



Our File Reference: 121625

**Samantha Kernahan**  
Direct Line: (780) 482-9144  
e-mail: skernahan@mross.com

**Debbie Donald, Assistant**  
Direct Line: (780) 482-9283

Fax: (780) 482-9102  
PLEASE REPLY TO EDMONTON OFFICE

August 8, 2012

Compliance Division, Charities Directorate  
Canada Revenue Agency  
Ottawa, ON K1A 0L5

**Re: Letter of Complaint Regarding Charitable Status of Tides Canada Foundation (868947797RR0001) and Tides Canada Initiatives Society (130560188RR0001)**

On behalf of our client, EthicalOil.org<sup>1</sup>, we submit this letter of complaint regarding the charitable status of Tides Canada Foundation (868947797RR0001) (“**Tides Foundation**”) and Tides Canada Initiatives Society (130560188RR0001) (“**Tides Initiatives**”).

The charitable status of both Tides Foundation and Tides Initiatives should be reviewed due to systematic non-compliance with Canada’s *Income Tax Act* (“**ITA**”)<sup>2</sup>, policy and guidelines of the Canada Revenue Agency (“**CRA**”) and the common law applicable in Canada. If you find that both Tides Foundation and Tides Initiatives are in contravention of the CRA rules, then their charitable status should be revoked or other sanctions should be applied. This letter explains why.

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<sup>1</sup> Legal name “Ethical Oil Institute”.

<sup>2</sup> R.S.C. 1985, c.1 (5<sup>th</sup> Supp.).

**Edmonton Office**  
600 West Chambers  
12220 Stony Plain Road  
Edmonton, AB T5N 3Y4  
p. 780.482.9200  
f. 780.482.9100  
tf. 1.800.567.9200

**Calgary Office**  
1600 Stock Exchange Tower  
300 – 5<sup>th</sup> Avenue SW  
Calgary, AB T2P 3C4  
p. 403.543.9120  
f. 403.543.9150  
tf. 1.888.543.9120

**Yellowknife Office**  
1001 Precambrian Building  
4920 – 52<sup>nd</sup> Street  
Yellowknife, NT X1A 3T1  
p. 867.766.7677  
f. 867.766.7678  
tf. 1.888.836.6684

## EXECUTIVE SUMMARY

The activities of both Tides Foundation and Tides Initiatives (collectively referred to, where applicable, as “**Tides Canada**”<sup>3</sup>), violate the law and policies applicable to charities by engaging directly and indirectly in impermissible purposes and activities.

First, Tides Canada engages in impermissible political activities. The level of Tides Canada’s direct and indirect political engagement suggests that it has a collateral political purpose. A charity may not be established to retain, oppose, or change the law, policy, or decisions of any level of government in Canada.

Even where the ITA allows a charity to devote “substantially all” (as opposed to “all”) of its resources to charitable purposes or activities, the charity is still required to adhere to the rules regarding impermissible political activity.

Second, Tides Canada acts as a conduit of charitable funds for organizations which are not qualified charitable endeavours. Tides Canada issues charitable receipts on behalf of third party organizations where such organizations are not able to issue charitable receipts in their own name. In this way, it is laundering tax-privileged funds to non-charitable organizations for non-charitable activities.

Third, Tides Canada routinely applies its resources to benefit persons and organizations that do not stand arm’s length from Tides Canada and its personnel.

This letter provides the details of this improper conduct and why Tides Foundation and Tides Initiatives should not be permitted to continue as registered charities.

This letter is organized into the following sections:

- A. WHAT IS TIDES CANADA?
- B. TIDES CANADA’S PURPOSES AND ACTIVITIES
- C. WHAT CONSTITUTES CHARITABLE PURPOSES AND ACTIVITIES?
  - a) CRA Policies and Guidance

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<sup>3</sup> At <http://tidescanada.org/about/reports>, the interrelationship between Tides Foundation and Tides Initiatives is explained as a preface to their Audited Financial Statements:

Tides Canada Foundation and Tides Canada Initiatives Society are registered non-profit societies and registered charities under the Income Tax Act. Tides Canada Foundation and Tides Canada Initiatives Society pursue common and complementary goals. They are separate legal entities but share staff and board members.

In April 2005, the Boards decided to operate both organizations under common control. Consequently, and in accordance with Canadian Generally Accepted Accounting Practice, the audited financial statements are prepared as if the two entities are a single organization.

- b) Determining “Other Purposes Beneficial to the Community”
- c) Relevant Definitions and Provisions under the ITA

D. TIDES CANADA’S POLITICAL PURPOSE AND ACTIVITIES

- a) CRA Policy Statement CPS-022
- b) Interpretation of Applicable Law and Policy
- c) Political Activities of Tides Canada
- d) Political Activities of Tides Canada’s Grant Recipients, Projects, and Donees of Collective Giving Funds
- e) Tides Canada’s Unstated Political Purpose
- f) Revocation of Charitable Status Based on Political Activities

E. TIDES CANADA AS A CONDUIT

- a) Non-qualified Donees as Recipients of Tides Canada Funds
- b) “Qualified Donees” and “Own Activities”
- c) CRA Guidance Policy CG-004
- d) Revocation of Charitable Status Based on Receipting Practices
- e) Tides Canada’s Own Activities?

F. FUNDRAISING ACTIVITY AS A NON-STATED PURPOSE

- a) Fundraising Activities of Tides Canada
- b) Fundraising through Partnerships with Third Parties
- c) CRA Guidance CG-013
- d) Interpretation of Applicable Law and Policy
- e) Tides Canada’s Unstated Fundraising Purpose

G. TIDES CANADA’S POLITICAL TIES

H. CONCLUSION

A. WHAT IS TIDES CANADA?

Tides Foundation and Tides Initiatives are registered charities under the ITA.

Tides Foundation is a public foundation that receives donations from domestic and foreign individuals, foundations and corporations, and claims to provide “innovative philanthropic, financial and project management services for change-makers – philanthropists, foundations, activists and civil organizations”<sup>4</sup>.

Tides Foundation’s primary activity is grant-making. Tides Foundation provides money to Tides Initiatives and other grant recipients.

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<sup>4</sup> Tides Canada, “About Us”, <http://tidescanada.org/about>.

By its own description, Tides Foundation is now Canada's

largest public foundation dedicated to the environment and social justice. Every year we support, convene or directly fund hundreds of initiatives, from neighbourhood scale social programs to national conservation efforts. Cumulatively, [...] we have granted more than \$100 Million from hundreds of donor-advised funds.<sup>5</sup>

Tides Initiatives is an operating charity which receives grants and donations and operates purported charitable projects related to environmental sustainability and education.

Tides Initiatives currently describes itself in the following terms:

Tides Canada Initiatives is home to 40 of Canada's leading social change initiatives. As an operating charity, Tides Canada Initiatives has pioneered a shared governance and administrative platform to support initiatives and collaborations that advance our mission. We take care of financial transactions, contracts, and human resource needs, allowing the leaders of these initiatives to drive real world change without the administrative challenges of managing a stand alone charity.<sup>6</sup>

It is unclear whether the "mission" referred to by Tides Initiatives is its own mission or the collective mission it shares with its project operators, many of whom pursue openly political mandates.

Tides Foundation, as the larger entity, also funds third parties by issuing grants and by maintaining third party "collective giving funds". As stated on Tides Canada's website:

Donations to Tides Canada go to **charities** [emphasis added] that are addressing issues like climate change, wilderness protection, marine conservation, aboriginal issues, poverty, and international development. Founded by visionaries and led by innovators, these organizations are creating lasting conservation and social justice outcomes.<sup>7</sup>

Tides Foundation and Tides Initiatives share a common origin with the first Tides Foundation based in the United States ("Tides U.S."). Tides U.S. was designed by its American founder, Drummond Pike, in 1976 to be a vehicle through which large donors could give money (often anonymously) which Tides U.S. would then redirect to non-profit recipients. Moreover, Tides U.S. made it possible for there to be no public connection between the secret originator of the funds and the recipients who eventually received the funds.

The "intermediary" model of Tides U.S. is how Tides Canada operates as well.

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<sup>5</sup> Tides Canada, 2010 Annual Report, <http://tidescanada.org/pages/ar2010> at p. 2.

<sup>6</sup> Tides Canada, 2010 Annual Report, <http://tidescanada.org/pages/ar2010> at p. 26.

<sup>7</sup> Tides Canada, "About Us – Grant Recipients", <http://tidescanada.org/about/grant-recipients>.

Tides Canada describes its mission as follows:

Tides Canada's mission is to provide uncommon solutions for the common good by leading and supporting actions that foster a healthy environment and just Canadian society.

We advance our mission by:

Creating opportunities to pool ideas and resources to solve complex environmental and social problems

Partnering with private and public sector donors to facilitate strategic grant-making

Enabling charitable organizations and people with innovative project ideas to more effectively advance their missions

Providing philanthropists with tax-efficient vehicles and solutions to amplify the impact and efficiency of their giving.<sup>8</sup>

This letter explains why EthicalOil.org believes the activities of Tides Canada in support of its stated mission are impermissible under the law and policies applicable to charities.

#### B. TIDES CANADA'S PURPOSES AND ACTIVITIES

EthicalOil.org submits that Tides Foundation and Tides Initiatives engage in conduct that goes beyond their stated purposes and activities. Further, these undeclared purposes and activities amount to impermissible purposes and activities under the law and policies applicable to charities. Many examples of such conduct are provided in this letter, below.

It is important to note the purposes of Tides Foundation as stated in its Constitution filed under British Columbia's *Society Act* on August 25, 1993:

- a. to fund, facilitate, promote and carry out activities and programs which are beneficial to the community as a whole in a way the law regards as charitable;
- b. to receive gifts, bequests, funds and property and to hold, invest, administer and distribute funds and property for the purposes of the foundation, for such other organizations as are **qualified donees** [emphasis added] under the provisions *Income Tax Act* and for such other purposes and activities as are authorized for registered charities under the provisions of the *Income Tax Act*; and

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<sup>8</sup> Tides Canada, "About Us – Our Mission", <http://tidescanada.org/about/our-mission>.

- c. to do all such other things as are **incidental and ancillary** [emphasis added] to the attainment of the foregoing purposes and the exercise of the powers of the foundation.

In its application to Revenue Canada dated March 9, 1999 for status as a tax-exempt charity, Tides Foundation provided a statement of its proposed activities. The statement read as follows:

The Foundation intends to operate as a public foundation in the community foundation model. It will distribute funds to **qualified donees** [emphasis added] as defined in the *Income Tax Act (Canada)* and has a particular interest in the protection of the environment the provision of assistance to poor and disenfranchised persons and the support of education, social welfare and the arts. The Foundation has a particular interest in supporting **newly created charitable organizations** [emphasis added] by providing staff with skills and training to allow such entities to be more effective in their endeavours.

The Foundation presently has no staff. It may hire staff in the future to deal with Foundation activities.

The Foundation will solicit gifts, bequests and property from individuals as well as from corporations and institutions. At the present time all solicitations will be through personal contacts and no promotional literature has been developed, nor is any planned for the near future. The Foundation will also seek grants from Canadian and American foundations and anticipates that its "seed" funding will be received from this type of organization. The Foundation will not be using paid fundraisers.

In its Registered Charity Information Return (T3010) for 2010, Tides Foundation provided the following description of its ongoing programs:

To fulfill its mission and mandate, [Tides] foundation carries out the following activities:

1. makes grants to **qualified donees** [emphasis added] in the scope of its mission and mandate. These grants support environmental conservation and ecological sustainability as well as social justice programs including those in support of education and the arts.
2. conducts research and assessment program activities directly related to its grant-making.
3. carries out programs to raise donor awareness and grow philanthropy in Canada.<sup>9</sup>

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<sup>9</sup> 2010 Registered Charity Information Return for Tides Canada Foundation, <http://www.cra-arc.gc.ca/ebsci/haip/srch/t3010form22-eng>.

It is important to note the purposes of Tides Canada Initiatives Society (originally named the Sage Foundation) as stated in its Constitution filed under British Columbia's *Society Act* on October 18, 1990:

The Purposes of the [Society] are:

- (a) to develop, fund, facilitate, promote and carry out activities, services and programs that will encourage pro-environmental changes and lessen society's impact on the environment, including, without limiting the generality of the foregoing;
  - (i) developing materials to educate the public about environmental issues;
  - (ii) providing access to information, services, resources, and products, combined with ongoing support, to help facilitate individuals and organizations to make changes in consumption and disposal habits;
  - (iii) researching environmental and lifestyle alternatives and developing a body of research data.
- (b) to receive gifts, bequests, funds and property, and hold, invest, administer and distribute funds and property for the purposes of the [Society], for such other organizations as are "qualified donees" [emphasis added] under the provisions of the *Income Tax Act (Canada)* and for such other purposes and activities as are authorized for registered charities under the *Income Tax Act (Canada)*; and
- (c) to do all such other things as are incidental and ancillary [emphasis added] to the attainment of the foregoing purposes and the exercise of the powers of the [Society]<sup>10</sup>.

In its Registered Charity Information Return (T3010) for 2010, Tides Initiatives provided the following description of its ongoing programs:

In accordance with its mission and to fulfill its mandate, the charity carried out activities, services and programs that encourage sustainable human systems and promote lessening society's impact on the environment. These include **educating the public about environmental issues** [emphasis added] and providing leadership development, training and education focused on environmental conservation and sustainability. The charity's ongoing programs are focused on environmental conservation,

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<sup>10</sup> Document procured through Access to Information request by EthicalOil.org.

environmental education and research, leadership development, civic engagement, social justice programs and charitable capacity building.<sup>11</sup>

In contrast to these benign descriptions of ongoing activities as reported by Tides Foundation and Tides Initiatives in their respective Registered Charity Information Returns, their conduct portrays a shared focus on political activity and financial support for non-qualified donees.

It is important to note recent statements by Tides Canada President and C.E.O., Ross McMillan, in his letter dated January 18, 2011 to Paul Boothe, Deputy Minister of Environment Canada. As part of Mr. McMillan's defence of Tides Canada's present "focus and activities", he stated:

[U]nlike endowed foundations, Tides Canada operates on an advised fund model...donors with diverse interests and perspectives can advise on grants from their designated funds at Tides Canada. This means that often Tides Canada will make grants to support different sides of an environmental or social issue congruent with the different interests of its donor. When it comes to the oil sands, Tides Canada as an institution has taken no stand for or against the development of Alberta's oil sands and the possible establishment of pipelines or other infrastructure associated with hydrocarbon development in Canada. [Tides Canada] has encouraged a robust debate on these issues and has promoted public policy decisions that fairly balance ecological, social and economic considerations.

At the request of our donors we have made grants related to the oil sands averaging about \$500,000 a year over the past five years. These grants have been provided to a range of organizations, from universities and moderate environmental organizations for scientific research to more activist based environmental organizations concerned about the environmental and social impacts of oil sands and pipelines developments. **To put these activities into context, these grants account for less than 3% of Tides Canada's annual grant-making activity.**<sup>12</sup> [Emphasis added.]

EthicalOil.org suggests that Mr. McMillan's statements do not accurately describe the "focus and activities" of Tides Canada. Instead, it is submitted that these statements are intended to deflect justifiable scrutiny of Tides Canada's operations. By funding third parties, including many non-qualified donees who carry out political activities in ways that are primary rather than incidental to their stated mandates, Tides Canada is indirectly engaging in impermissible activities such that its own collateral purpose becomes clear. **Put simply, Tides Canada does not**

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<sup>11</sup> 2010 Registered Charity Information Return for Tides Canada Initiatives Society, <http://www.cra-arc.gc.ca/ebsi/haip/srch/t3010form22-eng>.

<sup>12</sup> Document procured through ATIA request by EthicalOil.org.



