “Land Grab Cheats North Dakota Tribes Out of \$1 Billion, Suits Allege,” *ProPublica*, February 23, 2013, accessed May 1, 2016, <https://www.propublica.org/article/land-grab-cheats-north-dakota-tribes-out-of-1-billion-suits-allege>.

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

came between Mark Fox and Damon Williams, both promising to ensure tighter regulations on the oil industry regarding the environment, transparency of government decisions, as well as channeling oil revenue to projects aimed at improving services and lives of the 12,000 tribal members. Mark Fox took the election in early November, but by a margin of less than 150 votes¹¹⁹. Theodora and others know “the previous administration wasn’t interested in regulation.” The multiple spills of millions of gallons of previously injected water used for fracturing by the oil company Crestwood have sparked outrage and distress from tribal members concerned for their health and the environment. These spills are especially alarming because of the unknown chemical agents (considered “trade secrets”) used in hydraulic fracturing have a high potential to seep into domestic water supply.

Transparency by the oil and gas industry and tribal government is one issue, but lack of dissemination of information is another. “Its difficult to get information on spillages down south in North Dakota,” Bird Bear explains, “You have to file a Freedom of Information Act request to get all the information on spillages. George [Abe] is still trying to get information on where all the pipelines are in North Dakota, and he works in the Natural Resources department and *he’s* asking!” George is currently having lab work done to test the waters where spills have been reported, but the trouble with these tests is that there is only so much one could know to test for. Due to unregulated use of water used for hydraulic fracturing, hundreds of unknown agents, carcinogens, and toxins could be in those sites and remain untested for.

¹¹⁹ Ernest Scheyder, “Can American Indian reformers slow an oil boom?,” *Reuters*, November 3, 2014, accessed November 16, 2014, <http://www.reuters.com/assets/print?aid=USL1N0SQ37H20141103>.

The health and well-being of the environment and the people of Fort Berthold, as everywhere in the world, are interconnected. “Western Fort Berthold had been kind of a sanctuary for wildlife,” Bird Bear recalls, “Animals were coming here because we were the last safe place. Because of these well sites, a lot of these animals are not able to reproduce safely. The prairie chickens can’t reproduce their offspring, because the wells are where they do their prairie chicken dances.” Human beings living in an unsafe environment as those animals who used to live and drink the same water begs the question as to what will happen to the inhabitants of Fort Berthold after this boom passes. Were there permanent changes that devastated Fort Berthold like the Garrison dam?

Currently, the answer is a clear ‘no.’ As Lisa Lone Fight points out, “This boom is new. It doesn’t mean that it won’t surpass the boom or the Ag[riculture], or the flood, but for right now, scientifically, it hasn’t.” There aren’t enough comprehensive studies to fully evaluate the damages incurred by the oil boom on Fort Berthold, but there are promising studies (though non-comprehensive as well) being developed by NGOs and at the state level that can point to possible issues that current regulation is not currently addressing. At the time I interviewed Joletta and Theodora in March of 2016, the sisters were preparing statements for the open comment period regarding the Bureau of Land Management’s proposed revision on flaring gas in the oil fields.

Conclusion:

In 2014, the global market took a turn when Iraq and Libya unexpectedly increased in production, severely impacting the Bakken production in North Dakota and Fort Berthold. OPEC decided it would not reduce their production, over saturating the oil market, driving oil prices to \$45 a barrel and lower from its recent high of over \$100 a

barrel. This in turn put massive pressure on the U.S. domestic oil development.¹²⁰ Around September 2014, the price plummet triggered inertia. Oil production all but ceased on Fort Berthold—virtually everywhere in the U.S.—in 2015 because oil drilling and production no longer became profitable at oil’s current market price.¹²¹

Clearly the oil boom created a high-octane situation on Fort Berthold, money fell into the pockets of the Three Affiliated Tribes and its individual tribal member, but it seems the oil industry made out with the profit that all parties sought after. The difference is, the tribe still has the goose that laid the golden egg: the Bakken shale. A trove of crude oil still sits under Fort Berthold, it’s only a matter of *when* the market looks favorable for oil production. However, the price of oil needs to raise a considerable amount before a boom on Fort Berthold can become a reality. At last, the Three Affiliated Tribes can at last take a breather from the oil boom and all that oil development brought with it. The next question is, when the Bakken oil boom returns, will the past boom repeat itself again? Or will the tribe have the ability to manage such development. The social and economic problems still persisted throughout the oil boom. If these conditions improve is tied to the tribe’s management of funds. There is no way around it. “The oil is our buffalo,” said tribal member Damon Williams while on the campaign trail in 2014, “And one of these days, the buffalo will move on.”¹²²

¹²⁰ Ashkenas, Parpaliano and Fairfield, “How the U.S. and OPEC Drive Oil Prices.”

