

# A West Coast Hibernia?



## The debate over offshore oil and gas development in British Columbia's Queen Charlotte Basin

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## **Introduction**

On the heels of the US debate regarding oil drilling in the Alaska National Wildlife Refuge and following the less contested successful drilling off the coast of Newfoundland, Canada's western-most province has begun to lobby for and debate the reversal of nearly thirty-years of provincial and federal moratoria on offshore oil and gas exploration. The sudden interest and subsequent debate stems from a 1998 report by the Geological Survey of Canada estimated that nearly ten billion barrels of oil and twenty six trillion cubic feet of natural gas may be located in the Queen Charlotte Basin and Hectate Strait off the north coast of British Columbia (BC).<sup>1</sup> This estimate of total reserves is about two to three times what's currently being drilled for at Hibernia and Terra Nova off the coast of Newfoundland. As a result of what's at stake environmentally and economically, business, political, environmental, and First Nations (the Canadian term for Native American tribes) factions and coalitions have begun a process of media campaigning, lobbying, risk assessment, and legal action to support their various positions in the debate. The provincial moratorium has effectively been lifted, and a decision regarding the lifting of the federal moratorium is expected within the next six to twelve months.

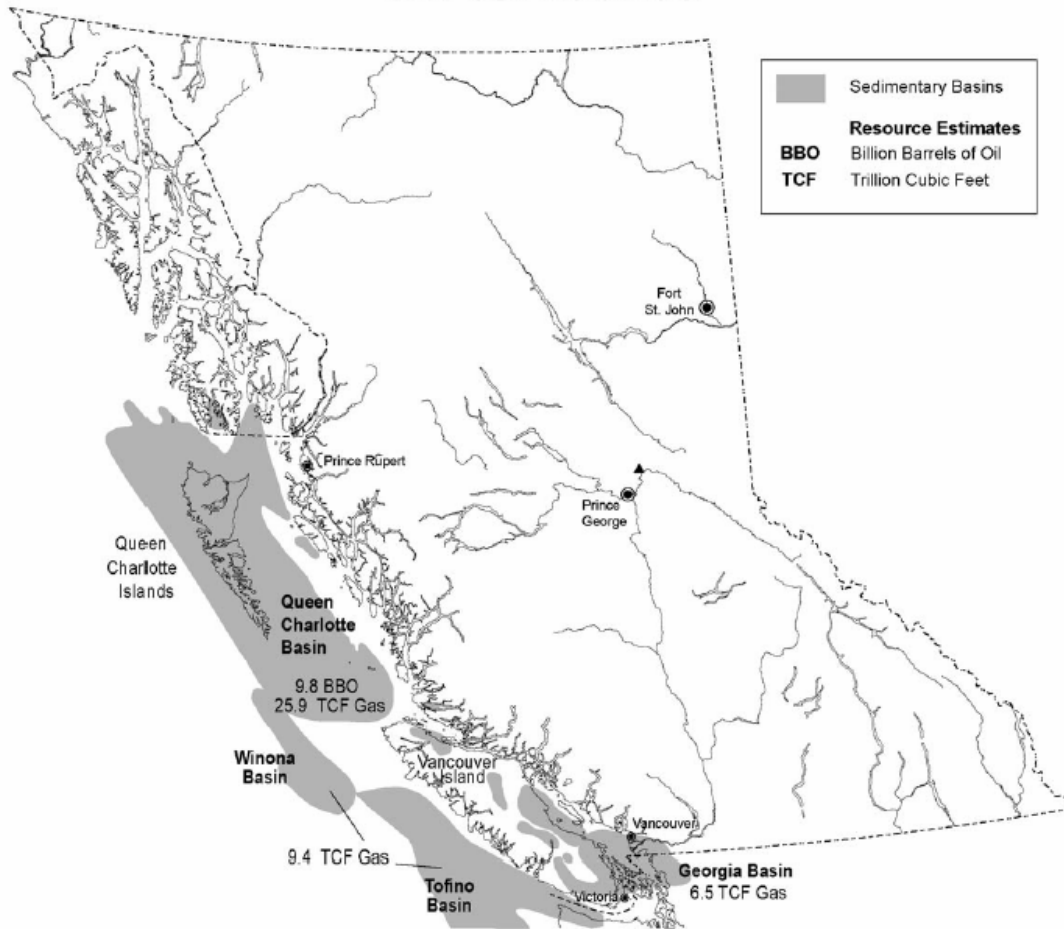
While the moratorium decision is seen by many as a verdict that could pave the way for much-needed economic development and opportunity, a lifting of the moratorium may only mark the beginning of legal challenges and environmental protest. One of the many layers that complicate this debate are the unresolved land claims put forth by First Nations within BC, who unlike those in the rest of Canada and the United States, did not sign treaties to cede title to their lands. Specifically, the Haida Nation who have called the archipelago known as the Queen Charlotte Islands or Haida Gwaii (meaning "islands of the people in Haida language) home since

time immemorial have put forward a claim to the Islands and the seabed surrounding it which includes the Queen Charlotte Basin. Their long relationship with environmental groups combined with a strong environmental movement in BC creates a formidable opposition to offshore drilling proposals. But as a province built on natural resource industries like logging, fishing, and mining, BC has also been experiencing a steady economic downturn due to resource shortages, environmental changes, and US-related market pressures. A recently elected government led by the BC Liberal Party, who despite their name are anything but, is devoted to seeing economic prosperity materialize during their tenure and seeing it, at least in part, in the form of energy development.

This paper seeks to understand the complexities of this debate as a whole, focusing on factors and precedents that shape arguments within the debate and that may determine its outcome. To start, I will outline the political and historical nature of the conflict, and follow this with specific analysis of the legal, environmental and economic factors espoused by proponents and opponents of offshore development. Where relevant, I will utilize comparative experiences of offshore drilling projects in the Gulf of Mexico, the North Sea, and off the coasts of Newfoundland, California, and Alaska in an effort to frame some of this localized particular debate within a global context of energy production and environmental fears. The overall aim of this synthesis and analysis is to yield some insight into economic and environmental risk assessment, as well as the multi-layered politics and histories that lie at the heart of this dispute.

## Exhibit One

### Offshore Oil and Gas Potential in British Columbia



Basin Outlines and Conventional Resource Figures:  
Geological Survey of Canada, unpublished: P. Hannigan, P.J. Lee, K Osadetz et al., 1993-1996.