**conduct its operations within the limits imposed on charities to otherwise permit their tax-exempt status.**

C. WHAT CONSTITUTES CHARITABLE PURPOSES AND CHARITABLE ACTIVITIES?

a) CRA Policies and Guidance

CRA Policy Statement CSP-C01, Charitable Purposes, provides the following:

The courts have identified four general categories of charitable purposes. For an organization to be registered as a charity, its purposes have to fall within one or more of the following categories:

- the relief of poverty;
- the advancement of education;
- the advancement of religion; or
- other purposes beneficial to the community in a way the law regards as charitable.<sup>13</sup>

CRA Policy Statement CSP-C09, Charitable Activities – Charitable Purposes, provides the following:

In order for an activity to be considered to be charitable at law, it must be undertaken to achieve a charitable purpose.<sup>14</sup>

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<sup>13</sup> Canada Revenue Agency, “Policy Statement – Charitable Purposes”, October 25, 2002, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/csp/csp-c01-eng.html>.

“The definition of a charity in Canada is a common law one, based on the 19<sup>th</sup> century English decision known as *Lord Pemsel’s case* which itself relied upon a 1601 English statute known colloquially as the Statute of Elizabeth. *Lord Pemsel’s case* held that charitable objects could be classified into four “heads” or categories: the relief of poverty, the advancement of religion, the advancement of education, and other purposes of a charitable nature beneficial to the community as a whole. Many textbooks and articles and a significant amount of jurisprudence discuss whether particular purposes or activities qualify as charitable at law. Nonetheless, substantial uncertainty remains with respect to the charitable status of a number of relatively common third-sector purposes and activities.” A. Drache, R. Hayhoe and D. Stevens, *Charities Taxation, Policy and Practice: Taxation*, Carswell, Toronto, 2007, p.1-7.

<sup>14</sup> Canada Revenue Agency, “Charitable Activities – Charitable Purposes”, June 9, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/csp/csp-c09-eng.html>.

CRA Policy Statement CSP-C10, Community (purposes beneficial to) – Charitable (activities, purposes), provides the following:

To qualify for registration as a charity under the category of charitable purposes known as "other purposes beneficial to the community", an organization's purposes and activities must provide a tangible benefit to the community as a whole in a way the law regards as charitable. Not all purposes that benefit the community are charitable - only those that have been recognized by the courts.<sup>15</sup>

b) Determining “Other Purposes Beneficial to the Community”

It is well accepted in Canada that the process used by courts to recognize “other purposes beneficial to the community” has been “one of building analogy upon analogy.”<sup>16</sup> The Supreme Court of Canada has held that:

[T]he best way in which to discern the charitable quality of an organization's purposes is to continue to proceed by way of analogy to those purposes already found to be charitable by the common law, and conveniently classified in *Pemsel*, subject always to providing a benefit to the community, and with an eye to society's current social, moral and economic context.<sup>17</sup>

c) Relevant Definitions and Provisions Under the ITA

The following definitions provided by s.149.1 (1) of the ITA are relevant herein:

“charitable foundation”

« fondation de bienfaisance »

“charitable foundation” means a corporation or trust that is constituted and operated exclusively for charitable purposes, no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof, and that is not a charitable organization;

“charitable organization”

« oeuvre de bienfaisance »

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<sup>15</sup> Canada Revenue Agency, “Community (purposes beneficial to) – Charitable (activities, purposes), June 9, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/csp/csp-c10-eng.html>.

<sup>16</sup> A. Drache, R. Hayhoe and D. Stevens, *Charities Taxation, Policy and Practice: Taxation*, Carswell, Toronto, 2007, p. 3-59.

<sup>17</sup> *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10, per Iacobucci, J., at para. 159.

“charitable organization” means an organization, whether or not incorporated,

- (a) all the resources of which are devoted to charitable activities carried on by the organization itself,
- (b) no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof,
- (c) more than 50% of the directors, trustees, officers or like officials of which deal with each other and with each of the other directors, trustees, officers or officials at arm’s length, and
- (d) where it has been designated as a private foundation or public foundation pursuant to subsection (6.3) of this section or subsection 110(8.1) or (8.2) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, or has applied after February 15, 1984 for registration under paragraph 110(8)(c) of that Act or under the definition “registered charity” in subsection 248(1), not more than 50% of the capital of which has been contributed or otherwise paid into the organization by one person or members of a group of persons who do not deal with each other at arm’s length and, for the purpose of this paragraph, a reference to any person or to members of a group does not include a reference to Her Majesty in right of Canada or a province, a municipality, another registered charity that is not a private foundation, or any club, society or association described in paragraph 149(1)(I);

“qualified donee”

« donataire reconnu »

“qualified donee”, at any time, means a person that is

- (a) registered by the Minister and that is
  - (i) a housing corporation resident in Canada and exempt from tax under this Part because of paragraph 149(1)(i) that has applied for registration,
  - (ii) a municipality in Canada,
  - (iii) a municipal or public body performing a function of government in Canada that has applied for registration,

- (iv) a university outside Canada that is prescribed to be a university the student body of which ordinarily includes students from Canada, or
  - (v) a charitable organization outside Canada to which Her Majesty in right of Canada has made a gift in the 36-month period that begins 24 months before that time,
- (b) a registered charity,
  - (c) a registered Canadian amateur athletic association, or
  - (d) Her Majesty in right of Canada or a province, the United Nations or an agency of the United Nations;

“charitable purposes”

« fins de bienfaisance »

“charitable purposes” includes the disbursement of funds to qualified donees;

“charity”

« organisme de bienfaisance »

“charity” means a charitable organization or charitable foundation;

“public foundation”

« fondation publique »

“public foundation” means a charitable foundation of which,

- (a) where the foundation has been registered after February 15, 1984 or designated as a charitable organization or private foundation pursuant to subsection 149.1(6.3) or to subsection 110(8.1) or (8.2) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952,
  - (i) more than 50% of the directors, trustees, officers or like officials deal with each other and with each of the other directors, trustees, officers or officials at arm’s length, and
  - (ii) not more than 50% of the capital contributed or otherwise paid in to the foundation has been so contributed or otherwise paid in by one person or members of a group of such persons who do not deal with each other at arm’s length, or

- (b) in any other case,
  - (i) more than 50% of the directors or trustees deal with each other and with each of the other directors or trustees at arm's length, and
  - (ii) not more than 75% of the capital contributed or otherwise paid in to the foundation has been so contributed or otherwise paid in by one person or by a group of persons who do not deal with each other at arm's length

and for the purpose of subparagraph (ii), a reference to any person or to members of a group does not include a reference to Her Majesty in right of Canada or a province, a municipality, another registered charity that is not a private foundation, or any club, society or association described in paragraph 149(1)(l).

The following provisions of the ITA are also relevant:

#### Charitable purposes

149.1(6.1) For the purposes of the definition "charitable foundation" in subsection 149.1(1), where a corporation or trust devotes substantially all of its resources to charitable purposes and

- (a) it devotes part of its resources to political activities,
- (b) those political activities are ancillary and incidental to its charitable purposes, and
- (c) those political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office,

the corporation or trust shall be considered to be constituted and operated for charitable purposes to the extent of that part of its resources so devoted.

#### Charitable activities

149.1(6.2) For the purposes of the definition "charitable organization" in subsection 149.1(1), where an organization devotes substantially all of its resources to charitable activities carried on by it and

- (a) it devotes part of its resources to political activities,
- (b) those political activities are ancillary and incidental to its charitable activities, and
- (c) those political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office,

the organization shall be considered to be devoting that part of its resources to charitable activities carried on by it.

D. TIDES CANADA'S POLITICAL PURPOSES AND ACTIVITIES

EthicalOil.org submits that Tides Canada engages in impermissible political activity both directly by its own actions and indirectly by funding third parties who engage in political activities.

It is clear that the law and policies applicable to registered charities in Canada disallows certain forms of political activity altogether. However, even where a registered charity engages in permitted forms of political activity, such activity may not exceed allowable limits.

a) CRA Policy Statement CPS-022

CRA Policy Statement CPS-022, Political Activities, provides the following:

All registered charities are required by law to have exclusively charitable purposes. As the Act does not define what is charitable, we look to the common law for both a definition of charity in its legal sense as well as the principles to guide us in applying that definition. The formal objectives or goals of a charity must be set out in its governing documents.

Under the Act and common law, an organization established for a political purpose cannot be a charity. The courts have determined political purposes to be those that seek to:

further the interests of a particular political party; or support a political party or candidate for public office; or

retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country [emphasis added].

The main reason why the courts rule out political purposes for charities is a result of the requirement that a purpose is only charitable if it generates a public benefit. **A political purpose, such as seeking a ban on deer hunting, requires a charity to enter into a debate about whether such a ban is good, rather than providing or working towards an accepted public benefit** [emphasis added].

It also means that in order to assess the public benefit of a political purpose, a court would have to take sides in a political debate. In Canada, political issues are for Parliament to decide, and the courts are reluctant to encroach on this sovereign authority (other than when a constitutional issue arises).

It is important to remember that although the stated purposes of an organization are the obvious source of reference of whether or not an

organization is constituted exclusively for charitable purposes, it is not the sole indicator. **The Canada Revenue Agency also takes into account the activities that the organization is currently engaged in as a potential indicator of whether it has since adopted other purposes** [emphasis added].

When a charity focuses substantially on one particular charitable activity so that it is no longer subordinate to one of its stated purposes, we may question the legitimacy of the activity at law. This is because when an activity is no longer subordinate to a charity's purposes, it may indicate that the charity is engaging in an activity outside its stated objects, or pursuing an unstated:

collateral political purpose; or

non-charitable purpose; or

charitable purpose.

In such circumstances, rather than just considering the explicit purpose of the activity in question, we will consider all the facts and determine whether it is reasonable to conclude that the charity is focusing substantially on a particular activity for an unstated political purpose [emphasis added].

In addition, when a charity's purposes are clearly charitable, but it devotes more than the allowable maximum of its resources to political activities, we may consider that the charity is operating to achieve a political objective that is not stated in its governing documents, and it will consequently risk revocation [emphasis added].

Finally, it is important to bear in mind that some purposes can only be achieved through political intervention and legislative change. For example, a purpose such as improving the environment by reducing the sulphur content of gasoline would very likely require changes in government regulations. **Generally, any purpose that suggests convincing or needing people to act in a certain way and which is contingent upon a change to law or government policy (e.g., "the abolition of" or "the total suppression of animal experimentation") is a political purpose** [emphasis added].

Although an organization established for a political purpose cannot be registered as a charity, a registered charity may take part in some political activities as a way of furthering its charitable purpose(s). However, charities do not have complete freedom to support any cause they like. Special legal rules apply to charities because of their charitable and tax statuses.

A charity wishing to carry out activities that go beyond the limits permitted by the Act may establish a separate and distinct organization that will not be a registered charity and therefore not able to issue charitable receipts. No limitations are placed on the political activities of such a body; it has complete freedom within the law to support any cause it chooses. But the charity cannot fund that separate organization or make resources available to it for any otherwise impermissible political activity.<sup>18</sup>

b) Interpretation of Applicable Law and Policy

In the CRA “Policy Statement – Political Activities”, February 14, 2011, it is acknowledged that s. 149.1(6.1) of the ITA permits a charitable foundation to devote part of its resources to political activities so long as those activities are **ancillary and incidental** to its charitable purposes.

It is further acknowledged that s. 149.1(6.2) permits a charitable organization to devote part of its resources to political activities so long as those political activities are ancillary and incidental to its charitable activities.

However, it is possible that a charity’s other purposes and activities may cease to be merely incidental and in fact become collateral to the charity’s stated purposes and activities. By its conduct, a charity may demonstrate that it has in fact adopted a political purpose.<sup>19</sup>

Political purposes are those that seek to:

- further the interest of a particular political party; or
- support a political party or candidate for public office; or

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<sup>18</sup> Canada Revenue Agency, “Policy Statement – Political Activities”, September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>

<sup>19</sup> *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10, per Iacobucci, J., at para. 156 quoting Denning L.J. in *British Launderers’ Research Association v. Borough of Hendon Rating Authority*, [1949] 1 K.B. 462 (C.A.) at pp.467-68, as adopted by the Supreme Court of Canada in *Guaranty Trust* [1967] S.C.R. 133 at p.143:

It is not sufficient that the society should be instituted “mainly” or “primarily” or “chiefly” for the purposes of science, literature or fine arts. It must be instituted “exclusively” for those purposes. The only qualification – which, indeed, is not really a qualification at all – is that other purposes that are merely incidental to the purposes of science and literature or the fine arts, that is, *merely a means to the fulfillment of those purposes*, do not deprive a society of the exemption. Once, however, the other purposes cease to be merely incidental but become collateral; that is, cease to be a means to an end, but become an end in themselves; that is, become additional purposes of the society; then, whether they be main or subsidiary, whether they exist jointly with or separately from the purposes of science, literature or the fine arts, the society cannot claim the exemption. [Emphasis added by Ritchie J. in *Guaranty Trust*.]



- retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country.<sup>20</sup>

Registered charities are prohibited from participating in partisan political activity. Partisan political activity involves direct or indirect support of, or opposition to, any political party or candidate for public office. A charity may make the public aware of its position on an issue, even if that position is supported by a candidate or political party, provided:

- a) it does not explicitly connect its views to any political party or candidate for public office;
- b) the issue is connected to its charitable purposes;
- c) its views are based on a well-reasoned position; and
- d) public awareness campaigns do not become the charity's primary activity.<sup>21</sup>

A charity may provide information to the public on how all Members of Parliament or legislative body voted on an issue connected with the charity's purpose. However, a charity must not single out the voting pattern of any one elected representative or political party.<sup>22</sup>

**A charity engages in political activity if it:**

1. explicitly communicates a call to political action (i.e., encourages the public to contact an elected representative or public official and urges them to retain, oppose, or change the law, policy, or decision of any level of government);
2. explicitly communicates to the public that the law, policy, or decision of any level of government in Canada or a foreign country should be retained (if retention is being reconsidered by a government), opposed, or changed;
3. explicitly indicates in its materials (whether internal or external) that the intention of the activity is to incite or organize to put pressure on, an elected representative or public official to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country; or
4. attempts to sway public opinion on social issues.<sup>23</sup>

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<sup>20</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

<sup>21</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

<sup>22</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

**While not all attempts to inform public opinion on an issue are political activity, any purpose that suggests convincing or needing people to act in a certain way and which is contingent upon a change to law or government policy is a political purpose.**<sup>24</sup> [emphasis added].

e) Political Activities of Tides Canada

EthicalOil.org submits that Tides Canada systematically underreports its own political activity as well as the political activity that it funds through its grant-making, projects, and collective giving funds.

A close look at the activities of Tides Canada suggests a complex reality. Through its collective giving funds, third party grants, and projects run directly by Tides Initiatives, Tides Canada channels funds to several environmental and social activist groups with openly political agendas.

In its Registered Charity Information Return (T3010) for both 2009 and 2010, Tides Foundation reported that it did not carry on any political activities within the applicable fiscal period nor did it spend any money on political activities.<sup>25</sup>

However, based on all of the facts regarding Tides Foundation's primary activity of funding third parties who engage in openly political activities, it is reasonable to conclude that Tides Canada is underreporting its own political activity. Ross McMillan, President and C.E.O. of Tides Canada, recently stated that Tides Canada has "always assumed" that it did not have to report on the political activities of its grant recipients or funded projects in its own reporting on political activity<sup>26</sup>.