¹²¹ Michael Corkery, “Oil Prices Claim New Victim, An Offshore Drilling Company in Texas,” *The New York Times*, February 15, 2016, accessed April 27, 2016, <http://www.nytimes.com/2016/02/16/business/dealbook/paragon-offshore-is-latest-of-about-60-oil-firms-to-file-for-bankruptcy.html>.

¹²² Ernest Scheyder, “Can American Indian reformers slow an oil boom?,” *Reuters*, November 3, 2014, accessed April 27, 2016, <http://www.reuters.com/article/us-north-dakota-reservation-insight-idUSKBN0IN0AR20141103>.

Chapter 3: Future Prospects

The oil boom had come and gone. The hustle of industry semi trucks has slowed and all seems much quieter, almost as it was before—except different. Tribal members were left with the worn and tattered roads, dusty red scoria access roads that crisscross the western segment to oil well pads, possible long-term environmental impacts, flares still burn night and day while some rigs still find the endurance to produce, a huge pot of oil funds and money in many landowner pockets. Arguably, the oil boom was no revolutionary saving grace like Tex Hall’s “sovereignty by the barrel” mantra desired. We know the Bakken still possesses billions of barrels beneath the surface. “This won’t be over for probably three generations,” Lisa Lone Fight predicts, “The Bakken is a bowl, here where we are. We will always be in the business of energy.” This idea relates to Joletta Bird Bears’s observation of the tribe’s dependence on fossil fuel for obvious economic reasons. There is no escaping it. The tribe is a pro-energy nation. This dependence is not different from the rest of the world, but the tribe lacked leadership and the power to fully define the terms of energy development on their land to take complete advantage of the opportunity. So what does the future hold for the Mandan, Hidatsa, and Arikara tribes of Fort Berthold?

And what was the outcome of the oil boom? For this question, I turn to Dorothy Atkinson, my grandmother, who said, “Until the price of oil goes up again, then I don’t know what will happen to the people back there. Lots of people got pretty high wages, but things will start slowly going back to what it was before the oil boom.” At the moment, there is no reason to suggest that the tribe is making long strides in leadership or

in fixing systemic issues that help to alleviate the immediate needs of tribal members. The extra pool of money in the People's Fund generated by oil revenue and royalties absolutely help through their disbursement program, but many ways it's a band-aid effort. The tribe is not a sinking ship by any means, but its not a triumphant one either. When companies return to develop oil on the reservation, the events that unfolded the last decade are likely to repeat. Dorothy, currently living in New Mexico, also acknowledges a certain degree of unpredictability for the invisible effects on Fort Berthold created by the boom. "The long-term affect on the wildlife, vegetation and the quality of life of people who live there—I don't know about the 20 years from now or 30 years from now. I wouldn't know how to deal with that uncertainty living back home on their land."

During our conversation, Joletta and Theodora Bird Bear talked much to the question of fear inside many tribal members. After Joletta spoke to the fear of reprisals for those working in the tribal government, she looked to her people's history: "You're also fearful because generations of people who went to boarding school lived in fear. And that residual is still in here. You're fearful because you went through a complete devastation of what you knew was significant and what was in your heart, what was so important to your well-being when your villages were destroyed with the United States government. You're fearful. You're fearful. You couldn't stop it." Theodora and Joletta believe this historical trauma contributes to tribal membership speaking out in public and contributing their perspective. Everyone experiences trauma differently—no one has the same experience—but the Bird Bear's point demonstrates that these contexts are important and indeed inform how generations after experience the world afterwards.

The work Joletta and Theodora put into advocating for the land and health of their fellow tribal members is labor that, in many ways, breaks this cycle of fear. “But we have gone through so much from the United States policy that attacks us as people. When you are aware of it, that’s when you fight back. You say ‘there is no way that they are going to get me.’ But others they think ‘I can’t do anything. I can’t do anything.’ So it’s building off of this ability to say ‘no more.’” In these terms, it’s a resistance to past and present encroachments on their people and homelands. The example of speaking up in public is just a piece of the kind of self-determination work that the Bird Bears are talking about. Landowners and, even greater, the collective tribe need to come together as a collective to advocate for their own needs and interests.