From Government of British Columbia's Oil and Gas Reports  
<http://www.em.gov.bc.ca/Oil&gas/offshore/OffshoreOilGasReport/Default.htm>

## **History and Headlines: An Anatomy of the Conflict**

For nearly half a century, offshore oil and gas exploration in British Columbia has experienced a roller coaster ride of on again-off again moratoria, assessment panels, and even exploration. The first moratorium was imposed by BC in 1959, but was later lifted to encourage oil companies to bid for exploration permits in public auction.<sup>2</sup> Moratoriums were put in place several more times to study the impacts on fish and resolve Canada/BC jurisdictional issues. Despite these setbacks Shell Canada who obtained permits for the Queen Charlotte Basin eventually began exploration drilling in 1967. Of the fourteen wells drilled by Shell between 1967 and 1969, none proved to be of commercial value.<sup>3</sup> However, their experiences did set the bar in terms of what kinds of environmental difficulties might assail any drilling project in the area: "...the rig reportedly experienced seas of 80 feet and winds of 70 miles per hour off Vancouver Island; and seas of 65 feet (with one rogue wave of approximately 100 feet) in Hecate Strait."<sup>4</sup> Still, the belief in what this sedimentary basin held and the ability to extract it remained, and Shell was able to lease their exploration permits to Chevron. Drilling may have continued, but 1969 was the year of a major spill off the California coast near Santa Barbara, giving rise to public outcry and increased environmental concern. This, together with a US proposal to ship oil through the Northwest Passage from Alaska became major factors in the 1971 BC and 1972 Canadian moratoria on offshore exploration in BC.<sup>5</sup> The commitment to these moratoria, however, lasted little more than a decade.

Following the success of the Atlantic Coastal developments, the North Sea projects, and the Alaskan North Slope throughout the ensuing decades, a federal-provincial "Westcoast Offshore Exploration Environmental Assessment Panel" was convened in 1984 to reassess the moratoria.

Public consultation ensued, and the resulting 1986 report issued 92 recommendations that, if met, would allow for exploration to begin again.<sup>6</sup> Optimism ran high among representatives of Chevron and Petro-Canada who, by now, had also secured a lease in the same Basin. Negotiation between Canada and BC for jurisdiction over the area began in earnest and continued for the next three years. But in 1989, the Exxon Valdez spilled off the coast of Alaska pouring 45 million liters of oil into the Pacific Ocean affecting the entire northern coastline, waters, and ecosystem. BC responded with a five-year moratorium that was renewed indefinitely until 2001.

Fueled by a 1998 Geological Survey of Canada that increased reserve estimates, and a landslide election victory in 2001, the current BC government commissioned a round of public consultations by elected representatives and a report from a scientific review panel. These reports were submitted January 15, 2002 and the scientific review panel concluded that, “...while there are certainly gaps in knowledge and needs for intensification of research and a continuing commitment to baseline and long-term monitoring, these do not preclude a decision on the moratorium. There is no inherent or fundamental inadequacy of the science or technology, properly applied in an appropriate regulatory framework, to justify retention of the BC moratorium.”<sup>7</sup> This effectively overturned the BC moratorium, but the 1972 Canadian moratorium remains in place. Its reversal is dependent on the BC government’s recommendations as well as federal deliberation, and its fate is at the center of the current debate.

Like many areas in Canada, BC has long been engaged in onshore gas exploration and development. Last year, the provincial government pulled in 1.8 billion dollars in oil and gas royalties (1.3 billion of which was from gas alone), and over 14,500 people (or 32,000 depending

on some reports) are employed by the industry.<sup>8</sup> Despite this obvious familiarity and acceptance of the oil and gas industry, the debate has been characterized as “emotional” for many reasons – the most obvious being the state of the economy.<sup>9</sup> BC has long been dependent for employment and revenues on forestry and fishing, but these industries have been steadily declining -- steeply in the past five to ten years. Everything from global warming (affecting the ocean temperature and fish populations, and creating beetle problems that destroyed large forests in central BC) to global markets (US-Canadian softwood lumber dispute) and unsustainable exploitation or resource mismanagement have been blamed for the downturn in these industries.<sup>10</sup> Many believe that offshore drilling could create a new resource-based boom for the economy, but based on other offshore experience, this is not an assured result – a point I will return to later in the paper.

The current economic situation, rightly or wrongly, is blamed on the past BC government run by the New Democratic Party, whose stance is best characterized as labor-oriented and left-leaning, and also included a strong push for environmental protection. The new government run by the BC Liberal Party has been described as “a swing to the right,” and as a “tax-cutting, pro-business administration.”<sup>11</sup> In fact, this government has pursued union-busting by tearing up previously negotiated agreements, enacted massive layoffs to the provincial bureaucracy, and recommended privatization with an ideological zeal reminiscent of Margaret Thatcher or Ronald Reagan’s governments.<sup>12</sup> Offshore oil and gas is a natural issue for this government to resurrect, both because of their pro-business stance, but also as a way to breath life into the provincial economy badly in need of a catalyst. If offshore drilling did go ahead, it could likely assume a second place position behind the number one economic driver in the province: tourism.<sup>13</sup>

The irony of this is that much of the tourism to BC stems from its “supernatural” environment of stunning mountain ranges, rich wildlife populations, rainforests, and incredible coastal vistas, which translate into eco-friendly adventure tours and vacations.<sup>14</sup> An oil spill, as those who fought offshore drilling in Florida have successfully pointed out, could destroy or at least, temporarily damage habitat affecting both tourism and what’s left of the fishing industry<sup>15</sup> - a point not lost on the over 90 local and international environmental, labor, and First Nations groups represented through The Oil Free Coast Alliance.<sup>16</sup> Together, these opponents have raised the concern that many along this relatively sparsely populated coast still depend on the ocean for sustenance, and that the 200-mile limit and inland waters support a “...rich...marine life with several hundred species of fish, thousands of species of invertebrates, twenty six species of marine mammals, and a myriad of seabirds.”<sup>17</sup> Further, they cite social disruptions caused by the introduction of major industry in the area, and come down on the side of those who believe that very few local people will be hired. And finally, they raise the issue of climate change and now particularly, Canada’s imminent ratification of the UN’s Kyoto Agreement regarding climate change and emission reduction as a reason for not engaging in further fossil fuel production stating: “We are urging the federal government to consider the alternatives to oil and gas, alternatives such as wind power that can provide clean energy for Canada and jobs for the people of the coast.”<sup>18</sup>