In its Registered Charity Information Return (T3010) for 2009, Tides Initiatives reported that it did not carry on any political activities within the applicable fiscal period nor did it spend any money on political activities.<sup>27</sup> However, in its Registered Charity Information Return (T3010) for 2010, Tides Initiatives confirmed that it engaged in political activities to a limited extent.<sup>28</sup> The T3010 information return does not require the charity to provide

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<sup>23</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

<sup>24</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

<sup>25</sup> 2009 Registered Charity Information Return for Tides Canada Foundation, <http://www.cra-arc.gc.ca/ebsi/haip/srch/t3010form21-eng> and 2010 Registered Charity Information Return for Tides Canada Foundation, <http://www.cra-arc.gc.ca/ebsi/haip/srch/t3010form22-eng>.

<sup>26</sup> National Post, April 7, 2012, "The politics of charity: When is a tax-exempt organization too political?", <http://news.nationalpost.com/2012/04/06/the-politics-of-charity-when-is-it-a-tax-exempt-organization-to-political/>.

<sup>27</sup> 2009 Registered Charity Information Return for Tides Canada Initiatives Society, <http://www.cra-arc.gc.ca/ebsi/haip/srch/t3010form21-eng>.

<sup>28</sup> 2009 Registered Charity Information Return for Tides Canada Initiatives Society, <http://www.cra-arc.gc.ca/ebsi/haip/srch/t3010form22-eng>.

particulars of its political activities. However, it appears that Tides Initiatives may have provided a sample of such activities by its recent public statements.

In an online article posted May 15, 2012 to The Huffington Post titled "How Canada Can Lead on Clean Energy", Merran Smith, Director of Tides Canada's Energy Program (itself a Tides Initiatives project) made the following statements regarding the Government of Canada's approach to international treaty commitments and a national energy strategy in general:

The hand-drawn sign in the photograph is fashioned from a circle of cardboard, and features a three-bladed wind turbine and the words "let's go." We can see a pair of hands grasping the sign, but not the person holding it -- who appears to be standing on some sort of gantry or catwalk. Behind him or her, in the background, is a petroleum upgrading facility.

"I am an oilsands worker, and risked my job to take this picture," says the caption on the image, which was taken in support of a recent global climate-change campaign, and which is now going viral on the web. "Myself, along with the majority of my co-workers are ready for a renewable energy revolution."

It is an arresting image, capturing a quiet act of dissent and call for change direct from the roaring industrial heart of northern Alberta. What makes it even more poignant is the fact that the revolution the anonymous oil worker calls for is already underway.

Canada just hasn't yet shown up.

A Bloomberg New Energy Finance report released last month reveals that worldwide clean energy investment continued a near-decade-long rally in 2011, rising 6.5 per cent to a record \$263 billion. Last year, global investments in electricity for renewable electricity generation outpaced those of fossil fuels such as coal, oil and gas.

Canada increased its share of clean-energy investment in 2011, Bloomberg notes, boosting its stake by 4.4 per cent to \$5.5 billion -- largely the result of provincial policies such as the Green Energy and Economy Act, which is driving wind and solar build-out in Ontario.

But our country does not even crack the top 10 of G20 economies investing in the energy of the future. While others jockey for leadership spots in the ongoing global shift to energy that is clean, renewable, abundant, and largely locally available, we are trailing the pack behind Brazil and Spain.

It doesn't have to be this way. Canada can and must leverage its oil wealth to ensure our country remains competitive in a world that is working to dramatically reduce its appetite for our fossil-fuel resources. By 2020, the

global market for low-carbon goods and services is expected to crest two trillion dollars.

Earlier this week, Canada's environment commissioner confirmed that the federal government has no real plan to meet its Copenhagen Accord commitment. We agreed to reduce greenhouse gas emissions to a level that will, at minimum, limit global warming to two degrees Celsius above pre-industrial level. Now it is time to make good, and a Canadian energy strategy represents our best opportunity to do so [emphasis added].

Over recent months, my team has traveled the country, consulting with a wide range of environmental, business, academic, faith, and health leaders. They all told us the same thing: Any Canadian energy strategy must recognize that the world is changing rapidly around us. We either put in policies such as this that allow us to slowly but surely reinvent our economy for clean energy future, or face profound uncertainty and risk [emphasis added].

Speaking on behalf of his colleagues, the anonymous oil worker who bravely posted his snapshot on Flickr perhaps said it best: "We want jobs that provide long term economic, social and environmental sustainability for ourselves, our country and our planet."

A plan to do so is within reach. Let's go.<sup>29</sup>

EthicalOil.org submits that the content of Ms. Smith's article constitutes political activity by Tides Canada. By judging Canada's current energy policy as ineffective with statements like "[w]hile others jockey for leadership spots in the ongoing global shift to energy that is clean, renewable, abundant, and largely locally available, **we are trailing the pack behind Brazil and Spain**" [emphasis added], Ms. Smith implies that the current policy of the Government of Canada should be changed. Further, statements such as "Canada needs a plan to capture a larger share of this new clean energy opportunity, and accelerate our transition to an efficient, prosperous low-carbon economy", Ms. Smith on behalf of Tides Canada is attempting to sway public opinion on a contentious issue currently facing Canadian society.

In an online article posted May 22, 2012 to The Huffington Post, titled "Even Alberta Agrees, Oil Cannot Be Forever", Ms. Smith made the following statements regarding adopting a national energy strategy focused on renewable resources:

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<sup>29</sup> The Huffington Post, May 15, 2012, "How Canada Can Lead on Clean Energy"  
[http://www.huffingtonpost.ca/merran-smith/canada-renewable-energy\\_b\\_1515961.html](http://www.huffingtonpost.ca/merran-smith/canada-renewable-energy_b_1515961.html).

Canadians want their government to develop a national energy strategy that would protect the environment and help the country reduce its reliance on fossil fuels.

That's the takeaway of a recent national poll, published earlier this month in the trade magazine *Alberta Oil*. But it's received little attention anywhere else.

This past winter, Leger Marketing randomly selected more than 1,400 Canadians from every region of the country except the North, and asked them a series of questions regarding their views on energy, including their appetite for a national energy strategy.

Alberta Premier Alison Redford has recently come out in support of a Canadian energy strategy. In January, she told the Economic Club of Canada that, while clean energy and efficiency would be important elements of such a plan, it should at its core enable new pipelines.

"Forging stronger links with Asia will be a key part of any Canadian energy strategy," Redford said.

The *Alberta Energy* survey is the first strong indication that Canadians are not only ready for an energy strategy, but that they feel it should help transition the nation to cleaner energy. Key findings:

A full 92.1 per cent of Canadians agreed that developing a national energy strategy needs to be a public priority, and 85.1 per cent of Albertans agreed.

Some 72 per cent of those surveyed agreed that "Any national energy strategy should be focused on reducing our reliance on non-renewable energy." (Even in oil-rich Alberta, 65.3 per cent agreed with this statement.)

83.7 per cent of those surveyed felt that, when it comes to a national strategy, "Energy in all its forms needs to be considered."

Just 26.6 per cent of those surveyed agreed with the statement that "Canada is a leader in green energy technology." Meanwhile, 38.4 per cent didn't answer, while 35 per cent of respondents disagreed.

81.2 per cent agreed with the statement "Are you concerned about Alberta oil sands greenhouse gas emissions?" (74.9 per cent of Albertans were as well.)

Only 32.2 per cent agreed that "Economic benefits of oil and gas development outweigh environmental concerns." 27 per cent didn't answer the question, and 40.8 per cent disagreed.

Earlier this year, my team hosted a series of workshops across the country with business, academic and other non-government leaders. They told us that if we want Canada to remain strong and prosperous, we must make a plan to shift from the oil-focused economy we have today, to the clean energy economy we want and need tomorrow [emphasis added].

The *Alberta Oil* survey findings suggest that the general public is, to a large degree, on the same page.<sup>30</sup> [emphasis added].

EthicalOil.org submits that the content of Ms. Smith's article constitutes political activity by Tides Canada. By issuing statements such as "Canadians want their government to develop a national energy strategy that would protect the environment and help the country reduce its reliance on fossil fuels" Ms. Smith on behalf of Tides Canada is attempting to sway public opinion by suggesting that a majority of Canadians possess a certain viewpoint.

### **Ross McMillan Collected Tweets**

Ross McMillan, the President and C.E.O. of Tides Canada, is active on the "Twitterverse", the online community based on a social media platform known as Twitter. Twitter allows participants to post messages not exceeding 140 alphanumeric characters in length (known as "Tweets") to an electronic "bulletin board" that third parties may view free of charge. These third parties take active steps to "sign up" to receive the electronic bulletins posted by a certain Twitter participant and thereby form a community of "followers".

The following examples of Tweets by Mr. McMillan on @Ross\_Mcmillan demonstrate political activity on the part of Tides Canada.<sup>31</sup>

1. July 20, 2012  
But boss, maybe they'll buy it if we claim that the enviro charities undermined our botched military spending spree too<sup>32</sup>  
(Editorial suggesting that current federal Conservative government is inept.)
2. May 25, 2012  
Accusations outweigh evidence on @TidesCanada and silver lining lesson? My talk with @JanetGadeski of @Hilborninfo charityinfo.ca/articles/Accus ...<sup>33</sup>

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<sup>30</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

<sup>31</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

<sup>32</sup> <http://www.theglobeandmail.com/news/politics/the-tories-are-doing-mulcairs-work-for-him/>.

<sup>33</sup> <http://www.charityinfo.ca/articles/Accusations-outweigh-evidence-in-attacks-against-Tides-Canada>.

(Dialogue suggesting that accusations against Tides Canada regarding acceptance of foreign funds targeting opposition to oil sands development are unfounded.)

3. May 23, 2012  
The real risk to northern health and life ways, Min Aglukkaq? Foreign phantoms or Can govt climate & poverty policies? <http://m.theglobeandmail.com/news/politics/...><sup>34</sup>

(Links to political commentary suggesting that current federal response to northern food security is inadequate.)

4. May 21, 2012  
Remembering political, resource and economic history? Brian Topp on our painfully short sighted economic non-strategy <http://m.theglobeandmail.com/news/politics/...><sup>35</sup>

(Links to political commentary suggesting that current federal economic policies are inadequate.)

5. May 19, 2012  
Who is dining at political kids' table? Great piece by SusanDelacourt on governing vs. childish politics @TorontoStar <http://www.thestar.com/iphone/news/ca...><sup>36</sup>

(Links to political commentary suggesting that current federal government engages in "childish antics".)

6. May 18, 2012  
Will Canada bring balance to Arctic development talks as it assumes arctic Council chair in 2013? Don't count on it... <http://m.theglobeandmail.com/news/politics/...><sup>37</sup>

(Links to political commentary suggesting that current federal government will falter in stewardship of northern resource development.)

7. May 3, 2012  
Environment Minister's charity chill "jump the shark" in @OttawaCitizen <http://blogs.ottawacitizen.com/2012/05/03/env...><sup>38</sup>

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<sup>34</sup> <http://m.theglobeandmail.com/news/politics/health-minister-acknowledges-northern-food-issues-but-maintains-un-criticism/article2441150/?service=mobile>.

<sup>35</sup> <http://m.theglobeandmail.com/news/politics/second-reading/brian-topp/raw-resources-remembering-our-history-in-order-not-to-repeat-it/article2439053/?service=mobile>.

<sup>36</sup> <http://www.thestar.com/iphone/news/canada/politics/article/1181052--childish-political-antics-infiltrating-prime-minister-stephen-harper-s-government>.

<sup>37</sup> <http://m.theglobeandmail.com/news/politics/arctic-oil-boom-looms-as-canada-preps-to-take-over-as-council-chair/article2436566/?service=mobile>.

<sup>38</sup> <http://blogs.ottawacitizen.com/2012/05/03/enviro-charity-wars-jump-the-shark/>.

(Links to political commentary suggesting that current federal government's use of the term "money laundering" in the context of foreign funding of Canadian charities is outlandish.)

8. May 1, 2012  
Has not Minister Kent stepped over a line important to Canadians? This has gone too far.... [http://www.cbc.ca/m/touch/news/s ...](http://www.cbc.ca/m/touch/news/s...) <sup>39</sup>

(Links to political commentary suggesting that current federal government's use of the term "money laundering" in the context of foreign funding of Canadian charities is outlandish.)

9. Apr 26, 2012  
Gus Speth's wise vision for a US democracy reborn - stark contrast to content of today's budget bill in Canada #cdnpoli [http://www.orionmagazine.org/index.php/arti ...](http://www.orionmagazine.org/index.php/arti...) <sup>40</sup>

(Links to political commentary suggesting that federal government's omnibus budget bill is undemocratic.)

10. Apr 25, 2012  
What's the real issue in charity crack-down? Diminishment of policy discourse and the silencing of dissent in Canada [http://www.theglobeandmail.com/news/politics/ ...](http://www.theglobeandmail.com/news/politics/...) <sup>41</sup>

(Link to political editorial comments suggesting that current federal government maintains a general policy of quashing dissent in Canadian political debate.)

11. Apr 19, 2012  
"Drive-by fixation" with enviro groups? Elizabeth Payne in @OttawaCitizen on government's agenda on charity clamp-down [http://www.ottawacitizen.com/opinion/column ...](http://www.ottawacitizen.com/opinion/column...) <sup>42</sup>

(Links to political commentary suggesting that current federal government is unfairly targeting activist environmental charities.)

12. Apr 18, 2012

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<sup>39</sup> <http://www.cbc.ca/m/touch/news/story/2012/05/01/pol-peter-kent-environmental-charities-laundering.html>.

<sup>40</sup> <http://www.orionmagazine.org/index.php/articles/article/6810>.

<sup>41</sup> <http://www.theglobeandmail.com/news/politics/as-tories-crack-down-records-show-less-than-1-of-charities-fund-political-activism/article2414078/>.

<sup>42</sup>

<http://www.ottawacitizen.com/opinion/columnists/Where+foreign+money+goes/6480424/story.html>.



Don't often tweet NP, but John Ivison's comments are spot on regarding opaque governing & major public policy shifts  
[fullcomment.nationalpost.com/2012/04/18/joh ...](http://fullcomment.nationalpost.com/2012/04/18/joh...) <sup>43</sup>

(Links to political commentary suggesting that current federal government pursues a secret political agenda.)

13. Apr 18, 2012  
Whither democracy and the Canada we know? Astute and sober commentary from Alex Himelfarb - former Privy Council Clerk  
[afhimelfarb.wordpress.com/2012/04/17/goi ...](http://afhimelfarb.wordpress.com/2012/04/17/goi...) <sup>44</sup>

(Links to political commentary suggesting that current federal government is pursuing an anti-democratic agenda.)

14. Apr 10, 2012  
Demonization of dissent - Canadian style - Patrick Johnston in Alliance magazine  
<http://philanthropynews.alliancemagazine.org> <sup>45</sup>

(Links to political commentary suggesting that new federal guidelines to enhance transparency and accountability of charities undermine free political discourse.)

15. Apr 4, 2012  
Great Catch 22 @carbontalks post on framing on environmental charities - Orwell and Kafka come to mind as well.... [http://blog.carbontalks.ca/archives/726#d ...](http://blog.carbontalks.ca/archives/726#d...) <sup>46</sup>

(Links to political commentary suggesting the environmental charities are being unfairly targeted.)

16. Apr 4, 2012  
A dangerous slide - spot on piece on Charity chill in Canada by Michael Orsini in @OttawaCitizen [http://www.ottawacitizen.com/opinion/op-ed/ ...](http://www.ottawacitizen.com/opinion/op-ed/) <sup>47</sup>

(Links to political editorial comments suggesting that current federal government is targeting environmental charities to clear path for resource development and export.)

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<sup>43</sup> <http://fullcomment.nationalpost.com/2012/04/18/john-ivison-tories-stick-to-their-secretive-ways-in-trying-to-hide-major-policy-shift/>.

<sup>44</sup> <http://afhimelfarb.wordpress.com/2012/04/17/going-going-gone-dismantling-the-progressive-state/>.