An oil boom is not just an opportunity to sign away your land for cash, but also an opportunity to come together to make the hard decisions. The Bird Bears not only see a fear from tribal government reprisal for voicing their opinions (even dissent), but a fear of confrontation through opinion in a simple open discussion. “We’ve lost our ability to do that. There is no forum to discussion where we disagree and still be cordial to each other—civic to each other. We’ve almost lost that. We need to build that back up without—we need to be strong enough to go through that.” A strong forum is important for any community to discuss ideas, decisions, alternatives, and the values of the community in going forward. “What I would really like to see come out of this is not the monetary amount but this sense of being that says ‘this is my land, I will make the decision. I will make that decision with what I do. There won’t be a company that comes in here with predetermined ideas of what they are going to do, it will be my decision with what I’m going to do and if that company is even going to be in my life.’” The fact that a

lease auction took place to carve up Fort Berthold took away any sort of collective action and decision-making regarding how to manage the oil boom. This doesn't have to be the case for the future boom. Of course this is an easier feat said than done, but not at all wholly impossible.

The Mandan, Hidatsa, and Arikara peoples of Fort Berthold are a part of the global dependence on fossil fuels that every nation contributes to. "The world should be grateful for indigenous communities and other communities that are letting this stuff be sucked out from underneath us, or they wouldn't be able to exist in the way that they do. And that includes people who are for and against it, because they are reaping the benefits of it," Lisa Lone Fight asserts. Lone Fight acknowledges the harmful affects of oil and gas use around the world, but the question is not whether you lease your land or not for fossil fuel development, its whether alternatives are developed because of a change in community and global consciousness. Lone Fight believes tighter regulation and alternative energy technologies are a start to the oil dependence solution. "It has awful affects, I see it. Scientifically, I can see it and say these are the affects. We need to educate ourselves so we can help people say 'okay, lets do this, because that would be for this.' Let's be the tribe that is about a different kind of energy and where do we go from here."

During our conversation, Joletta asked how could the three tribes remain a distinct culture if their decisions didn't reflect their traditional tribal value of the land not as a commodity, but as a unifying force for the tribe worth protecting. Money, she maintains, has a short lifespan while their homelands as their tribe has known it, has been of value for over a millennia. "This is our land. We are going to do everything we can do to make

sure that one hundred years from now its here. It hasn't diminished. Its livable. It produces. That you can breath. That you feel good about being here." To the Bird Bears and many others, the relationship between the tribe and the land has a long heritage; an oil boom doesn't get to disrupt that.

In my interview with Lisa Lone Fight, the value of the land transcends the dollar value and it connected to the heritage that the Bird Bears seek to protect. Lone Fight explained that the Mandan, Hidatsa, and Arikara still reside on their homelands, though not without a long struggle to survive. "This is where I am from. I have explored this area with elders and I know every bump there are certain things you do and say. Ceremony. Our medicinal plants are still healthy and alive and doing well. Our edibles, what I call in my research, our choke cherries and wild plums and all of that [are healthy]." The prairie, in many ways, is still as it was generations ago. There are many things that the three tribes were able to hold onto and experience as their ancestors have. "It was amazing and to think that we are in a place that's protected and wild enough that we can still do those walks and experience what our ancestors from the beginning of time had experienced. I think that's critical for me and for my children. I don't have any grandchildren, but for the generations to come. If we keep things in a good place that we can continue to do that." For Lone Fight, everything about the reservation needs protection.

So what needs to happen to achieve this? It seems part of the answer is investing in future generations. "I would say that our strengths are there, but we have to recognize them. There would be less fear. People would have to be comfortable challenging themselves and have faith in themselves." Empowering individuals would go a long way in Fort Berthold, especially when it comes to the prospect of an oil development in your

tribe's backyard. "Its occurring pockets like I said before. I think that's why people are afraid. They don't know their own strengths here. There's plenty, believe me. There is a lot of capability here, especially in children, but by design or by neglect its not encouraged." A large piece of this empower is not only investing and educating children, but for Lone Fight and the Bird Bear sisters, it means instilling the cultural value of the land in these future generations. " [I want] for children to grow up and say 'this is my land. Mine!' and know that. 'That's mine. I'm going to protect it. I love my land,'" Joletta declared. She looked at her little grandson, Rustle, who was playing with his trucks in the other room.

"Do you know the guys name that wrote for the IPCC [Intergovernmental Panel on Climate Change], he wrote on the climate change?" Joletta asked me. I poured my final cup of coffee from their kitchen counter. "Which one?" I asked as I sat down. "Was it Hansen? James Hansen? Are you familiar with that?" I wasn't familiar with him, but I found out he is a professor in the Department of Environmental Sciences at Columbia University and runs the Climate Science, Awareness and Solutions program at Columbia's Earth Institute.¹²³ Theodora was watching a video of his talk at the IPCC and found it profoundly important to the oil development on Fort Berthold. His talk was on Climate Change, its man-made nature and the effects on the earth. "He was talking about the oceans circulatory system and I was thinking that parallels the human system, human circulatory system that we go by and what an impact that has on the earth and how the changes will be pretty catastrophic—Maybe not in my lifetime, but maybe towards the

¹²³ Dr. James E. Hansen's about page, accessed May 2, 2016, <http://www.columbia.edu/~jeh1/>.

end of your lifetime. I tried to bring it back to Fort Berthold and how the oil and gas extraction here is contributing to emissions.” Fort Berthold’s oil development, just as the oil refinery, has impacts that are connected to a global system of climate—something everyone experiences, including those future generations. Theodora began including her concerns about the emissions from flaring gas in her Bureau of Land Management (BLM) comments. Joletta agreed and they submitted their written comments in response to the BLM’s proposed revisions for gas flaring.