If media interviews are any indication of what the federal government might be thinking, then it is clear that the Minister of Natural Resources and the Minister of the Environment are not necessarily hoping for the same outcome despite their common political party affiliation. Herb Dhaliwal, in charge of the Natural Resources department, is eager to make the decision on

the moratorium and has set the six to twelve month time frame for a decision.<sup>19</sup> BC Premier Gordon Campbell cites Dhaliwal as “a strong advocate of the economic opportunities of offshore drilling.”<sup>20</sup> However, the current federal Minister of the Environment, David Anderson, Member of Parliament representing Victoria, BC, is not only in charge of seeing Kyoto ratified in Canada, but he’s also the person who urged the then Prime Minister Pierre Trudeau to enact the original moratorium in 1972. It is not clear whether he supports a continuance or not, but he has stated publicly that he feels “personally responsible” for the moratorium.<sup>21</sup> In their research on the moratorium, BC’s Scientific Review Panel noted that the moratorium is much more casual than the term implies, noting that it is at the federal government’s “pleasure” and merely allows oil companies to retain their exploration permits without acting in the area, whereas normally they would be required to act to retain an exploration permit.<sup>22</sup> In addition to resolving the moratorium, BC and Canada have yet to work out jurisdictional and therefore, royalty agreements for the Queen Charlotte Basin – a process that took six years on the Atlantic Coast.<sup>23</sup>

As if the debate wasn’t muddled and “emotional” enough with concerns about the environment, casual moratoria, jurisdictional uncertainty, economic needs, and general political changes in BC, the Haida Nation whose ancestral lands sit on top of this apparent oil and gas bonanza presented a writ to the Supreme Court of British Columbia on March 6, 2002 claiming ownership of all of the hundreds of islands in the archipelago and the surrounding seabed.<sup>24</sup> Recent court victories for the Haida and other First Nations make their case a strong one. The next section looks more closely at this legal challenge and the many-sided politics of modern day treaty negotiations when high stakes offshore development is involved.

## **The ultimate development blockade: Who owns the land?**

The Haida claim is based in part on a 1997 Supreme Court of Canada ruling on *Delgamuukw* that upheld the existence of aboriginal (another widely used term for Native Americans in Canada, particularly in the courts) title to lands in BC not ceded through treaty.<sup>25</sup> This ruling marks a major turning point in the history of the “Indian land question” in BC. As Historian Paul Tenant who has written extensively on the issue has noted “the aboriginal past is closer in British Columbia than almost anywhere else in the continent.”<sup>26</sup> Non-native settlers began arriving in 1850s, and while disease followed and decimated large populations including that of the remote Haida, there were no conquests or relocation of any tribes in British Columbia.<sup>27</sup> A 1763 Royal Proclamation mandated that all of British North America, and subsequently Canada settle land title issues with First Nations thereby acknowledging that title existed and needed to be extinguished.<sup>28</sup> But other than 14 small treaties on the southern end of Vancouver Island, BC did not follow suit either before or after joining confederation in 1871. First Nations leaders organized and began lobbying vociferously by the early 1900s, some even traveling to England in a delegation to argue that compensation was due for the incursions and development occurring on their lands.<sup>29</sup> But politics and the federal *Indian Act* intervened preventing associations of leaders from hiring lawyers, and even associating with one another for the purpose of pursuing land claims.<sup>30</sup>

In the 1980s, the Gitksan and Wet’suwet’en Nations brought a land title case, *Delgamuukw* before the BC courts and appealed BC’s rulings all the way to the Supreme Court of Canada. When it looked like the Supreme Court ruling would go in favor of First Nations, a stay of proceedings was enacted to facilitate for the beginning of tri-partite negotiations between First

Nations, provincial, and federal parties. This led to the creation of the BC Treaty process in the early 90s. It aimed to resolve outstanding land claims throughout the province, both as a redress to historic injustice and in hopes of clearing the way for natural resource and related economic development to continue.<sup>31</sup> Injunctions and blockades had effectively stopped some logging operations, and the investment climate in BC had begun to sour as a result of the outstanding claims. Though fifty-three First Nations are still involved in the process, and 500 million dollars has been spent, it is now seen by many as a dead end, a boondoggle of sorts, and is widely perceived as fatiguing the general public's sentiment towards treaty issues.<sup>32</sup> The fact that *Delgamuukw* went back to the courts for a ruling in 1997 is perhaps the greatest evidence of how much faith has been lost in a process once thought to be one of the most progressive moves in BC history.

The current BC government, tapping into this sentiment, campaigned on the promise of holding a referendum on the process. The move was widely seen as an appeal to right wing sentiments, and effectively antagonized both First Nations and any good faith that was still left in the BC Treaty process. The referendum was framed as a “success” by the government despite its ill-worded questions that challenged court rulings and proceedings, the low return rate of ballots, the large number of spoiled ballots that were returned, and the fact that no effective mandate emerged from the referendum – only twenty percent of eligible BC voters voted “yes” to reevaluating the process.<sup>33</sup> Consequently, opposition party strategists framed the referendum as “an embarrassment, leaving them [the BC Liberal government] with an unworkable mandate”.<sup>34</sup> Philosophically, it also asked the majority to vote on minority rights, an ideologically opposite view of that espoused by the Canadian government's ruling party, also called the Liberal Party.<sup>35</sup>

However, the referendum did garner praise from the “BC White Pride” website which reportedly called it “the most fundamental symbolic expression of white unity since racial pride went out of style almost 40 years ago.”<sup>36</sup>

So it was with much fanfare and a sense of multi-faceted retribution that the Haida claim was presented to the courts and to the public on March 6, 2002. In media interviews following the announcement, Guujaaw (pronounced goo-jow, means “drum” in Haida language), president of the Haida Nation told reporters: “We don’t believe offshore oil and gas can be safely obtained – the technology doesn’t exist and we are not prepared to see offshore oil and gas drilling in any waters within a 200-mile limit surrounding Haida Gwaii... With the provincial government refusing to negotiate with us or recognize our aboriginal title, we have no choice but to take the title case to court.”<sup>37</sup> In some ways, it is the ultimate trump card against the provincial government, and it builds on recent victories in the courts over other natural resource disputes.