<sup>45</sup> <http://philanthropynews.alliancemagazine.org/>.

<sup>46</sup> [http://blog.carbontalks.ca/archives/726#disqus\\_thread](http://blog.carbontalks.ca/archives/726#disqus_thread).

<sup>47</sup> <http://www.ottawacitizen.com/opinion/op-ed/federal+government+picked+fight+with+charities/6399676/story.html>.

17. Mar 30, 2012  
Fear and loathing in Canada - a democracy gone wrong when charities are cast as enemies of the national interest... <http://www.theglobeandmail.com/news/politics/...><sup>48</sup>  
  
(Links to political commentary supporting active political involvement by charities).
18. Mar 30, 2012  
Globe editorial on unbalanced treatment of environmental charities in federal #bdgt12 <http://theglobeandmail.com/news/opinions/><sup>49</sup>  
  
(Links to political editorial comments suggesting that new federal guidelines to enhance transparency and accountability of charities is motivated by a partisan agenda.)
19. Jan 17, 2012  
It was really only a matter of time before Rick Mercer waded in on radical environmentalism and foreign influence... <http://www.cbc.ca/video/#/Shows/...><sup>50</sup>  
  
(Links to a political video of popular Canadian satirist suggesting that current federal government is unfairly targeting environmental charities and the donors who support them.)
20. Jan 12, 2012  
Charities chill and pipeline politics - Alan Broadbent weighs in <http://theglobeandmail.com/news/opinions/><sup>51</sup>  
  
(Links to political commentary by former political party leader suggesting the current federal government is unfairly targeting charities as it pursues its policy agenda.)
21. Jan 12, 2012  
Scales of foreign oil and pipeline influence clearly tipped - hypocrisy laid bare <http://m.theglobeandmail.com/news/politics/...><sup>52</sup>  
  
(Links to political commentary suggesting that current federal government accepts foreign funding when such funding aligns with policy agenda.)

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<sup>48</sup> <http://www.theglobeandmail.com/news/politics/new-rules-in-budget-create-more-fear-among-politically-active-charities/8001/>.

<sup>49</sup> <http://www.theglobeandmail.com/news/politics/new-rules-in-budget-create-more-fear-among-politically-active-charities/>.

<sup>50</sup> <http://www.cbc.ca/video/#/Shows/1221254309/ID=2187922069>.

<sup>51</sup> <http://www.theglobeandmail.com/news/opinions/opinion/pipeline-politics-dont-demonize-the-charitable-sector/article2299266/>.

<sup>52</sup> <http://m.theglobeandmail.com/news/politics/in-canadas-energy-sector-foreign-influence-cuts-both-ways/article2299558/?service=mobile>.

22. Dec 15, 2011  
Manufactured conspiracy on environmental philanthropy in Canada gets some balanced treatment – [http://tidescanada.org/news/applause- ...](http://tidescanada.org/news/applause-...)<sup>53</sup>  
  
(Links to political commentary posted on Tides Canada’s website supporting the ability of foreign donors to fund activities of Canadian environmental charities.)
23. Nov 30, 2011  
Great David Suzuki piece in Georgia Straight - hypocrisy of current anti-environmental and anti-philanthropy narrative [http://www.straight.com/article-551661 ...](http://www.straight.com/article-551661...)<sup>54</sup>  
  
(Links to political editorial comments criticizing the current federal government’s approach to enhancing transparency and accountability of environmental charities.)
24. Nov 28, 2011  
And here is Bill McKibben's blunt word (<http://bit.ly/vkCH4f>) in Guardian on UK gov work to promote 'clean' oil sands [http://www.guardian.co.uk/environment/20 ...](http://www.guardian.co.uk/environment/20...)<sup>55</sup>  
  
(Links to political commentary suggesting that promotion of oil sands development may be equated with denial of climate change science.)
25. Dec 2, 2011  
Monbiot's letter to Canadians on shameful Can govt Copenhagen positioning <http://tinyurl.com/yffkczb><sup>56</sup>  
  
(Links to political commentary claiming that Canada has destroyed its reputation for environmental protection.)

**The recurrent theme found in Mr. McMillan’s comments and posted links to third party editorials is opposition to the Canadian government’s current policy on resource development and export. Mr. McMillan not only draws attention to the claims of various environmental groups that Canada’s government is using its authority to silence such groups, but that the message conveyed by such groups should in fact be the policy of the Canadian government.**

On June 5, 2012, the following article by P. O’Neil appeared in the Vancouver Sun quoting Mr. McMillan. This article demonstrates the overtly political involvement of Tides Canada:

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<sup>53</sup> <http://tidescanada.org/news/applause-for-u-s-funds-aimed-at-improving-our-environment-business-in-vancouver-dec-13-19/>.

<sup>54</sup> <http://www.straight.com/article-551661/vancouver/david-suzuki-twisted-logic-and-ethics-natures-opponents>.

<sup>55</sup> <http://www.guardian.co.uk/environment/2011/nov/27/canada-oil-sands-uk-backing>.

<sup>56</sup> <http://tinyurl.com/yffkczb>.

PIPELINES, POLITICS AND RECESSION COLLIDE IN B.C.: THE STORY BEHIND THE FEDERAL GOVERNMENT'S FRICTION WITH ENVIRONMENTALISTS

When a deal to protect B.C.'s Great Bear Rainforest was brokered in January 2007, one of Prime Minister Stephen Harper's most trusted lieutenants singled out the environmental and social justice organization Tides Canada as being crucial in Ottawa's decision to contribute \$30 million to the plan.

John Baird, then Harper's new environment minister and now head of foreign affairs, said the Harper government acted due to fear that the unprecedented \$60-million contribution raised by Vancouver-based Tides - the vast majority from U.S. foundations - was in jeopardy of being lost to the total \$120-million fund.

[...]

Fast-forward to late 2011 and the world has turned upside-down.

Harper warned last November that "significant American interests" are funneling money through "environmental groups and others" - presumably first nations - to stop Enbridge Inc.'s \$5.5 billion Northern Gateway oilsands pipeline from Alberta to the B.C. coast, where huge tankers will cruise the waters near the Great Bear Rainforest.

How the Harper government became an unabashed adversary of the environmental movement.

Natural Resources Minister Joe Oliver followed a few weeks later with an open letter denouncing environmental groups as foreign-funded "radical" organizations determined to "hijack" Canada's need to develop natural resources.

Tides was the only organization Oliver named in interviews.

...

While the Harper government during the 2008-2011 period streamlined environmental reviews and launched two failed bids to amend the Fisheries Act, it wasn't until after the May 2011 majority win that Harper launched his counterattack against environmentalists and the laws they advocated or supported over decades.

By that point [Vivian] Krause's research about foreign-funded environmental groups attacking the oilsands sector was gaining a significant following among conservative bloggers and Tory MPs, according to Powers. Her theories became a regular feature in caucus

meetings in 2011, playing a role in the government's decision last autumn to cancel an \$8.3 million Tides program to fund a Pacific coast oceans study, known as the Pacific North Coast Integrated Management Area Agreement (PNCIMA).

#### TIDES FACES AUDIT

A few months before that cancellation, in the spring of 2011, the Canada Revenue Agency began an audit looking into whether Tides was violating restrictions on political activities.

Tides' chief executive McMillan said he believes the two events are linked.

"Their decision to withdraw from PNCIMA, and indeed the audit, both came after significant efforts by industry players to undermine our relationship with Ottawa," said McMillan.

That pressure included a presentation by Enbridge lobbyists in December of 2010 to senior federal officials. The presentation, released through the Access to Information Act, asserted that Tides' PNCIMA funding was intended to "hijack" the government's ocean management plans and ensure a recommendation against supertankers needed to ship Northern Gateway crude to Asia.

Powers, the Tory lobbyist, said talk of conspiracies and money-laundering helps Harper level the playing field with his arch-critics.

"It's a hell of a lot easier if you're Stephen Harper and you have organizations saying 'No, I'm not radical, no I'm not a money launderer,' leaving aside the debate saying 'There's a problem with line X of the fish habitat bill,' " he said.

"It's kind of a classic Harperian strategy."

McMillan said the conspiracy theories and name-calling are part of a U.S.-style attack campaign that provides a diversion from Harper's Asia-focused economic goals.

"I believe that Tides Canada is simply a target of convenience for the government as it tries to distract Canadians from the real issues regarding its agenda to dismantle Canadian environmental laws and streamline major project reviews" <sup>57</sup> [emphasis added].

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<sup>57</sup> The Vancouver Sun, June 5, 2012, "Pipelines Politics and Recession Collide in B.C.; The Story Behind the Federal Government's Friction with Environmentalists", <http://www.vancouversun.com/business/Pipelines+politics+recession+collide/6731212/story.html>.

It appears that Mr. MacMillan does not regard the criticism of Tides Canada's activities as legitimate commentary regarding the limitations imposed on charities under the ITA. Instead it appears he views Tides Canada's role and activities as legitimate and therefore subject to bad faith partisan attacks. However, as a registered charity, Tides Canada cannot take up a defensible role in debate regarding policy alternatives. Nevertheless Tides Canada, whether directly or indirectly through its fund recipients, regularly adopts this exact stance.

For instance, Ms. Smith, Director of Tides Canada's Energy Program, goes so far as to warn that by pursuing its current policy on resource development and export, the Canadian government is putting the Canadian economy at risk.

The following statement by Ms. Smith appeared on the website *Eradicating Ecocide in Canada* on June 11, 2012:

#### ENDORSE TIDES CANADA'S ENERGY POLICY

At the end of July, Canada's First Ministers will meet in Halifax to discuss the shape and scope of a Canadian energy strategy. The meeting is a big deal. It might well shape the future of energy and climate change policy in this country.

We're reaching out today because last year you endorsed *A New Energy Vision for Canada*. In doing so, you said that any Canadian energy strategy must meet a series of requirements with respect to prosperity, the environment, climate change and more.

These principles enjoyed broad support. We have spent much of this year engaging with many of you—and with many new friends—to focus and refine them. Since you endorsed these principles last year, ***we are asking you to renew your commitment to them today***. The 2012 version appears below:

“Any Canadian energy strategy must create jobs and prosperity, protect ecosystems, reduce greenhouse gases, cut energy waste, and drive innovation, and embrace the following three principles:

##### Energy Security

Provide affordable, accessible, reliable, and efficient energy services to citizens with minimal risk to future generations;

##### Jobs and Prosperity

Leverage Canada's considerable renewable and non-renewable resources to increase our share of the global market for low-carbon goods and services, spurring new jobs, investment, and innovation;

##### Climate Change and Environment

Reduce the impacts of climate change by lowering carbon emissions at a pace and at a scale recommended by Canadian and international climate scientists. Protect and restore air, land, and water resources by ensuring rigorous environmental assessments and setting hard limits on cumulative ecosystem impacts.”

We are building an even bigger tent this year in the lead-up to the meeting of provincial premiers. We hope you will agree that any energy strategy must leverage the economy we have today to create the new energy economy we want and need tomorrow [emphasis added].

We would love to have your support again this year. Could you let us know if you will endorse these principles by replying to this email before this Friday, June 22nd? (Today would be ideal!) We hope you will agree that Canada should bet on a 21st century energy model, and accelerate its transition to a clean and renewable energy future to remain competitive in this fast-changing world.

Please let me know if you have any questions, or if you would like to see a copy of our new discussion paper, *Towards a New Energy Accord*. Thank you.<sup>58</sup>

When evaluated in light of CRA Policy Statement CPS-022, it is clear that the statements by Tides Canada executives quoted above satisfy the definition of political activities. There is no doubt that in making these statements, Mr. McMillan and Ms. Smith are attempting to oppose and change the current federal policy on resource development and export.

On June 4, 2012, the following post appeared on the Tides Canada website in support of the BlackOut SpeakOut Campaign (this campaign is further explained below):

TIDES CANADA SUPPORTS BLACK OUT SPEAK OUT CAMPAIGN  
– ENVIRONMENTAL CHARITIES FOR NATURE AND DEMOCRACY

Some of Canada’s most prominent charities and non-profit organizations are working together to launch a national awareness initiative – the Black Out Speak Out campaign. The [blackoutspeakout.ca](http://blackoutspeakout.ca) campaign draws awareness to risks to our land, water, climate and communities as a result of the recent federal budget. The campaign sheds a light on significant changes to our environmental laws and regulations of the allowable political activities of our charities.

By blacking out their website for the day, participating organizations are protesting attempts to silence the voices of those who seek to defend Canadian democracy and nature.

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<sup>58</sup> Eradicating Ecocide in Canada, “Endorse Tides Canada’s Energy Policy”, <http://eradicatingecocideinCanada.org/2012/06/endorse-tides-canadas-energy-policy/>.

Charities play, and have always played, a key role in public policy processes where all voices should be heard. These are core democratic principles in our country.

“Charities are often at the forefront of issues, raising public awareness and advocating policies that are not mainstream at the time but later become accepted wisdom” (‘Don’t fence in Canada’s charities’ Marcel Lauziere, Imagine Canada, in Toronto Star March 15, 2012).

In the past, charities have worked to help develop smoking-free public spaces, to stop acid rain, and to establish the Canadian Initiative for Maternal, Newborn and Child Health.

And today, our Canadian charities are working to ensure that public policy is in place to protect our clean water and air, the well-being of our communities, and to stop injustices against our fellow citizens [emphasis added].

As a national public foundation that focuses on social justice and the environment, Tides Canada has supported many charities in their important work over the years. And we support their collaboration in the Black Out Speak Out campaign, and their goal to engage Canadians to protect two of the most important elements of the Canadian spirit: nature and democracy<sup>59</sup> [emphasis added].

Again, it is clear that Tides Canada perceives that its role is to engage in and support overtly political activity that seeks to oppose policy choices of Canada’s Federal Government. This political involvement by Tides Canada, whether by its own action or by the activities of its fund recipients, is not within the restrictions applicable to registered charities.

f) Political Activities of Tides Canada’s Grant Recipients, Projects, and Donees, of Collective Giving Funds

We provide here several examples of political activities undertaken by recipients of Tides Canada funds, whether they be grant recipients, projects of Tides Initiatives or donees of collective giving funds. These political activities amount to an effort to sway public opinion on issues surrounding oil sands development and export. By funding such hyper-political groups, but denying or minimizing political activity of its own doing, Tides Canada’s specious conduct undermines the rules applicable to registered charities.

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<sup>59</sup> Tides Canada, “About Us – News and Events”, “Tides Canada supports Black Out Speak Out Campaign – environmental charities for nature and democracy”, <http://tidescanada.org/news/tides-canada-supports-black-out-speak-out-campaign-environmental-charities-for-nature-and-democracy/>.



### Canadian Youth Climate Coalition

Online article by Cameron Fenton, National Director posted May 8, 2012:

#### HARPER GOVERNMENT CAN'T SEE THE FOREST FOR THE TREES

[...]

Most recently, Canada's environment minister started to use the term "money laundering" to criminalize the acceptance of foreign funding by Canadian organizations.

At first I was taken aback by this, but the more I think about it, it's a great idea. If you will permit me to change metaphors for a moment, it's high time that we find our own Elliot Ness and unleash a Canadian team of Untouchables to root out this corruption, to find those charitable groups using foreign money, to hijack our legislative processes and hold my generation's future hostage.

[...]

The recently passed budget implementation act cites that foreign funding for charitable groups needs to be used to specifically support activities that are in Canada's "national interest." Polls of people across Canada routinely reveal an overwhelming majority of people supporting action on climate change, even calling on Canada to do more when it comes to cleaning up our act. That number spikes even higher among young people, and thus it would stand to reason that belief in, and action on, climate change is in our national interest <sup>60</sup> [emphasis added].