There lies a concept of interconnectedness. It lies through time and space—past and present. These emissions and other effects may be permanent and outlast those who contributed to the problem. “It will affect you. It will affect Rustle.[...]I think that’s what we are fighting are those adverse impacts against you guys, because we feel responsible to our earth, to our land, and that translate to our responsibility to you.” What I have learned from Joletta, Theodora, and Lisa Lone Fight is that it takes a commitment to live in Fort Berthold and care for the land. There is a responsibility to one another that extends outward. “ The parallels between the human circulatory system and the earth are very similar, but we are contributing if we allow the emissions to impact not just to us, but we are contributing to a global system. We are fighting for that too. We are fighting for the world.”

There was a deep pause.

“I think he’s running out of paper,” chuckled Joletta as she saw me furiously scribbling in my reporter’s notebook.

“I think he has a tiny notebook! I thought ‘that’s what I do!’ I’m scribbling on those little notebooks.”

“I’ve filled up many a notebook,” I laughed, “Alright, I think that concludes it.”

Conclusion

The history of the Mandan, Hidatsa, and Arikara people cannot be separated from the oil boom as it unfolded after 2005 and its present lull. The history of dispossession, largely instituted by the US government from its colonial origin, informs how tribal members experienced and perceive the Bakken oil boom on their reservation. The issue of economic dependency is a direct result of how Indian law and events like the Garrison Dam utterly traumatized the Three Affiliated Tribes, leaving them vulnerable in governance to outside powers. This is one of the reasons the tribe was unable to take full advantage of the Bakken oil boom like the Southern Ute tribe in Colorado. This is not to say the tribe didn't benefit economically. They did. Large sums of revenue helped power the tribal government and went into the pockets of individual landowners. When the boom kicked off after the leasing process, a resource curse-like situation exacerbated already existing social, economic, cultural and political issues.

What is also key in understanding the present situation of Fort Berthold is that dependency and the resource curse was not a destined path for the three tribes. By this I mean their current situation was created by racist and predatory decisions carried out by their colonial government, the United States of America. Their situation is also conversely the story of how they resisted and survived colonial rule through the centuries. The value of land that transcends the dollar amount is a key issue that arose throughout the interview process and speaks to a long heritage passed down long before US occupation. The relation of the Mandan, Hidatsa, and Arikara to their homelands is how many view the decision-making process in terms of oil development on the reservation.

Linked to this idea of preserving land and the tribal connection to the land is the safety and security of the land for future generations to enjoy along with their own well-being.

The Bakken oil boom came and went. What this study does not answer is ‘what does the future hold for the Mandan, Hidatsa, and Arikara?’ The Bakken shale formation still holds vast amounts of oil—a trove the US economy would love to get its hands on. What is known is what some of the elders and advocates for safety and regulation want for their tribe, which goes back to the protection of land through both tribal public consciousness, tighter regulation of oil development, holding the US, State and Tribal government accountable as well as the oil industry, and empowering tribal members to voice their opinions—especially children.

What I hope this paper also accomplishes is illuminating the long history of dispossession that is unique to the Mandan, Hidatsa, and Arikara people, but also expresses a common story for many tribes in the United States. Indigenous peoples’ history of the United States is not a topic that is taught in-depth to the degree necessary in the education system. These tribes still exist and are not an extinct people belonging to the dusty myths of conquering the western frontiers or John Wayne movies. The oil produced from underneath the feat of tribal members on Fort Berthold helps to power the globe so that many can live comfortably.

This study also hopes to complicate the nuances for whether oil is bad. Oil complicates everything and is informed by the predatory aspects of the United States. The US also has a heritage, which is built on the plunder of Indigenous lands and lives. It continues with the resource extraction on Fort Berthold. The burning of oil contributes to climate change and environmental impacts, but it also helps pay the bills and puts

money into the pockets of those in need. What I hope is learned through my study is an fact of life pointed out by Theodora and Joletta Bird Bear: money only lasts so long before it is spent and the oil runs dry. What happens when the earth beneath Fort Berthold is hollow, empty of oil? This question will remain unanswered for a long time, but I hope the answer is empowerment. The tribe desperately needs improved quality of life—a life longer than its current expectancy of 57 years. They deserve that and much more.

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