The week previous to their announcement saw the BC Supreme Court enforce Weyerhaeuser’s duty and obligation to consult with the Haida regarding logging activities. The Haida were seeking to preserve old growth red cedar trees, which are of cultural significance and used for purposes such as totem poles and canoes. Incredibly, loggers employed by Weyerhaeuser publicly sided with the Haida saying they would rather take their chances with their own community than side with multi-nationals.<sup>38</sup> Weyerhaeuser still plans to appeal, but subsequently and perhaps as an interim solution, agreed to leave a portion of the valuable tree area standing and enter into an ongoing consultation process with the Haida. In a statement made by Guujaaw, it is clear the Haida are not opposed to resource development and negotiation,

but it only applies to existing industries: “With industry like logging and mining, we are prepared to negotiate and accommodate but we oppose all offshore oil and gas.”<sup>39</sup> The logging industry remains the top employer of residents of Haida Gwaii.<sup>40</sup>

The stance of Guujaaw and the 7000-member Haida Nation from this remote area of the province against the provincial government’s bureaucratic behemoth and the rich powerful oil and gas industry makes for an excellent tale, but how likely is it that this court case could rule in favor of the Haida?<sup>41</sup> In writing the opinion for the Weyerhauser ruling, BC Court of Appeal Justice Douglas Lambert wrote, “...In my opinion, there is reasonable probability that the Haida will be able to establish aboriginal title to at least some parts of the coastal and inland areas of Haida Gwaii...”<sup>42</sup> But while *Delgamuukw* established the precedent for *land* claims, and Haida Gwaii’s claim to land is probably one of the best according to this Justice and other legal experts, the Haida claim is also much broader for it encompasses the seabed in addition to the land above it. Louise Mandell, a lawyer for the Haida Nation and a member of the *Delgamuukw* legal team, said this is the first Nation to make such a claim, but that “The case law has already established that where there are fishing rights there is the capacity to protect the environment. So the offshore issues are already engaged.”<sup>43</sup>

Regardless of speculation or hopes, a spokesman for the Canadian Association of Petroleum Producers (CAPP) told one reporter that, “...the Haida claim could spook investors.”<sup>44</sup> Oil and gas exploration is both risky and expensive costing in the tens to hundreds of millions of dollars in exploration and environmental assessment without any guarantee that geological estimates, and therefore potential revenues are accurate.<sup>45</sup> Adding a further risk of jurisdiction or legal title

claims could turn investors elsewhere. As one reporter put it: "... what industry is looking for is certainty... Nobody wants to invest if the whole process is going to break down in a dispute over seabed ownership, or because a court grants an aboriginal group a stop-work injunction, or because a disagreement among government agencies over protection of a sea otters' kelp bed attracts a fleet of protesters, reporters and television cameras."<sup>46</sup> This article also cites a Chevron representative as saying that, "...the situation in British Columbia is more challenging than in any other province." Certainly, decisions regarding Weyerhaeuser and the Haida, another involving mining and the Taku Tlingit Nation in northwestern BC, and a nine-month long blockade by Halfway First Nation over gas pipeline concerns in Northeastern BC are only some of the recent examples that have challenged major multi-nationals operating in BC, bearing out the sentiments of this Chevron representative.<sup>47</sup> It seems that just by raising the issue of title, the Haida and their supporters have affected a kind of moratorium of their own -- a tactic not lost on the environmental community who whole-heartedly endorse both the Haida claim and their stance on offshore development.

### **Assessing Environmental Risk: How much is too much?**

Haida Gwaii is an archipelago of 1,884 islands that evoke such descriptions as magical, pristine, primeval, rich, dense, and one of the few areas that is, "...still a paradise for the hunter/gatherer instincts within us."<sup>48</sup> Rich in natural wildlife, diverse seabird populations, marine life, fragile reefs, coastal rainforests, other rare flora and fauna, Haida Gwaii is claimed by some to have remained ice-free during the last ice age. Hence its nickname as "Canada's Galapagos Islands." It is also the site of Canada's largest earthquake in 1949 measuring 8.1 in

magnitude and stemming from the Queen Charlotte Fault.<sup>49</sup> The only connection to the mainland coast of BC is via a six-hour ferry ride through the often rough waters of Hecate Strait, or via airplane. Population on the island is about 5-6,000, roughly fifty percent are members of the Haida Nation.<sup>50</sup> Most of the population works in the logging, commercial fishing, or tourism industries. Tourism depends on the beauty, the fish, and the Haida culture, which is still visible in the form of villages dotted by totem poles, and is well known by many as a result of the international acclaim given to Haida carvers and artists like Bill Reid, Robert Davidson, and others. The southern islands are part of a national park reserve and Haida heritage site called Gwaii Haanas established in 1987.<sup>51</sup> Its existence is a result of thirteen years of protest and blockades against logging companies, which culminated in the jarring television images of Haida elders in full traditional regalia being arrested by Royal Canadian Mounted Police. Since the park's founding and as a result of recent federal marine protection legislation, Canadian Parks and Wilderness Society has made Gwaii Haanas one of the "high priority sites for marine conservation areas."<sup>52</sup> Its unclear how more protective status would affect any offshore development plans.

The history of successful protest, natural isolation, and incredible biodiversity of this area make it difficult to fully assess environmental risk without involving politics and economics. How much risk is too much? How much risk are BC and Canada willing to accept, and how much are the Haida and non-Haida residents willing to accept? The earthquake factor, seismic exploration, threat of spills from tankers, waste from drilling rigs, deep stormy waters known for high waves and ferocious windspeeds, when compiled together, create a formidable "house of cards" in which any one of these factors may, for example, decimate already fragile fish stocks

and whale populations, as well as, the livelihoods of those who depend on them. BC's Science Review Panel is confident that seismic issues can be resolved (with the exception of possible adverse effects for marine populations during seismic exploration testing) as a result of California and Alaskan developments.<sup>53</sup> But as a seventeen year old from the Islands put it to a reporter: "What if a spill happens? Everyone on this island lives off the fish and the ocean."<sup>54</sup> The other side of the debate over environmental risk goes something like this statement given to the BC government's public consultation task force by an elected representative for Port McNeill (a logging town on northern Vancouver Island hoping to benefit from development): "That these moratoria exist today is a provincial embarrassment given the advanced level of technology and environmental management systems currently available and employed in more rational jurisdictions."<sup>55</sup> Embarrassment and irrationality seem odd to apply to this complex situation, but the idea of promoting economic benefits in exchange for some environmental risk is clear in the sentiment expressed by this individual and others who come down on the side of proponents for offshore development. Whether technology and environmental management are able to mitigate all potentially negative environmental factors in offshore drilling is a much more complex set of problems and assumptions that vary based on the long-term and short-term analysis and research that exists.