The Canadian Youth Climate Coalition ("CYCC") is a project of Tides Initiatives. Tides Initiatives funds and supports the CYCC as one of its selected projects. It is submitted that the actions of CYCC representatives are an example of Tides Canada's indirect engagement in prohibited political activity.

It is interesting to note that among CYCC's staff members is Brigette DePape, a former Senate page who was terminated for political activism inside of Parliament. During the Speech from the Throne on June 3, 2011, DePape held up a large red sign stating "STOP HARPER".<sup>61</sup> Until recently, CYCC's "Staff and Volunteers" webpage featured a photo of DePape in Parliament with the offending red sign along side of her biography. However, this overtly political content on CYCC's website was recently removed after negative media

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<sup>60</sup> The Huffington Post, May 8, 2012, "Harper Government Can't See the Forest for the Trees", [http://www.huffingtonpost.ca/cameron-fenton/environmentalism-canada\\_b\\_1471007.html](http://www.huffingtonpost.ca/cameron-fenton/environmentalism-canada_b_1471007.html).

<sup>61</sup> The Globe and Mail, June 3, 2011, "Stop Harper placard gets Senate page turfed from Throne Speech", <http://www.theglobeandmail.com/news/politics/ottawa-notebook/stop-harper-placard-gets-senate-page-turfed-from-throne-speech/article2046548/>.

publicity. There is currently no photo beside DePape's biography on the CYCC "Staff and Volunteers" webpage.

### **Pembina Institute**

Blogpost by Ed Whittingham, Executive Director, posted May 16, 2012:

Why we're speaking out

The Harper government's ongoing campaign to discredit environmental groups and charities shows it's going to take a significant and united effort to return to a constructive and much-needed public discussion around Canada's energy future.

Recently the Pembina Institute joined forces with many of Canada's top environmental organizations to launch Black Out Speak Out (or Silence, On Parle in French). Between now and June 4, we invite Canadians concerned about the Harper government's efforts to weaken environmental laws and block public participation in decisions that put our land, air, water and climate at risk to join us in speaking out in defence of nature and democracy.

While the government has downplayed the significance of its plans to weaken Canada's environmental laws, a close reading of Bill C-38 (the federal budget implementation bill that contains the proposed changes) tells a different story.

Through Bill C-38, the Harper government will repeal the *Canadian Environmental Assessment Act*, and replace it with a new law that allows cabinet to override the decisions of the supposedly arms-length National Energy Board, fast-track environmental reviews to speed up approvals of infrastructure projects and dramatically narrow the definition of 'environmental effects' to be considered in environmental reviews.

The net result is weaker standards for environmental review across the country and a reliance on a patchwork of less comprehensive provincial assessment laws. In other words: a huge setback for environmental protection.

It doesn't stop there. Changes to the federal Fisheries Act would severely undermine protection for fish and the waters they live in. Not only do the changes narrow protection to fish licensed in commercial, recreational or aboriginal fisheries — leaving many lakes, rivers and streams vulnerable — they also give the minister of fisheries and oceans (or any person or entity delegated by the federal government, including industry, developers and the provinces) expanded authority to allow harm to fish habitat.

The bill also changes the definition of what constitutes serious harm to fish; the proposed changes would only prohibit *permanent* alteration or destruction of fish habitat, whereas the current law protects against *any* “harmful alteration or destruction” of habitat.

Through Bill C-38, the Harper government has introduced measures that could limit citizen groups and research organizations like the Pembina Institute from participating in environmental reviews and could restrict the funding and activities of charities that advocate for better laws and policies. The proposed bill also eliminates the independent government agency analyzing solutions to meet our international commitments to reduce greenhouse gas emissions, and strips accountability and transparency from federal climate policies.

[...]

The Pembina Institute thinks that the time has come for Canadians everywhere who are concerned about our natural environment and the state of our democracy to speak out. Please join us and spread the word among your friends, family and colleagues and in your communities [emphasis added].

On this one folks, silence is not an option.<sup>62</sup>

On June 4, 2012, the Pembina Institute issued the following press release:

WEBSITES BLACKOUT ACROSS CANADA IN SUPPORT OF NATURE AND DEMOCRACY

TENS OF THOUSANDS SPEAK OUT AGAINST FEDERAL OMNIBUS BUDGET BILL C-38

CANADA — Hundreds of businesses and organizations and tens of thousands of individual Canadians are uniting to defend nature and democracy as part of the nationwide *Black Out Speak Out/Silence, On Parle* campaign.

Today, Canadians are darkening their websites, writing to their elected representatives and speaking out through social media to protest the federal government’s attack on nature and democracy. News conferences are being held in Vancouver, Winnipeg, Ottawa, Montreal and St. John’s.

Launched May 7 by the country’s leading environmental organizations in response to bill C-38, the Black Out Speak Out campaign has grown rapidly. Today, more than 500 groups are blacking out and speaking out, including major not-for-profit and social justice organizations, trade unions,

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<sup>62</sup> The Pembina Institute, “Why We’re Speaking Out”, <http://www.pembina.org/blog/626>.

scientists, businesses, faith groups, First Nations, and all four federal opposition parties: NDP, Liberal, Green and Bloc Quebecois.

[...]

The budget bill, C-38, replaces the Canadian Environmental Assessment Act, empowers the federal government to limit the actions of charities, including environmental groups, that advocate for better laws and policies, overrides National Energy Board decisions, rushes projects through a weakened environmental review process to speed up approvals, and shuts citizen groups out of environmental reviews for pipelines.

The bill also includes \$8 million to fund Canada Revenue Agency audits of charities, which is widely perceived as a move to silence advocacy and free speech on key environmental issues.

“Given the scope of the proposed changes, the Harper government is clearly doing more than simply cutting unnecessary red tape, it’s doing its utmost to accelerate Alberta’s oilsands development,” says Ed Whittingham, executive director of the Pembina Institute. “What Black Out Speak Out shows is that the Harper government’s heavy-handed approach to weakening our environmental laws will only serve to further erode the public’s trust in government and the companies seeking a social license to operate in this country”<sup>63</sup> [emphasis added].

The Pembina Institute, a non-qualified donee, is a recipient of Tides Canada grant funds. It is clear that the Pembina Institute is deeply involved with political activities and networks of entities supporting such activities in order to influence the policy stance of Canada’s Federal Government.

For instance, the Pembina Institute is a participating organization in “The Tar Sands Campaign”, a network of U.S. and Canadian environmental activist groups coordinated by the Rockefeller Brothers Fund (“RBF”). The RBF, a U.S. grant-making foundation, claims that it “advances social change that contributes to a more just, sustainable and peaceful world”.<sup>64</sup> In July 2008, the RBF produced a presentation as part of The Tar Sands Campaign that labeled oil sands development as a “globally significant threat”. The participating groups in The Tar Sands Campaign, including the Pembina Institute, were identified as “a globally significant response” to this threat.<sup>65</sup>

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<sup>63</sup> The Pembina Institute, “Websites Blackout Across Canada in Support of Nature and Democracy – Tens of Thousands Speak Out Against Federal Omnibus Bill C-38”, <http://www.pembina.org/media-release/2348>.

<sup>64</sup> The Rockefeller Brothers Fund, ‘About Us’, <http://www.rbf.org/content/about-fund>.

<sup>65</sup> Rockefeller Brothers Fund, The Tar Sands Campaign, July 2008, <http://www.scribd.com/doc/82144578/Tar-Sands-Presentation-July-2008>.

The Pembina Institute contributed substantive content to the RBF presentation, attached as Appendix 3 to this letter. This content provided by the Pembina Institute titled “Tar Sands & the Canadian Context”, sets out five “strategic tracks” to respond to the oil sands “threat”. These strategic tracks are stated as follows:

- Strategic Track 1: Stop/Limit Pipelines and Refinery Expansions
- Strategic Track 2: Force Tar Sands Water, Toxics, and Land Reforms
- Strategic Track 3: Significantly Reduce Future Demand for Tar Sands Oil
- Strategic Track 4: Leverage the Tar Sands Debate for Policy Victories in the US and Canada
- Strategic Track 5: Generate Unity Around the Fuels Endgame and Sell it to Decision-Makers.<sup>66</sup>

It is clear that the strategic tracks outlined by the Pembina Institute are directed towards influencing governmental policy and decision-making. The Pembina Institute’s presentation suggests that Canada’s Federal government as well as the Provincial government of Alberta are “responding to increased pressure”.<sup>67</sup> It is equally clear that such efforts to influence governmental policy and decision-making constitute overtly political activity on the part of the Pembina Institute.

As a recipient of Tides Canada grant funds, the Pembina Institute’s overtly political activities are directly supported by Tides Canada.

### **Sierra Club of Canada**

Statement posted to Sierra Club of Canada’s website on June 19, 2012, by John Bennett, Executive Director:

**PASSING OF BUDGET BILL IS BAD NEWS FOR CANADIANS AND THE ENVIRONMENT**

**MOVEMENT TO PROTECT NATURE AND DEMOCRACY IN CANADA WILL CONTINUE TO BUILD**

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<sup>66</sup> The Pembina Institute, Tar Sands & the Canadian Context, The Tar Sands Campaign, July 2008, <http://www.scribd.com/doc/82144578/Tar-Sands-Presentation-July-2008>.

<sup>67</sup> The Pembina Institute, Tar Sands & the Canadian Context, The Tar Sands Campaign, July 2008, <http://www.scribd.com/doc/82144578/Tar-Sands-Presentation-July-2008>.

(Ottawa) - Today, our elected Members of Parliament passed Bill C-38, ignoring thousands of Canadians who spoke up for nature and democracy. The budget, which represents sweeping changes to environmental protection laws, eases the way for industrial developments that could put the future of our land, water and climate at risk. It also attempts to silence voices of dissent against such developments by making it more difficult for environmental charities to participate in the public policy process.

[...]

The gutting of environmental safeguards means that Canadians will face increasing risk from big projects like new pipelines, and will have fewer opportunities to participate in the review processes before they are approved.

[...]

This isn't the direction Canadians want their country to go. On June 4, more than 600 organizations and thousands of Canadians came together to speak with one voice, taking part in online actions to oppose Bill C-38, including darkening their websites. That week, #blackoutspeakout trended on Twitter, and almost 50,000 Canadians wrote to their Member of Parliament to say no to the bill. Black Out Speak Out will continue to work to protect nature, democracy, in the interest of all Canadians.

Black Out Speak Out (blackoutspeakout.ca / silenceonparle.ca) is a joint project of Canadians Association of Physicians for the Environment (CAPE), Canadian Parks and Wilderness Society (CPAWS), David Suzuki Foundation, Ecojustice, Environmental Defence, Equiterre, Greenpeace, Nature Canada, Pembina Institute, Sierra Club Canada, West Coast Environmental Law, and WWF Canada.<sup>68</sup>

Earth Island Journal Online Article by R. Johnson, June 3, 2012 quoting Sierra Club of Canada representative:

CANADIAN ENVIRONMENTALISTS PROTEST THEIR GOVERNMENT'S ATTACKS AGAINST ACTIVISTS AND NGOS

WIDE RANGE OF GROUPS PARTICIPATING IN BLACKOUTSPEAKOUT CAMPAIGN

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<sup>68</sup> Sierra Club of Canada, "Passing of Budget Bill is Bad News for Canadians and Environment – Movement to Protect Nature and Democracy in Canada Will Continue to Build", <http://www.sierraclub.ca/en/media/release/budget-bill-bad-news-for-canadians-and-environment>.

A coalition of Canadian environmental groups is turning up the heat on the federal government this coming week to protest what they are calling “unprecedented actions” by government officials to curtail democratic debate and public process regarding Canada’s development of the Alberta tar sands, specifically the controversial Northern Gateway Pipeline.

Tomorrow, June 4, the BlackOutSpeakOut campaign is calling on hundreds of thousands of Canadians to inundate government agencies with calls and emails protesting proposed changes to the country’s environmental laws and the government’s efforts to silence environmentalists.

"It's the only thing we're working on," says John Bennett, executive director of the Sierra Club of Canada. "Hundreds of organizations, hundreds of thousands of people. The government servers are going to have a meltdown on June 4" [emphasis added].

...

"The federal budget bill contains 150 pages of changes to regulations that weaken laws that protect the environment and limit public participation," Bennett says. "These changes shoved into the budget bill are a huge threat to the environment and an alarming attack on Canadian democracy."

...

Bennett says he started noticing a newer, meaner, federal government about a year ago.

"I knew then it was something that we hadn't seen before; we've never been attacked like this," he says. "Nobody has ever tried to attack our motives, suggest our funding was inappropriate, not even [for more radical groups like] Greenpeace, and it breaks laws every time it does something."

...

All this while the government continues to lobby on behalf of further tar sands development in Europe, where it is fighting a PR battle against those looking to classify tar sands crude as dirtier than other conventional fuels.

...

Environmental NGOs remain upset. “It is clearly a smear campaign against environmental groups for doing what we do well — draw attention to environmental issues,” Bennett says. “The Northern Gateway garnered public attention and input from 4,200 people. Instead of thinking, ‘wow that’s a good thing,’ the federal government says this is a bad thing. **They want to silence average people and prevent them from having any say**

**in positions that affect them and future generations”<sup>69</sup> [emphasis added].**

The Sierra Club of Canada Foundation is a registered charity in Canada. However, it is also the recipient of Tides Canada grant funds. The activities undertaken by the Sierra Club, collectively referred to as “campaigns”<sup>70</sup>, seek to influence political decision-making across many sectors of Canadian society.

Like the Pembina Institute, the Sierra Club of Canada is a participating organization in “The Tar Sands Campaign”, mounted by the RBF. As a participating group in the effort against development of Canada’s Tar Sands, the Sierra Club’s activities are referred to as “a globally significant response” by RBF. These activities may be collectively described overtly political insofar as they are directed towards influencing governmental policy and decision-making.

As a recipient of Tides Canada grant funds, the Sierra Club’s overtly political activities are directly supported by Tides Canada.

### **Dogwood Initiative**

Executive Director, posted May 06, 2012:

#### **HARPER’S TANKER TACTICS REMINISCENT OF BOTCHED NATIONAL ENERGY PROGRAM**

They say history always repeats itself. Certainly Prime Minister Stephen Harper’s recent aggressive posturing in support of oil supertanker proposals on B.C.’s West Coast harken back to another prime minister’s controversial efforts to impose national energy policies on an unwilling province — Pierre Trudeau’s vilified National Energy Program.

[...]

It’s amazing to watch Harper making the same mistakes as his historic antagonist. Over the last few months we’ve seen Harper and his appointed minister bully their way into a supposedly independent process, attack and attempt to demonize any opponents (including the 4,000 concerned Canadians who signed up for the public hearings on Enbridge’s proposal), then undermine the consultation with affected First Nations by asserting his government would “justify infringement.” Just for good measure, then

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<sup>69</sup> Earth Island Journal, “Canadian Environmentalists Protect Their Government’s Attacks Against Activists and NGOs”, [http://www.earthisland.org/journal/index.php/elist/eListRead/canadian\\_environmentalists\\_protest\\_their\\_governments\\_attacks\\_against\\_activi](http://www.earthisland.org/journal/index.php/elist/eListRead/canadian_environmentalists_protest_their_governments_attacks_against_activi).

<sup>70</sup> Sierra Club of Canada, “Campaigns”, <http://www.sierraclub.ca/en/sierra-club-canada-campaigns>.



Harper flew off to communist China with Enbridge's CEO in tow to negotiate energy deals and give press conferences, and he is now vowing to cut the Enbridge Northern Gateway hearings mid-way through the process.

[...]

British Columbians have beat back unwanted oil tanker and pipeline proposals about every decade since the 1970s. The groundswell in opposition indicates Harper is going to have to relearn the National Energy Program lesson the hard way.<sup>71</sup>

Blogpost by Eric Swanson, No Tankers Director, October 14, 2011

THE NO TANKERS NETWORK JUST HELPED SIGN UP THE LARGEST GROUP OF PEOPLE EVER IN CANADIAN HISTORY TO SPEAK AT A PIPELINE HEARING.