What we do know about the environmental impact of offshore drilling comes from existing projects around the continental shelf in North America, and the North Sea. In 1999 Senate hearings on the impact of offshore drilling, Mark Van Putten, President and CEO of the National Wildlife Federation made a submission that broke the threats of offshore drilling into several areas: oil exploration and rig construction, subsidence and coastal destruction, ongoing pollution

from drilling, accidents and disasters, and the externality of climate change as a final factor.<sup>56</sup> Each one of these areas has an embedded destructive or potentially destructive factor that affects marine life and habitat, at best, and at worst, could cause irreparable damage to the entire ecosystem in both short and long term scenarios.<sup>57</sup> The particularly disturbing loss of wetlands in Louisiana which amounts to over one thousand square miles in the past fifty years with a continuing loss rate of twenty-five to thirty-five square miles per year was cited by Van Putten and several others during the course of the hearings. Jack Caldwell, Secretary for the Louisiana Department of Natural Resources stated: “The effects of natural processes like subsidence and storms combined with human actions, including impact from offshore oil and gas exploration and development, have led to an ecosystem on the verge of collapse.”<sup>58</sup> The severity of this experience is not necessarily descriptive of all offshore drilling projects, but it does point to the sensitivity of an environment consisting primarily of wetlands and the risks, both known and unknown, and combinations thereof inherent in undertaking offshore development.

In the report by BC’s Scientific Review Panel, they cite experiences in Newfoundland, Alaska, California, and the North Sea, and subsequent new developments in offshore technology as the basis for successful drilling in the Queen Charlotte Basin: California and Alaska for their experience with more severe earthquakes, the North Sea because of its experience with high waves and wind speeds, and Newfoundland and Alaska for their more severe climates.<sup>59</sup> But these places are not without problems, particularly in regards to the long term effects of drilling wastes expelled into the ocean. Even a 1993 international report that was generally positive towards the record of global offshore operations noted that benthic communities were being affected within a five-mile radius of production as a result of waste discharges.<sup>60</sup> Recent concerns

have been raised by scientists in Norway and Newfoundland about the reduced fertility in fish and benthic populations as a result of the long term effects of 'produced water' coming from offshore oil rigs.<sup>61</sup> And in another recent study commissioned by the federal Department of Fisheries and Oceans following the establishment of Hibernia and Terra Nova researchers concluded that a large number of factors determine the "fate and effects of drilling wastes" noting in their conclusion, "There is no such thing as a typical situation and each drilling proposal must be assessed on its own particular conditions... some discharge conditions may be acceptable at one location but not at another."<sup>62</sup> On this general principle, BC's Scientific Review Panel agreed that, "...There is poor understanding of potential long-term cumulative impacts on marine ecosystems of oil or gas spills or discharges from production activities..."<sup>63</sup>

Certainly offshore drilling has a much smaller impact on the ocean than other forms of human behavior like fishing and dredging, and only adds about two percent to overall oceanic pollution.<sup>64</sup> But the general unknowns about how each stage of development from the seismic exploration techniques to building platforms and maintaining production, as well as what the Scientific Review Panel calls "...An array of potential hazards and engineering challenges, including earthquakes, tsunamis, severe storms, high tidal ranges and currents, and other natural phenomena," will affect the ecosystem provide enough questions to make offshore drilling in the Queen Charlotte Basin a high risk project in terms of the environment.<sup>65</sup> Whether the risk is too high or not depends on perspective. After reviewing all available facts, the Scientific Review Panel laid out fifteen recommendations that include further study to be undertaken before exploration and drilling could proceed, but generally endorsed offshore development as a possibility worth pursuing. While environmental groups and First Nations, particularly the

Haida, as well as commercial fishing groups, have deemed the risk to be too great, both in terms of the entire process and any unforeseen disasters like oil spills that may occur. Further, environmentalists also cite the Canadian government's commitment to ratify Kyoto as a good enough reason to avoid more oil production stating "It's unconscionable of BC to launch massive new oil and gas developments when there are grave international concerns about increasing atmospheric CO2 and rapid climate change."<sup>66</sup> The BC government, however, looks very willing to ignore the global risks associated with climate changes, and overcome any local risks associated with offshore drilling in the Queen Charlotte Basin on the basis of economic needs in BC.

### **Assessing Economic Risks: Who benefits, who pays?**

In a September 10, 2002 news report, BC Premier Gordon Campbell stated that he is "...convinced oil and gas can be safely extracted off BC's west coast," and is "actively lobbying" the federal government to lift the moratorium.<sup>67</sup> Noting that his government will follow the recommendations of the Science Review Panel's report, Campbell was portrayed as enthusiastic stating, "...one of our huge economic advantages is our oil and gas reserves."<sup>68</sup> In the same report, Guujaaw responded to Campbell's comments saying, "We know they're actually lobbying and they have been ever since they got in there... They're a desperate government, who desperately needs money and would go to any lengths to get it. He's been trying to do it kind of underhandedly all along."<sup>69</sup> It is little wonder then that the debate over offshore drilling in BC has been characterized in one media report as a "a deadly serious fight

that pits an ancient BC culture against 21<sup>st</sup>-century economic interests,” and by another as a “resource battleground.”<sup>70</sup>

Offshore drilling in the Queen Charlotte Basin could trigger an economic boom along the depressed northern coast that’s suffered the closure of lumber mills, population shifts out of small towns, and the collapse of fishing fleets. 9.8 billion barrels of oil and 25.9 trillion cubic feet of gas could generate up to thirty years of drilling, shipping, and refining, and billions of dollars in wealth for governments, industry, and area businesses.<sup>71</sup> Proponents point to anecdotal evidence of economic transformations in towns benefiting from offshore development in the North Sea, Indian Ocean, and Canada’s Atlantic Coast. While this may be true for North Sea developments, a recent article in *The Economist* noted that Hibernia and Terra Nova have not provided the kind of employment and economic prosperity expected for the province of Newfoundland – one in five are still unemployed and a new nickel mine, rather than further offshore development, is the new hopeful solution to this problem.<sup>72</sup> Any BC developments could face the same problem of not being able to provide local skilled talent in a competitive international sector that is backed up by the North American Free Trade Agreement (NAFTA), which allows for skilled labor to travel more freely between Mexico, the US, and Canada. This scenario is not unfamiliar to those who’ve worked in the logging industry. As one resident of the Islands put it: “These companies take and take and take. I’ve seen millions of dollars go out of here on those barges, and so very little comes back.”<sup>73</sup> Still there are those, like the members of the North Coast Oil and Gas Task Force, a group of Prince Rupert residents and business people, who hold out hope that this could be an economic “savior” of sorts.<sup>74</sup>

Interestingly, this situation is not so different from the one described by Sociologist Robert Gramling in *Oil on the Edge: Offshore Development, Conflict, Gridlock*, which details offshore developments in the US, particularly in the Gulf of Mexico. His analysis of the pre-development state of Louisiana sounds much like BC. Louisiana was suffering from a downturn in the timber industry and looked to oil to transform their economy. The boom years followed irreversibly transforming social structures and marine habitat, as well as the economy. But when a decline in oil prices hit, the vulnerability of offshore development became clear -- instead of winning support for sustainable development, the offshore industry is now characterized as having a “severe and detrimental impact on the economy, the environment, and social structures of affected areas.”<sup>75</sup>

Even in current areas under development, the pressure to develop infrastructure and ensure effective monitoring is proving difficult. 1999 US Senate hearings contained a submission from the Mayor of the Kenai Peninsula Borough in Alaska that benefits from offshore drilling in the Cook Inlet who praised the development and noted his constituents’ continued support of development.<sup>76</sup> However, he also raised a more complicated issue – that of the burden of environmental monitoring and responsibility for creating infrastructure resting with local coastal communities who benefit little from direct revenues of offshore development. This, combined with the social impact of community upheaval and population influx represent some of the many concerns voiced by residents of Haida Gwaii and coastal communities. In fact, the one thing all factions are said to agree on is the “need for strong local control.”<sup>77</sup> Based on other offshore development experiences, both positive and negative, this doesn’t seem likely.

The Governments of Canada and BC both stand to benefit enormously from any offshore developments, though their share of the revenue is dependent on as-yet unresolved jurisdictional issues. In Newfoundland, where the Supreme Court ruled in favor of Canadian jurisdiction, its reported that four to five dollars per barrel in royalties goes into the federal purse, and Newfoundland gets five cents per barrel.<sup>78</sup> With billions of barrels of oil estimated at Hibernia alone, five cents per barrel still adds up to a sizable addition to any provincial budget. Governments point to the fact that these developments also require their investment to start as well, and the revenue benefits affected citizens to some extent.

Any revenue sharing predictions are likely premature in this case due to the fact that jurisdictional negotiations and the Haida case may together take up to ten years to resolve.<sup>79</sup> Following this, it is up to the oil companies to determine whether they want to invest in BC, or elsewhere. Canada is the fourteenth largest oil producer, and third largest natural gas producer, which makes it globally significant, but not necessarily crucial in world development.<sup>80</sup> And in some ways then, it may make more sense for oil and gas companies to continue developing onshore reserves located throughout Canada that have none of the issues and risks attached to offshore developments. Pierre Alvarez, president of CAPP put it this way: “Our industry hates uncertainty and it’s up to government to establish what the rules would be if exploration were to begin off British Columbia’s coast... We need to have clarity regarding any outstanding First Nations issues. We also need clarity on federal-BC jurisdiction issues and environmental assessments and impact before we would pursue any activity off the West Coast.”<sup>81</sup>

An environmental assessment that showed offshore development to be too risky would no doubt please the Haida, other coastal First Nations, and environmental factions who do not believe that a price can be put on the safety of the ocean or the environment. Many who live along the coast still live off the land and waters. Guujaaw summed up the ethos of many residents and supporters, both Haida and non-Haida when he told one interviewer: “Our whole culture is our relationship to the land and we’re not going to sell that out for jobs and revenue... Our culture is about digging clams and catching fish and being out on the water. Right now we could eat as good as any rich people without being rich. Money in itself doesn’t answer all the troubles. There’ll be more troubles. They’ve spent fifty years trying to turn us into shoppers already.”<sup>82</sup> But it is perhaps the subtext of this stand which may prove more troubling should offshore drilling go ahead, or the court claim get stalled. Guujaaw told the *Washington Post*, “We really have nothing to lose because we’re not getting anything...I mean, we could bring the economy of this province to a grinding halt [by blocking development] and it wouldn’t hardly affect our people at all because we’re used to being broke.”<sup>83</sup> Whether the Haida land claim proves to be the ultimate development blockade or not remains to be seen, but until it is resolved, any offshore development, regardless of the wider benefit to the BC economy will remain embroiled in this localized set of legal and political debates.

## **Conclusion**

Fraught with many tensions that stem from long-standing jurisdictional, legal, economic, environmental positions, the conflict over offshore oil and gas development is likely to continue whether the federal moratorium is lifted or not in the near future. Risk assessment, both environmentally and economically play a major role in how the debate is being framed. The risk

of going ahead with plans for offshore development seem clear in terms of the environment and social impact, with some benefits accruing to industry, governments, and possibly local economies to a smaller or greater extent depending on hiring practices and growth in the service sector of their economies. The claim being made by the Haida can be framed as an opportunistic blockade against development, but it is also an attempt to right a past injustice, to preserve a way of life and the environment that supports and fuels their culture, and to ensure a voice in future resource development. Without this claim or if the courts rule against the claim to the seabed, it seems likely that the oil and gas reserves will be explored at some point in the near or distant future. For some, like the current BC government and other proponents of offshore development, the revenue to be generated will likely always outweigh the environmental risk. It is only a matter of when and how it can be accomplished, and if the reserves actually do exist in commercial quantities.

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<sup>1</sup> See “Offshore Oil and Gas Potential in British Columbia” map included in Appendix 1 for detail of the area.