Over the course of about 30 days, over 4,000 people registered to make oral statements to the Enbridge Joint Review Panel. Our 'Mob the Mic' action accounted for about 1,600 of those! Some people signed up as individuals, others joined one of Mob the Mic's 150 teams.

[...]

PLANNING TO MAKE YOUR ORAL STATEMENTS

The Joint Review Panel hasn't decided where the hearings will be, or when, so it makes it hard to plan too far in advance. Patience is the key.

Dogwood will be hosting a webinar or two sometime this fall to answer questions and make some suggestions about how to prepare for your oral statements. Stay tuned.<sup>72</sup>

Blogpost by Eric Swanson, No Tankers Director, September 20, 2011

126 TEAMS CREATED TO OPPOSE ENBRIDGE

So far, over 800 people have signed up as part of our Mob the Mic action to make official statements of opposition to the review panel looking at Enbridge's oil pipeline and supertanker proposal to B.C.'s coast [emphasis added].

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<sup>71</sup> Dogwood Initiative, "Harper's Tanker Tactics Reminiscent of Botched National Energy Program", <http://dogwoodinitiative.org/blog/nep>.

<sup>72</sup> Dogwood Initiative, "Stepping Up to the Mic", <http://dogwoodinitiative.org/blog/mob-the-mic-success>.

We're close to our goal of 1,000 people signed up. There's less than 200 to go and just over two weeks left!

More than 120 people have created their own statement teams to make things more fun. We're relying on the team founders to spread the word and recruit people.

On a team already? Get on Facebook, get on email, get on the phone and recruit, recruit, recruit!

Send your friends here:

<http://dogwoodinitiative.org/notankers/actions/mob-the-mic> and tell them to enter your team name in the form.

Not on a team? Start your own here.<sup>73</sup>

Blogpost by Eric Swanson, No Tankers Director, September 20, 2011

### TODAY IS THE LAST DAY TO REGISTER TO SPEAK AT ENBRIDGE HEARINGS

So far, 1,440 people on 243 teams have signed up as part of our Mob the Mic action to make official statements of opposition to the review panel looking at Enbridge's oil pipeline and supertanker proposal to B.C.'s coast. Amazing!

Today is the LAST day to register.

TAKE A LOOK AT THE TEAM TOTALS BELOW. WHO CAN YOU SEND A MESSAGE TO RIGHT NOW TO JOIN YOUR TEAM?

Ask your friends and family to sign up <http://dogwoodinitiative.org/notankers/actions/mob-the-mic> and tell them to enter your team name in the form.<sup>74</sup>

CTV.ca Online Article by A. Mitzlaff. May 30, 2012, quoting Dogwood Initiative representatives:

### PIPELINE PROTESTS MAR OIL AND GAS SUMMIT

The battle between energy giant Enbridge and opponents of its planned Northern Gateway pipeline has reached a new level with protesters

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<sup>73</sup> Dogwood Initiative, "126 Teams Created to Oppose Enbridge", <http://dogwoodinitiative.org/blog/over-120-teams-created-to-oppose-gateway>.

<sup>74</sup> Dogwood Initiative, "Today is the Last Day to Register to Speak at Enbridge Hearings", <http://dogwoodinitiative.org/blog/last-day-2-register>.

disrupting an oil and gas export summit and the company launching a multimillion-dollar ad campaign.

...

Equipped with signs and banners, the movement loudly voiced its opposition towards new tar sands pipeline and tanker projects, such as the proposed Northern Gateway pipeline running from the Alberta oil sands to Kitimat, B.C.

...

Other opposition groups are also rolling out initiatives to fight the pipeline, including the Dogwood Initiative, which is trying to stop the project with a petition.

"Eventually we're gonna send it [the petition] to provincial and federal governments to try to get a legislated ban on crude oil tankers," said the group's outreach coordinator Arran Walshe. "We have 200 businesses involved who have said they don't want crude oil tankers on the coast"<sup>75</sup> [emphasis added].

Online BlogPost by Eric Swanson, No Tankers Director, on June 7, 2012:

#### ENBRIDGE ON THE DEFENSIVE WITH \$5 MILLION AD BLITZ

Enbridge announced last week a new multimillion-dollar advertising campaign promoting its crude oil pipeline and supertanker project for B.C.'s coast.

The ad blitz includes full-page colour ads and 30-second TV ads. An acquaintance of mine sent me an e-mail describing her son's reaction: "When the TV ad came on last night my son responded by yelling 'liar' at the TV."

[...]

They've played the federal Conservatives well and that's panned out for them, but both Enbridge and the Conservatives are losing political ground in B.C., where they need it most.

Enbridge has lost key northern local governments like Terrace, Smithers and Prince Rupert. And they've attracted the opposition of southern local governments in politically important areas and the opposition of the province-wide Union of B.C. Municipalities.

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<sup>75</sup> CTV News, "Pipeline Protests Mar Oil and Gas Summit", [http://www.ctvbc.ctv.ca/servlet/an/local/CTVNews/20120530/bc\\_enbridge\\_pipeline\\_protests\\_](http://www.ctvbc.ctv.ca/servlet/an/local/CTVNews/20120530/bc_enbridge_pipeline_protests_).

And while they claimed this week that 60 per cent of aboriginal groups along the proposed pipeline route have signed on for an equity stake, they continue to refuse to identify who has signed on — despite the fact their own documents indicate one of the requirements for First Nations to participate in the equity offer was that Enbridge “has unrestricted right to disclose that groups have taken commercial interest.” The Coastal First Nations have called Enbridge’s announcement a sham.

Any which way, litigation by any one of the directly impacted First Nations is certain to take any government approval of the project to the Supreme Court of Canada.<sup>76</sup>

The Dogwood Initiative is a non-qualified donee that receives Tides Canada funds through a collective giving fund. As will be explained later in this complaint letter, Tides Canada issues charitable donation receipts on behalf of non-qualified donees which have attained “partner” status with Tides Canada. As a partner in a Tides Canada-administered collective giving fund, the Dogwood Initiative receives tax-exempt funds to support its overtly political activities, namely opposing federal policy regarding Canadian resource development and export.

### **Living Oceans Society**

Blogpost by Sheila Muxlow, Energy Campaign Director, posted May 4, 2012:

#### **GRENVILLE CHANNEL OIL SPILL HIGHLIGHTS NEED TO KEEP NORTH COAST TANKER-FREE**

I knew when I took on my job with Living Oceans Society that I would be expected to hit the ground running and within less than two weeks my assumptions have proven true. It is becoming clear that I am joining in on a long time legacy of research and advocacy to protect the Pacific coast at a time when the threats to marine ecosystems and communities are on the rise. During my first week, the Harper government gutted the environmental laws and services that protect our air, water and fisheries, and now this week there is an oil spill in the Grenville Channel from a decaying shipwreck.

[...]

Frustratingly, this isn't the only example of the federal government's failure to effectively address consequences from shipping accidents along the Pacific coast. A 2010 analysis by the Canadian Commissioner of Environment and Sustainable Development found that the emergency management plans of the Canadian Coast Guard and Environment Canada

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<sup>76</sup> Dogwood Initiative, “Enbridge on the Defensive with \$5 Million Ad Blitz”, <http://dogwoodinitiative.org/blog/enbridge-on-defensive>.

(the lead government agencies responsible for responding to a spill) do not provide adequate national preparedness. Furthermore, the B.C. and Canadian governments both have jurisdiction in coastal waters yet their response plans are incompatible and do not allow these groups to work together effectively.

[...]

Diluted bitumen is a noxious soup of hydrocarbons and chemicals. When spilled it not only poses a risk to human health, but can accumulate in the environment and our food chains. Bitumen that washes up on shore and is exposed to sunlight tends to form a dense, sticky substance that is difficult to remove from shorelines and inevitably creates a toxic legacy for generations to come. Because of these unique qualities of this toxic substance, the economic and environmental costs of a spill are significantly higher than one involving conventional oil. A case in point is the cleanup of the Kalamazoo River bitumen spill in 2010. Originally it was expected to be completed within two months, however now it will likely continue through 2012, costing at least \$700 million U.S.

[...]

The federal government lacks the ability to effectively live up to its responsibilities and commitments to address existing pollution problems along the coast. In light of further cut backs, how can they possibly address the increased risk associated with the transport of tar sands from the Northern Gateway pipeline?

They can't, and no matter how hard they might try to convince us otherwise, if we take the time to reflect on the potential devastation caused by shipping tar sands in tankers there is only one logical answer: To keep the Pacific coast tanker-free<sup>77</sup> [emphasis added].

The Living Oceans Society, like the Dogwood Initiative, is the recipient of Tides Canada funds through a collective giving fund. Moreover, this highly political non-qualified donee receives monies from Tides Canada in order to oppose the policy choices of Canada's federal government.

### **Pacific Wild**

The following statement appears on the Pacific Wild website under the link "Our Work":

#### **NO TANKERS/NO PIPELINE**

Enbridge's proposal: 225 oil tankers per year

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<sup>77</sup> Living Oceans Society, "Grenville Channel Oil Spill Highlights Need to Keep North Coast Tanker-Free", and <http://livingoceanssociety.blogspot.ca/2012/05/grenville-channel-oil-spill-highlights.html>.

The Calgary-based oil and gas company Enbridge Inc. is proposing a pipeline running 1,170 km from Alberta's tar sands to a new port in Kitimat, on British Columbia's west coast. From there, the crude oil would be loaded on to tankers for export to international markets. If the project proceeds, more than 225 oil tankers would travel B.C.'s northern inside coastal waters per year. Currently there is no bulk crude oil tanker traffic on B.C.'s north coast.

[...]

The plan is to pump over half a million barrels a day of unrefined bitumen from the Alberta tar sands over the Rockies, through the heartland of B.C. - crossing a thousand rivers and streams in the process - to the Port of Kitimat in the Great Bear Rainforest. From there, supertankers would ply the rough and dangerous waters of the B.C. coast en route to Asia and the United States. Dubbed the Northern Gateway Pipeline, the project is of concern for three main reasons: 1. it would facilitate the expansion of the tar sands, hooking emerging Asian economies on the world's dirtiest oil; 2. the risk of leaks from the pipeline itself; 3. the danger of introducing oil supertankers for the first time to this part of the B.C. coast.

**Now a growing coalition of First Nations, conservation groups, and concerned citizens from Canada and around the world is banding together to say no the Enbridge project - in what is shaping up to be the defining Canadian environmental battle of our time<sup>78</sup> [emphasis added].**

Like the CYCC, Pacific Wild is an initiative of Tides Initiatives. Therefore, despite its highly political activities in mounting its campaign titled No Tankers No Pipeline, Pacific Wild is nonetheless able to receive charitable donations through the offices of Tides Initiatives. In the result, Tides Initiatives disclaims its own political activities but nevertheless funnels tax-receipted money to hyper-political organizations such as Pacific Wild.

### EcoJustice

Blogpost by Devon Page, Executive Director, June 19, 2012:

Bill C-38 – Ecojustice just got a whole lot busier

If the omnibus budget bill just passed by the federal government guts Canada's key national environmental laws, does that mean it's time to shutter Ecojustice's four offices across Canada? Well, if some folks in Ottawa had their way, that would be the case. For the 20 years that

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<sup>78</sup> Pacific Wild, "No Tankers – No Pipeline", <http://pacificwild.org/site/our-work/no-tankers-no-pipeline.html>.

Ecojustice has been using the law to protect and restore Canada's environment, who has been the number one defendant? The federal government.

[...] But do fewer federal environmental laws mean that Ecojustice is now suddenly out of business on the national front?

Not likely.

Gutting Canada's environmental laws doesn't release the federal government of its broad responsibilities to protect the environment (despite recent **comments** from the Environment Minister that thousands of environmental assessments won't go ahead thanks to the budget legislation). Ecojustice lawyers are actively examining the bill in detail to identify litigation opportunities to mitigate the extremely harmful effects this omnibus legislation will have on our communities and planet [emphasis added].

[...]

And judging by the size and scope of the gargantuan bill –425 pages in total – you can expect there to be issues. In a rush to move away from protecting the environment, the federal government seems to have forsaken the principle that law making is better served by scalpel than sledge hammer. The giant bill is such a tangled web of reforms (to more than 70 different laws) that lawyers of all stripes will be mining it like gold. Where the environment is risked by emerging interpretations, Ecojustice will be there.<sup>79</sup> [emphasis added].

Blogpost by Kimberly Shearon, Communications Coordinator, on June 12, 2012:

LAWYERS, LAW PROFESSORS SOUND OFF AGAINST BUDGET BILL

As Parliament prepares to vote on the 2012 budget bill, the country's leading lawyers and law professors are calling on Prime Minister Stephen Harper to split the 400-plus page bill — which will change some 70 laws and greatly weaken environmental protections — to ensure that the bill's full scope of proposed changes are thoroughly debated.

The letter, signed by 124 lawyers and law professors, was released today on the eve of Parliament's final vote on Bill C-38, the budget bill. A public letter by lawyers regarding a bill in Parliament is a rare event in Canada, and reflects the level of concern felt at all levels of Canadian society about the dismantling of Canada's environmental laws.

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<sup>79</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

Will Amos, who is director of the Ecojustice Law Clinic at the University of Ottawa, is one of the letter's signees.

"Many lakes, rivers and streams that provide habitat to fish would be at greater risk of destruction because of changes to the *Fisheries Act* proposed in Bill C-38," he said in a press release. "This is why people from across the country — now including lawyers and law professors — are calling on the federal government to reconsider its approach."

...

Meanwhile, Ecojustice's effort to save the laws that **protect our water, air and land** continue as we, along with other groups, stand before politicians in Ottawa and implore them to stand up for Canada's core values: **nature and democracy**<sup>80</sup> [emphasis added].

Online article by Pierre Hamilton, Communications Associate, posted May 23, 2012:

ENBRIDGE LOOKING TO SEND 'DIRTY' OIL THROUGH ONTARIO'S BACKYARD

Ecojustice is representing Environmental Defence and Equiterre at public hearings this week to oppose a plan by Enbridge to send Western crude to Ontario and Quebec.

Climate change is one of the major issues of our time. We do not believe that developing the oil sands will make us an "energy super-power." We believe a 21st Century energy superpower is built on reducing greenhouse gas emissions, conserving energy and developing renewable sources of power. That's why I'm representing the groups **Environmental Defence** and **Equiterre** at public hearings this week to oppose a plan by corporate giant Enbridge to send Western crude to Ontario and Quebec [emphasis added].

[...]

If Ontario and Quebec are to become facilitators of oil sands expansion we believe the public has a right to know and to have such plans fully and openly scrutinized, and publicly accepted.

[...]

Canada is already one of the world's largest per capita emitters of greenhouse gas emissions. Our withdrawal from the Kyoto Protocol, and

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<sup>80</sup> EcoJustice, "Lawyers, Law Professors Sound Off Against Budget Bill", <http://www.ecojustice.ca/blog/lawyers-law-professors-sound-off-against-budget-bill>.



recent revelations that the federal government has no plan to reduce emissions and will not reach its own reduction goals, doesn't bode well. We have the ability to make decisions that will benefit us and future generations. We just need to build the will<sup>81</sup> [emphasis added].

Ecojustice is itself a registered charity, but also a recipient of Tides Canada grant funds. Clearly, Ecojustice is engaged in political activities and, with the use of Tides Canada grant monies, receives direct support to further those activities opposing the Federal Government's policy stance on resource development and export.