<sup>2</sup> “British Columbia Offshore Oil and Gas – A Chronology of Activity,” 26 November 2002, BC Ministry of Energy and Mines, 8 December 2002, <<http://www.em.gov.bc.ca/Oil&gas/offshore/OffshoreOilGasReport/Default.htm>>.

<sup>3</sup> Ibid, and Quintin Winks, “Queen Charlottes are resource battleground,” *The Standard* (St. Catharines), 8 March 2002, p. D6.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid, and Scott Simpson, “Wealth lurks under the sea: Although there are still some battles to be fought between governments and aboriginals, offshore exploration may resume as soon as next year, writes Scott Simpson,” *Vancouver Sun*, 3 August 2002, p. D1.

<sup>6</sup> Ibid.

<sup>7</sup> David Strong, et al, *British Columbia Offshore Hydrocarbon Development: Report of the Scientific Review Panel*, and Bill Belsey, et al. *The Report of the Offshore Oil and Gas Task Force Presented to the Hon. Richard Neufeld, Minister of Energy and Mines*, 15 January 2002, BC Ministry of Energy and Mines, 11 October 2002, <<http://www.em.gov.bc.ca/Oil&gas/offshore/OffshoreOilGasReport/Default.htm>>.

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<sup>8</sup> Ibid, and Jeff Lee, “Campbell calls for \$24 billion in oil, gas investment,” *Vancouver Sun*, 7 December 2001, p. A1. According to most government estimates, population of BC is approximately 4 million, <<http://www.gov.bc.ca>>.

<sup>9</sup> Belsey, et al.

<sup>10</sup> Ibid.

<sup>11</sup> Jim Lynch, “Winning the fight for his tribe Guujaaw leads the Haida Nation as it wages a battle to protect its culture and resources in Canada,” *The Oregonian*, 19 May 2002, p. A19; and DeNeen L. Brown, “In Canadian Court, A Native Nation Claims Offshore Rights,” *Washington Post*, 26 March 2002, p. A10.

<sup>12</sup> Robert Gramling, *Oil on the Edge: Offshore Development, Conflict, Gridlock*, (Albany: State University of New York Press, 1996), p. 134. Gramling points out that Reagan’s government pursued offshore development on an ideological and economical basis.

<sup>13</sup> Simpson, *Vancouver Sun*.

<sup>14</sup> “Supernatural British Columbia” is a marketing slogan used by the BC government’s tourism department.

<sup>15</sup> Gramling, pp. 144-49.

<sup>16</sup> The Oil Free Coast Alliance, 5 December 2002, <<http://www.oilfreecoast.org/alliance.htm>>.

<sup>17</sup> Ibid.

<sup>18</sup> “Environmentalists, First Nations demand Ottawa keep BC coast Oil-Free,” Canada NewsWire, 16 April 2002.

<sup>19</sup> Peter O’Neil, “Offshore drilling ruling due within 18 months: Federal Natural Resources Minister Herb Dhaliwal says Ottawa is preparing its decision on whether to lift the moratorium on oil exploration off the B.C. coast, reports Peter O’Neil,” *Vancouver Sun*, 25 July 2002, p. C3.

<sup>20</sup> Damian Inwood, “Offshore gas, oil decision closer,” *The Vancouver Province*, 10 June 2002, p. A4.

<sup>21</sup> Strong, et al, Appendix 3.

<sup>22</sup> Ibid.

<sup>23</sup> Simpson, *Vancouver Sun*.

<sup>24</sup> Quintin Winks, “The Queen Charlotte Islands are set to become the next area of picturesque British Columbia wilderness caught in the struggle between aboriginal and environmental interests on one side and the economic eagerness of developers on the other,” Canadian Press Newswire, March 7, 2002; Greg Joyce, “B.C. Haida claim Queen Charlottes as their own: Area believed to hold 2 1/2 times Hibernia’s oil, gas reserves.” *Ottawa Citizen*, 7 March 2002, p. A6; Mark Hume, “Haida sue for Queen Charlottes: ‘Treaty process has failed - they’re going to litigate’: B.C. natives build on earlier court victories with power play for resource-rich islands,” *National Post*, 6 March 2002, Pg. A1; “Haida Launch Aboriginal Title Case in BC Supreme Court,” *First Nations Drum*, 29 Oct 2002,

<<http://www.firstnationsdrum.com/Sum2002/TreatyHaidaBCCourt.htm>>.

<sup>25</sup> The Delgamuukw/Gisday’wa Process, <http://www.delgamuukw.org/>

<sup>26</sup> Paul Tennant, *Aboriginal peoples and politics : the Indian land question in British Columbia, 1849-1989*, (Vancouver : University of British Columbia Press, 1990), p.3.

<sup>27</sup> John Broadhead, *Gwaii Haanas transitions study: social and economic trends in communities on Haida Gwaii (the Queen Charlotte Islands) affected by the creation of a Haida Heritage Site and National Park Reserve in Gwaii Haanas (South Moresby)*, (Skidegate, B.C.: Queen

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Charlotte Islands Museum Press, 1996). Smallpox appeared on the Islands in the late eighteenth century decimating the population, leaving only 500 surviving. Today they are 7000 with 2500 residing full time on Haida Gwaii.

<sup>28</sup> Shawn Jodway in his editorial defense of the Haida claim notes that it is based on “prior use and occupancy” pointing to part of the Royal Proclamation that states, “several nations or Tribes of Indians... who live under our Protection (and) should not be molested or disturbed in the Possessions of such Parts of our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them,” *The Vancouver Province*, 24 March 2002, p. A21.

<sup>29</sup> Tenant, throughout.

<sup>30</sup> *The Indian Act*, enacted by the Government of Canada in 1867 and was intended to administrate, assimilate, and ‘civilize’ Indians in Canada. For more detail of how it affects BC land claims, see Tennant’s work.

<sup>31</sup> See BC Treaty Commission for more detail on process and history, <<http://www.bctreaty.net/>>.

<sup>32</sup> Greg Joyce J. “Commissioner urges action on treaties: Miles Richardson: After nine years, it’s ‘time to make tough choices,’” *National Post*, 1 October 2002, p. B2; and Gordon Gibson, “The courts must settle the Haida claim quickly,” *National Post*, 9 March 2002, Editorials, p. A21.

<sup>33</sup> Adrian Dix, “Government won, but the people lost: Anger over the treaty referendum will push natives to bargain even harder,” *Times Colonist* (Victoria), July 5, 2002, p. A14.

<sup>34</sup> Ibid.

<sup>35</sup> Brown, *Washington Post*, and for more on liberal philosophy, see papers posted at *Searching for New Liberalism* website, <<http://www.newliberalism.ca>>.

<sup>36</sup> Lynch, *The Oregonian*.

<sup>37</sup> Suzanne Fournier, “Queen Charlottes and offshore oilfields are all ours, Haida say,” *The Vancouver Province*, 6 March 2002, p. A3.

<sup>38</sup> Gordon Hamilton, “There’s a mutiny on Haida Gwaii: The framework for a radical plan worked out with workers, the Haida and Weyerhaeuser could change the face of logging in B.C.,” *Vancouver Sun*, 25 July 2002, Pg. C8 ; and “Queen Charlotte loggers walk off job, join with Haida: Weyerhaeuser crews fearful of job cuts say they’d rather throw their lot in with Natives.” *Vancouver Sun*, 4 June 2002, p. D1.

<sup>39</sup> Fournier, *The Vancouver Province*.

<sup>40</sup> Broadhead, p. 11.

<sup>41</sup> Population estimates from many cited articles concur with this population number. Witte, *Edmonton Journal* states that 2,500 of 7,000 Haida still live in the Islands.

<sup>42</sup> Mark Hume, “Haida sue for Queen Charlottes: ‘Treaty process has failed - they’re going to litigate’: B.C. natives build on earlier court victories with power play for resource-rich islands,” *National Post*, 6 March 2002, Pg. A1.

<sup>43</sup> Greg Joyce, “B.C. Haida claim Queen Charlottes as their own: Area believed to hold 2 1/2 times Hibernia’s oil, gas reserves,” *Ottawa Citizen*, 7 March 2002, p. A6..

<sup>44</sup> Ibid.

<sup>45</sup> Gene Laverty, “Husky Energy comes up dry off Newfoundland: ‘Bad news’ for province: Extends string of failures by various oil companies,” *Financial Post*, 21 September 2002, p. FP6. Two projects off of Newfoundland and Nova Scotia were recently found to contain non-commercial levels of oil and gas despite geological estimates otherwise.

<sup>46</sup> Simpson, *Vancouver Sun*, 3 August 2002.

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- <sup>47</sup> Gary Park, "Native group roils effort to lift British Columbia ban," *Platt's Oilgram News*, 11 March 2002, Vol. 80, No. 47, p. 3.
- <sup>48</sup> Jim Witte, Queen Charlotte Islands: From beaches to rainforest -- a feast for the senses," *The Edmonton Journal*, 28 September 2002, p. K1.
- <sup>49</sup> "The Magnitude 8.1 Queen Charlotte Island Earthquake of 1949," Geological Survey of Canada, Natural Resource Canada, 7 December 2002, <<http://www.pgc.nrcan.gc.ca/seismo/hist/1949.htm>>
- <sup>50</sup> "Haida Launch Aboriginal Title Case in BC Supreme Court." *First Nations Drum*.
- <sup>51</sup> Blockhead's report, earlier cited, provides an account of the establishment of Gwaii Haanas and the economic effects on the Island.
- <sup>52</sup> "Major Environmental Groups Applaud New Law to Protect Canadian Waters." Canada Newswire, 12 June 2002.
- <sup>53</sup> Strong, et al, Executive Summary.
- <sup>54</sup> Damian Inwood, "Haida fear environmental disaster if drilling comes: Queen Charlotte Islands' native inhabitants say they won't put their pristine land of 'abundance' at risk to any potential offshore oil or gas accident even if it means missing out on increased economic opportunities for the nation," *The Vancouver Province*, 10 March 2002, p. A22.
- <sup>55</sup> Taks Force Report, p. 4.
- <sup>56</sup> *Offshore oil and gas activity impact: hearing before the Committee on Energy and Natural Resources, United States Senate, One Hundred Sixth Congress, first session on the impacts of coastal areas and communities caused by offshore oil and gas exploration and development, January 27, 1999.* Committee on Energy and Natural Resources. (Washington: U.S. Government Printing Office, 1999).
- <sup>57</sup> Ibid, p. 35-45.
- <sup>58</sup> Ibid, p. 23.
- <sup>59</sup> Strong et al., p. i and chapter 1.
- <sup>60</sup> IMO/FAO/UNESCO/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Pollution, *Impact of oil and related chemicals on the marine environment*, (London : IMO 1993), p. 121.
- <sup>61</sup> Richard Foot, "The peril of briny waste: Produced water from oil and gas rigs may be the newest threat to the recovery of cod stocks," *National Post*, 18 November 2002 Pg. A13.
- <sup>62</sup> T.G. Milligan, et al, "Fate and Effects of Offshore Hydrocarbon Drilling Waste," 1996, Department of Fisheries and Oceans Canada, 7 December 2002, <[http://www.mar.dfo-mpo.gc.ca/science/review/1996/Milligan/Milligan\\_e.html](http://www.mar.dfo-mpo.gc.ca/science/review/1996/Milligan/Milligan_e.html)>.
- <sup>63</sup> Strong et al.
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- <sup>65</sup> Ibid, p. 41
- <sup>66</sup> "Backgrounder, " The Oil Free Coast Alliance, 11 November 2002, <<http://www.oilfreecoast.org>>
- <sup>67</sup> Suzanne Fournier and Jack Keating, "B.C. pushing offshore oil," *Vancouver Sun*, 10 Sept 2002, p. A4.
- <sup>68</sup> Ibid.
- <sup>69</sup> Ibid.
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<sup>72</sup> “A gleam in the mist,” *The Economist* (U.S. Edition), 3 August 2002.

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Environment Canada

<http://www.ec.gc.ca>

Hibernia

<http://www.hibernia.ca>

Living Oceans Society

<http://www.livingoceans.org>

Natural Resources Canada

<http://www.NRCan-RNCan.gc.ca/inter/index.html>

Oil and Gas Investor

<http://www.oilandgasinvestor.com>

Terra Nova

<http://www.terranoaproject.com/>

The Delgamuukw/Gisday'wa Process

<http://www.delgamuukw.org/>

The Oil Free Coast Alliance

<http://www.oilfreecoast.org>

Western Canada Wilderness Committee

<http://www.wildernesscommittee.org>