### **ForestEthics**

Email Action Alert sent to subscribers by Nikki Skuce, Senior Energy Campaigner, ForestEthics Advocacy, June 14, 2012:

Greetings,

We need all hands on deck! Parliament is in session right now trying to ram through Harper's disastrous Budget Bill. They just passed a measure to limit debate in order to push through extreme measures in the bill that threaten our oceans, watersheds and fisheries.

The Fisheries Minister is in session and he needs to know we've got him on the hook. Every time he walks into his office or checks his email, let's make sure he's got faxes and emails coming from all of us.

[...]

We know this attack on our fisheries is really Harper's attempt to force through the Enbridge pipeline and tanker project by any means necessary and we're not going to let him get away with it.

One clear example of Harper's outrageously destructive moves: the "Budget" shuts down Environment Canada's oil spill response staff in BC at the same time that Enbridge pushes to introduce over 225 oil tankers a year to the north coast, and Kinder Morgan plans to expand its TransMountain pipeline, resulting in increased oil tanker traffic out of Burrard Inlet.

**Send the Minister your emails and faxes today** and let him know you oppose Harper's 'Bully' Budget and that the Fisheries Act must be removed from the bill to be given the scrutiny it deserves [emphasis added].

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<sup>81</sup> EcoJustice, "Enbridge Looking to Send 'Dirty' Oil Through Ontario's Backyard",

<http://www.ecojustice.ca/blog/enbridge-looking-to-send-2018dirty2019-oil-through-ontario2019s-backyard>.

Sincerely,

Nikki Skuce

Senior Energy Campaigner, ForestEthics Advocacy

Article appearing in online news website, Maple Ridge News, June 12, 2012:

FORESTETHICS PLASTER MP'S OFFICE WITH PAPER FISH

ForestEthics Advocacy covered the outside of MP Randy Kamp's office Friday with paper fish and messages for him and his government to reconsider changes that would eliminate broad protection of fish habitat.

The government instead said it just wants to protect commercial, recreational or aboriginal fisheries.

"If you aren't protecting the fish that are on different parts of the food chain, it's going to affect the commercial fishery. It's a really short-sighted approach," said Jolan Bailey, with ForestEthics.

The changes are designed to make it easier to get approval for the Northern Gateway pipeline, he added.

[...]

"It's really over-riding the democratic principals that underline Canadian democratic society," he added.<sup>82</sup>

The following post appears on the ForestEthics webpage dedicated to commentary on Canada's Tar Sands:

STOP THE US DEMAND FOR CANADA'S TOXIC TAR SANDS

ENVIRONMENTAL DEVASTATION KNOWS NO BORDERS.

Canada's tar sands is one of the largest industrial projects on the planet, and its environmental footprint is growing by the second. At a time when the world needs to transition to a clean energy future, the tar sands are the poster child of what we should *not* be doing. It's time to put a healthy environment above corporate profit and the endless drive for more oil. Tar sands oil is a huge step backwards.

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<sup>82</sup> Maple Ridge News, June 12, 2012, "ForestEthics Plaster MP's Office with Paper Fish", <http://www.mapleridgenews.com/news/158649625.html>.

At each step of the process, turning tar sands into oil undermines the local and global environment. First, the Boreal forest's rich ecosystem must be ripped open to expose tar sands sludge.

Then, otherworldly trucks as tall as apartment buildings dig up four tons of earth for every one barrel of tar sands sludge they extract.

Next comes the resource-intensive process of using very hot water to separate the sludge from the sand and 'cleanse' the sludge of unwanted toxics. This creates prodigious quantities of water pollution. It also burns so much energy that the tar sands are Canada's fastest growing source of global warming pollution.

The toxic water dumped into open pits by tar sands operations leaks at the rate of 11 million litres (3 million gallons) per day into the surrounding environment. These ponds are so polluted they kill birds that land on them.<sup>83</sup>

The following statement was posted on ForestEthics website on May 3, 2011:

NIKKI SKUCE FORESTETHICS SENIOR ENERGY CAMPAIGNER  
COMMENTS ON ELECTION RESULTS

Official Press Statement regarding Canadian Federal Election

Election results show that majority of British Columbians support a tanker ban for the North Coast. The Conservatives are the only party that do not support a tanker ban for northern BC and despite them winning 21 seats in British Columbia, the NDP, Liberal and Green Parties, who all promised to enact an oil tanker ban, received 54% of total votes in BC.

"The results of this election show that an oil tanker ban for BC's north coast is strongly supported and played a key factor in some ridings across the province," says Nikki Skuce, ForestEthics Senior Energy Campaigner. "British Columbians want a coast free of oil spills."

[...]

"MP Nathan Cullen's re-election also sends a powerful message that leadership to protect our coast is a win for everyone. Voters in Skeena-Bulkley Valley, residents most directly impacted by Enbridge's pipeline proposal, clearly chose Cullen as the leader that would take action and ban oil tankers off our coast," said Skuce.<sup>84</sup>

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<sup>83</sup> ForestEthics, "Tar Sands", <http://forestethics.org/tar-sands>.

<sup>84</sup> ForestEthics, "Nikki Skuce ForestEthics Senior Energy Campaigner Comments on Election Results",

In April 2012, ForestEthics “split away” from the Tides Canada Family and reorganized itself into two new independent entities. This announcement appears on the Tides Canada website saying that Tides Canada “supports the reinvention of ForestEthics in Canada”<sup>85</sup>. It is important to note that neither division of ForestEthics – ForestEthics Solutions Society and ForestEthics Advocacy Association – is a registered charity. These entities are organized as non-profit societies to enable participation in overtly political activities. In fact, the announcement on Tides Canada’s website applauding the reinvention of ForestEthics expressly states that

ForestEthics made its announcement in response to Canada’s shifting political landscape. The federal government is rolling back environmental regulations and increasing scrutiny of charitable environmental organizations.

Under Canadian law, charities are able to dedicate up to 10 percent of their resources to non-partisan political activity. ForestEthics Canada staff have indicated that they would like to do more political activity than they have in the past. As a result, Tides Canada is unable to support their activities.

“Whether you agree or disagree with environmental organizations, Canada is a democracy and all voices should be heard,” said McMillan. “We support ForestEthics in making a bold move to speak out on behalf of Canada’s ecosystems and communities”<sup>86</sup> [emphasis added].

However, these same overtly political activities were carried out by ForestEthics under the auspices of Tides Initiatives as a hand-picked project of Tides Canada.

Further, like the Pembina Institute and the Sierra Club of Canada, ForestEthics is a participating organization in “The Tar Sands Campaign”, mounted by the RBF. As a participating group in the effort against development of Canada’s Tar Sands, ForestEthics’ activities are referred to as “a globally significant response” by RBF. These activities may be collectively described overtly political insofar as they are directed towards influencing governmental policy and decision-making.

As a recent recipient of Tides Canada grant funds, ForestEthics’ overtly political activities were directly supported by Tides Canada.

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<http://wewillnotbesilenced.ca/nikki-skuce-forestethics-senior-energy-campaigner-comments-on-election-results>.

<sup>85</sup> Tides Canada, “About Us – News and Events”, <http://tidescanada.org/news/tides-canada-supports-the-reinvention-of-forestethics-canada/>.

<sup>86</sup> Tides Canada, “About Us – News and Events”, <http://tidescanada.org/news/tides-canada-supports-the-reinvention-of-forestethics-canada/>.

g) Tides Canada's Unstated Political Purpose

We suggest that a political purpose emerges upon examination of Tides Canada's choice of grant recipients, hand-picked projects and recipients of collective giving funds.

Based on the information disclosed in Tides Canada's annual reports, it appears that Tides Canada directs the bulk of its funds to First Nations and environmental groups, particularly on the strategic, north coast of British Columbia.

In 2009, approximately half of Tides Canada's grants went for projects on the northern B.C. coast and for "reforming" Canada's energy sector<sup>87</sup>.

EthicalOil.org submits that Tides Canada is directing the bulk of its grant-making activity to groups who seek to change the Canadian federal government's policy stance on resource development and export. Specifically, Tides Canada funds groups, both qualified and non-qualified donees, who openly oppose the development of the proposed Northern Gateway pipeline. This proposed pipeline would carry Alberta oil sands bitumen to marine export posts on B.C.'s northern coast thereby expanding Canada's market reach in Asia.

h) Revocation of Charitable Status based on Political Activities

The CRA has revoked charitable status in the past when it concluded that charities had overstepped the bounds between charitable activity and unacceptable political activity.

In *Human Life International in Canada Inc. v. Minister of National Revenue*<sup>88</sup>, the Federal Court of Appeal upheld the decision to revoke charitable status where the former charity was devoting substantial resources to political activity.

The court recognized that dissemination of opinions that are not found to be for the advancement of education or religion must be justified under the fourth head of charitable purposes, being "other purposes beneficial to the community". However, advocacy regarding contentious policy issues does not fit easily within this fourth head given the political nature of such advocacy. According to Strayer J.A.:

... this kind of advocacy of opinions on various important social issues can never be determined by a court to be for a purpose beneficial to the community. Courts should not be called upon to make such decisions as it involves granting or denying legitimacy to what are essentially political views.<sup>89</sup>

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<sup>87</sup> Rethink Campaigns, "Tides Canada's "Strategic Plan" to Address Oil & Gas Development in B.C.", [http://fairquestions.typepad.com/rethink\\_campaigns/tides-canada-strategic-plan.html](http://fairquestions.typepad.com/rethink_campaigns/tides-canada-strategic-plan.html).

<sup>88</sup> [1998] 3 F.C. 202.

<sup>89</sup> [1998] 3 F.C. 202.

In *Alliance for Life v. Minister of National Revenue*<sup>90</sup>, the Federal Court of Appeal acknowledged that a charity may engage in limited political activities under the ITA. However, such activities must be “ancillary and incidental” to legitimate charitable purposes. As stated by Stone J.A.:

It seems to me that political activities may well be “ancillary and incidental” despite the fact that they involve advocacy of a particular point of view on controversial social issues. This surely must depend on the scope of the organization’s objectives and the activities undertaken in pursuit thereof. ... The key consideration initially must be whether the activities actually engaged in, though apparently controversial, remain “ancillary and incidental” to the charitable activities.<sup>91</sup>

In *Action by Christians for the abolition of torture v. Canada*<sup>92</sup> (“ACAT”), the Federal Court of Appeal upheld the Minister of National Revenue’s decision to revoke the charitable status of the former charity for reason of its impermissible political activities.

The ACAT decision is especially informative as it represents further judicial articulation of the meaning of “political activities” within the ITA. As held by Décary, J.A. writing for the Court:

I conclude, then, that the words “political purposes” or “political activities”, in their ordinary meaning, cover much more than initiatives leading to legislative changes. **In my opinion, they cover an attempt to sway a government or a member of the government or, where there is a democracy, a member of the parliament in such areas as these organizations or individuals are politically in a position to take action in response to the pressures to which they are subjected [emphasis added].**

**It is the very nature of the initiative in relation to these organizations and individuals, the very identity of the interlocutor that one is seeking to influence, which gives the activity its political character, independently of the cause in question and its value, independently of the position this interlocutor has or has not taken or will take in relation to that cause and independently of the state of public opinion in relation to that cause [emphasis added].** Whether it is support, flattery or criticism, the initiative is political. And it is no less political because the cause that is the object of the initiative is popular, or has unanimous support or is endorsed by the existing authorities.

I have no difficulty in concluding that pressuring governments or government members through the sending of letters and postcards

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<sup>90</sup> [1999] 3 F.C. 504.

<sup>91</sup> [1999] 3 F.C. 504.

<sup>92</sup> 2002 FCA 499.

pertaining to such current issues constitutes a political activity within the broad meaning signified by subsection 149.1(6.2). Such activity will be prohibited to a charity if it is partisan. It will be allowed if it is not partisan, provided of course that it has not become an end in itself and provided it is incidental and ancillary to the charitable purposes pursued and fulfills the 10% tolerance requirement.<sup>93</sup>

EthicalOil.org suggests that there is no legitimate distinction between the political activities of Tides Canada and the revocation examples above. Tides Canada maintains a non-charitable political purpose insofar as it engages in political activities and further funds the overtly political activities of both qualified and non-qualified donees. Moreover, Tides Canada engages in and supports advocacy that attempts to influence government, members of government and public opinion on the subject of resource development and export in Canada's northwest regions, a matter of political and social policy.

Further, EthicalOil.org submits that Tides Canada should not be permitted to circumvent the 10% limitation on political activities by funding political activities carried out by third parties, such third parties being Tides Canada's projects and grant recipients.

The scope of Tides Canada's activities, from its own participation in political debate to the funding of diverse entities engaged in political debate, points to the conclusion that such political activities are not ancillary and incidental to Tides Canada's charitable purposes.

Where political activities are not ancillary and incidental to the purposes of a charity, charitable registration must be revoked.

#### E. TIDES CANADA AS A CONDUIT

EthicalOil.org submits that Tides Canada routinely uses its resources to fund entities that are not charitable organizations to conduct activities that are not under the direct control and supervision of Tides Canada. By so doing, Tides Canada is acting as a conduit that accepts donations for which it typically issues tax-deductible receipts and then funnels the money, without maintaining direction and control, to recipients including non-qualified donees. As CRA's Interpretation Bulletin IT-110R3, Gifts and Official Donation Receipts, clearly states, a charity must not issue receipts for funds that it will not itself be responsible for spending.<sup>94</sup> Acting as a conduit violates the ITA.<sup>95</sup>

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<sup>93</sup> 2002 FCA 499 at paras. 66 – 68.

<sup>94</sup> IT-110R3 dated June 20, 1997, Thomson Reuters Canada Limited TaxPartner Main, 2012-Release 3.

<sup>95</sup> Canada Revenue Agency, Interpretation Bulletin IT-110R3, "Gifts and Official Donation Receipts", <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/ntrmdry-eng.html>.

a) Non-Qualified Donees as Recipients of Tides Canada Funds

**Tides Canada “Partners” in Collective Giving Funds**

A number of entities without charitable status have aligned themselves with Tides Canada to create what Tides Canada refers to as “collective giving funds”. Once a collective giving fund is created on behalf of a non-qualified donee, Tides Canada issues a tax-deductible receipt to each donor who nominates that non-qualified donee or “Tides’ partner” as recipient. This model, which Tides Canada describes as “donor-advised giving”, is a blatant contravention of the law and policy applicable to charities responsible for the issuance of tax-deductible receipts within strict limits.

Under the link “Create a Fund - Collective Giving Funds”, Tides Canada’s website provides the following:

COLLECTIVE GIVING FUNDS

A UNIQUE SOLUTION FOR YOU AND YOUR ORGANIZATION

A collective giving fund at Tides Canada is the perfect solution for grassroots fundraising initiatives, charities, and non-profits that would like to receive charitable donations in Canada. Establishing a collective giving fund is an easier and more cost-effective alternative to establishing a separate charity in Canada and having your time and energy consumed by administration and paperwork.

Choose from a variety of service options

We can help with:

a range of donation methods including secure online giving, cheques by mail, credit card, and more complex gifts of publicly traded securities and bequests

affordable, customized online donation pages that look like your website, and online donation reports you can access 24/7

monthly donation spreadsheets

quarterly fund statements

grant recommendations and disbursements

receiving and receipting donations on both sides of the border

stewardship of your donors<sup>96</sup>

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<sup>96</sup> Tides Canada, “Create a Giving Fund – Collective Giving Funds”, <http://tidescanada.org/create-a-giving-fund/collective-giving-funds/>.



Under the link “Fundraising Support”, Tides Canada’s website also provides the following:

#### Fundraising Support

Tides Canada assists with the acceptance and stewardship of donations to grassroots fundraising initiatives and Canadian, U.S., and international charities.

Partner with us to make giving easier for your donors and more manageable for your organization.

#### Expand your donor base

Tides Canada facilitates international giving for your organization, allowing you to receive tax-deductible donations from both sides of the border. If your Canadian charity has donors in the U.S. or Canadian donors with U.S.-sourced income, we ensure they receive a U.S. charitable receipt. U.S. foundations can also benefit from this service.

U.S. and international charities that wish to extend tax benefits to Canadian donors can establish a collective giving fund at Tides Canada.

#### Establish a collective giving fund

Outsource the acceptance of donations by starting a **collective giving fund** at Tides Canada. [emphasis added] You can then choose from a wide variety of service options. We can help with:

a range of donation methods including secure online giving, cheques by mail, credit card, and more complex gifts of publicly traded securities and bequests

affordable, customized online donation pages as well as donation reports you can access 24/7

monthly donation spreadsheets

quarterly fund statements

grant-making planning, recommendations, review, and disbursements

receiving and receipting donations on both sides of the border [emphasis added]

#### Can I partner with Tides Canada?

Please keep in mind the following criteria Tides uses to evaluate a potential fundraising partnership:

Your activities must be defined as charitable in accordance with Canada Revenue Agency guidelines.

Your activities must be consistent with the mission and mandate of Tides Canada.

Your organization must have a need for, and the potential to, benefit from our services.

Your organization must be willing to work in collaboration with Tides Canada, specifically in the areas of charitable regulatory policy, public communications, annual fundraising plans, and donor stewardship.

Your organization must demonstrate ability to maintain fundraising revenues of \$25,000 annually.

Extend your ability to receive complex gifts

If your organization does not have the ability to easily receive and receipt donations of shares, your donors can use Tides Canada for that purpose.

We also facilitate solutions for other types of planned gifts such as donations of insurance policies, real estate, retirement plans, and more.

We look forward to discussing how a partnership with Tides Canada can help provide a solution.<sup>97</sup>

b) “Qualified Donees” and “Own Activities”

A charitable foundation must be constituted and operated exclusively for charitable purposes.<sup>98</sup> “Charitable purposes” is defined in ss. 149.1(1) of the ITA to include the disbursement of funds to qualified donees.

A “Qualified Donee” under the ITA includes a charitable organization, private foundation or public foundation that is resident in Canada and was either created or established in Canada.<sup>99</sup> A qualified donee is an organization that can issue official donation receipts for gifts that individuals and corporations make to them.

A charitable organization means an organization, whether or not incorporated, all the resources of which are devoted to charitable activities carried on by the organization itself or

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<sup>97</sup> Tides Canada, “Information for Charities – Fundraising Support”, <http://tidescanada.org/information-for-charities/fundraising/>.

<sup>98</sup> ITA Subsection 149.1(1).

<sup>99</sup> ITA, Subsections 149.1(1), 110.1(1)(a) and (b), 118.1(1) and Section 248.

by an intermediary under the direct control and supervision of the charitable organization.<sup>100</sup> That is, a charity is required to apply its resources for its own activities.<sup>101</sup>

It is well accepted that a charity may use an intermediary (for example, a contractor or agent) to carry out its own activities. However, when using an intermediary, the charity must still direct and control the use of its resources.<sup>102</sup>

c) CRA Guidance Policy CG-004

CRA Guidance Policy CG-004, *Using an Intermediary to Carry out a Charity's Activities within Canada*, provides the following:

What is a conduit?

For the purposes of this guidance, a conduit is an organization that accepts donations for which it typically issues tax-deductible receipts and then funnels the money, without maintaining direction and control, to a non-qualified donee. Acting as a conduit violates the *Income Tax Act* and could jeopardize a charity's registered status.

Example

A charity is registered to protect the environment. A non-profit organization with identical purposes approaches the charity, and explains it has submitted an application for charitable status, but has not yet been registered.

The non-profit asks if the charity will accept donations on its behalf, issue receipts, and then forward the money to the non-profit. The charity agrees to the non-profit organization's request.

The charity has no direction or control over how the receipted funds are used, and no say in where, when or how the activity is carried out. In this case, the charity is simply funding the non-profit's own activities, and therefore, even though the activity itself may be charitable, the charity is acting as a conduit.

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<sup>100</sup> ITA Subsection 149.1(1), *The Canadian Committee for the Tel Aviv Foundation v. Canada*, (2002 FCA 72) at para. 40; *Canadian Magen David Adom for Israel v. Canada*, (2002 FCA 323) at para. 74.

<sup>101</sup> *Canadian Magen David Adom for Israel v. Canada*, (2002 FCA 323) at para. 66.

<sup>102</sup> Canadian Revenue Agency, "Guidance - Using an Intermediary to Carry out a Charity's Activities within Canada", <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/ntrmdry-eng.html>; *The Canadian Committee for the Tel Aviv Foundation v. Canada*, (2002 FCA 72) at para. 40; *Canadian Magen David Adom for Israel v. Canada*, (2002 FCA 323) at para. 74.

To avoid acting as a conduit, the charity must have real and demonstrable control over the use of its money, so that the carrying out of that activity by the intermediary amounts to the charity carrying on its own activity itself.

To determine if a charity is acting as a conduit, the CRA will look at the following types of facts:

Does the charity have any evidence that it exercises ongoing direction and control over the use of all of its resources?

Does the charity keep adequate books and records at a Canadian address it has on file with the CRA?

Does the charity receive goods and services of proportionate value for any money or other resources it sends to a non-qualified donee?

Does the charity need permission from a non-qualified donee to undertake activities, or approval of how to carry out those activities?

Before deciding to work with an intermediary, and during the course of any such arrangement, a charity should investigate its status and activities to assure itself of the following conditions:

The intermediary has the capacity (for example - personnel, experience, equipment) to carry out the charity's activity.

There is a strong expectation the intermediary will use the charity's resources as directed by the charity.

Any private benefit provided to an intermediary by a charity must be incidental and proportionate to any work being done. For example, a charity should ensure it pays a contractor only fair market value for any work done on its behalf.

[...]

What is direction and control?

When transferring resources to an intermediary, a charity must direct and control the use of its resources to meet the own activities test. The charity must be the body that makes decisions and sets parameters on significant issues related to the activity on an ongoing basis, such as the following:

how the activity will be carried out

the activity's overall goals

the area or region where the activity is carried out

who benefits from the activity

what goods and services the charity's money will buy

when the activity will begin and end

Maintaining direction and control does not mean a charity cannot accept advice from its intermediaries, or that a charity must make every decision involved in the carrying out of an activity, although it must have the ability to intervene in any decision. Typically, the types of decisions listed above would describe the overall framework of an activity.

The intermediary should report back to the charity on any decisions made, so that it can make sure that the intermediary continues to comply with the *Income Tax Act*. F5.1.

The CRA recommends adopting the following types of measures to direct and control the use of a charity's resources:

Create a written agreement, and implement its terms and provisions.

Communicate a clear, complete, and detailed description of the activity to the intermediary.

Monitor and supervise the activity.

Provide clear, complete, and detailed instructions to the intermediary on an ongoing basis.

For agency relationships, segregate funds, as well as books and records.

Make periodic transfers of resources, based on demonstrated performance.

A charity must record all steps taken to exercise direction and control as part of its books and records, to allow the CRA to verify that the charity's funds have been spent on its activities.

The CRA recommends that a charity enter into a written agreement with any intermediary. Although there is no legal requirement to have a written agreement, and the same result might be achieved by other means, a properly executed written agreement is an effective way to help meet the own activities test.

However, signing an agreement is not enough to prove that a charity meets the own activities test. The charity must also be able to show the CRA that the charity has a real, ongoing, active relationship with its intermediary.

Before starting an activity, the charity and its intermediary should agree on a clear, complete, and detailed description of the activity. The charity should be able to document its exact nature, scope, and complexity.

Depending on the type, complexity, duration, and expense of an activity, the charity should be able to provide documentary evidence that shows:

exactly what the activity involves, its purpose, and the charitable benefit it provides;

who benefits from the activity;

the precise location(s) where the activity is carried on;

a comprehensive budget for the activity, including payment schedules;

the expected start-up and completion dates for the activity, as well as other pertinent timelines;

a description of the deliverables, milestones, and performance benchmarks that are measured and reported;

the specific details concerning how the charity monitors the activity, the use of its resources, and the intermediary carrying on the activity;

the mechanisms that enable the charity to modify the nature or scope of the activity, including discontinuance of the activity if the situation requires (for example - the intermediary begins misusing funds);

the nature, amount, sources, and destination of income that the activity generates, if any (for example - tuition fees from operating a school, or sales from goods produced by poor artisans in economically challenged areas); and

any contributions that other organizations or bodies are expected to make to the activity.

Monitoring and supervision is the process of receiving timely and accurate reports, which allows a charity to make sure that its resources are being used for its own activities. Depending on factors such as the size, nature, and complexity of an activity, the reporting methods (as stated in any written agreement) can take many forms, including the following:

progress reports

receipts for expenses and financial statements

informal communication via telephone or email

photographs

audit reports

on-site inspections by the charity's staff members

Ongoing instruction is the process of providing any necessary additional instructions or directions to an intermediary.

Records of any ongoing instructions help to show that the charity is carrying out its own charitable activities in accordance with the provisions of the *Income Tax Act*. Minutes of meetings or other written records of decisions are one way to show that a charity has given instructions. The CRA recommends using written instructions (for example - letters, emails, or faxes) to communicate with an intermediary whenever possible.

Under the *Income Tax Act*, a charity must keep adequate books and records. The CRA recommends that books and records be kept in either French or English.

Books and records must enable the CRA to check the following:

whether a charity's funds are being spent on its own activities or on gifts to qualified donees

whether the charity is directing and controlling the use of its resources

whether there are grounds to revoke the charity's status

Also, books and records must contain enough information to allow the CRA to determine if the charity is operating in accordance with the *Income Tax Act*.

A charity that fails to keep adequate books and records may be subject to various sanctions under the *Income Tax Act*, including having its registration revoked.<sup>103</sup>

d) Revocation of Charitable Status Based on Receipting Practices

The CRA has recently revoked the charitable status of two separate charities for their respective non-compliance with the rules regarding the issuance of charitable receipts.

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<sup>103</sup> Canadian Revenue Agency, "Guidance - Using an Intermediary to Carry out a Charity's Activities within Canada", <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/ntrmdry-eng.html>.

On May 5, 2012, the charitable registration of Help Eliminate Disease and Addiction Canada (“**Help Canada**”) was revoked due to the CRA’s findings on the following points:

- Help Canada issued receipts for in-kind gifts received through a third party tax shelter gifting arrangement;
- The value of the issued receipts was in excess of the actual value of the gifted property;
- Help Canada did not substantiate that the values recorded on the receipts were accurate or that the property was in fact received; and
- The cash Help Canada earned from its participation and tax receipting abilities was mostly spent on administrative fees and other on-charitable expenditures.<sup>104</sup>

Also on May 5, 2012, the CRA revoked the charitable status of Power Zone Outreach Ministries (“**Power Zone**”).

According to the summary provided by the CRA, Power Zone

was not complying with the requirements set out in the *Income Tax Act*. In particular, it was found that the Organization failed to maintain proper books and records, did not devote all its resources to charitable purposes and activities as it acted as a conduit for a non-qualified donee, issued donation receipts on behalf of a non-qualified donee, and did not demonstrate that it maintained adequate direction and control over resources purportedly used in foreign programs that were not approved by the Charities Directorate. For each of these reasons and other concerns identified during the course of the audit, it is the CRA’s view that the Organization no longer meets the requirements necessary for charitable registration.<sup>105</sup>

e) Tides Canada’s Own Activities?

Given that Tides Canada disburses funds to non-qualified donees, the question is clear: is Tides Canada carrying out its own activities through these non-qualified donees as intermediaries?

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<sup>104</sup> Canada Revenue Agency, “Notices”, [http://www.cra-arc.gc.ca/nwsrm/rlss/2012/m05/nr120504d-eng.html?utm\\_source=mediaroom&utm\\_medium=eml](http://www.cra-arc.gc.ca/nwsrm/rlss/2012/m05/nr120504d-eng.html?utm_source=mediaroom&utm_medium=eml).

<sup>105</sup> Canada Revenue Agency, “Notices”, [http://www.cra-arc.gc.ca/nwsrm/rlss/2012/m05/nr120504c-eng.html?utm\\_source=mediaroom&utm\\_medium=eml](http://www.cra-arc.gc.ca/nwsrm/rlss/2012/m05/nr120504c-eng.html?utm_source=mediaroom&utm_medium=eml).



If so, Tides Canada is required to maintain judicious direct control and supervision over how its funds are applied. As found in the leading decisions on this issue<sup>106</sup> and as provided in CRA CG-004, to avoid acting as a conduit, Tides Canada must have real and demonstrable control over the use of its money so that the carrying out of any activities by the intermediary amounts to Tides Canada carrying on its own activity.

In order for a charity to demonstrate direct control and supervision of use of its resources by an intermediary, CRA recommends adopting the following types of measures:

Create a written agreement, and implement its terms and provisions.

Communicate a clear, complete, and detailed description of the activity to the intermediary.

Monitor and supervise the activity.

Provide clear, complete, and detailed instructions to the intermediary on an ongoing basis.

For agency relationships, segregate funds, as well as books and records.

Make periodic transfers of resources, based on demonstrated performance.<sup>107</sup>

Does Tides Canada demonstrate conduct in accordance with CRA CG-004? Is Tides Canada able to demonstrate ongoing direct control over and supervision of the activities of its non-qualified donees? If the answers to these questions are negative, EthicalOil.org submits that Tides Canada is likely acting as a conduit in contravention of the law and policy applicable to charities.

According to Tides Canada's webpage, Fundraising Support<sup>108</sup>, Tides Canada states that an organization's activities "must be defined as charitable in accordance with Canada Revenue Agency guidelines" in order for Tides Canada to consider a fundraising partnership. However, charitable activities do not amount to charitable status. Rather, charitable status is founded on both procedural and substantive requirements of Canadian law that are outside of Tides Canada's purview.

By evaluating the purported "charitable activities" of an organization and deciding whether to issue tax-deductible receipts on that organization's behalf, Tides Canada appears to be

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<sup>106</sup> *The Canadian Committee for the Tel Aviv Foundation v. Canada* (2002 FCA 72); *Canadian Magen David Adom for Israel v. Canada* (2002 FCA 323); *Bayit Lepletot v. Canada* (2006 FCA 128).

<sup>107</sup> Canadian Revenue Agency, "Guidance - Using an Intermediary to Carry out a Charity's Activities within Canada", <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/ntrmdry-eng.html>.

<sup>108</sup> Tides Canada, "Information for Charities – Fundraising Support", <http://tidescanada.org/information-for-charities/fundraising/>.

usurping the role of the CRA as well as contravening its own requirements as a charitable organization bound to devote all of its resources to charitable purposes.

While it is acknowledged that the definition of "charitable purposes" under the ITA includes the disbursement of funds to qualified donees, Tides Canada does not restrict its fund disbursement to qualified donees. Instead, by establishing collective giving funds at Tides Canada, these non-qualified donees are able to access the charitable registration number of Tides Canada itself.

#### F. FUNDRAISING ACTIVITIES AS A NON-STATED PURPOSE

##### a) Fundraising Activities of Tides Canada

A close look at the fundraising activities of Tides Canada suggests a complex reality.

Tides Canada solicits and receives large donations from private U.S. donors.

According to research performed by independent Canadian researcher, Vivian Krause, Tides Canada has received \$62 Million from U.S. foundations alone between 2000 and 2010:

U.S. tax returns and on-line records indicate that since 2000, U.S. foundations have granted at least \$62 million to Tides Canada Foundation.

The largest share of that went to endow the Coast Conservation Endowment Fund Foundation (CCEFF) which is also known as the "Coast Opportunity Funds." The CCEFF is dedicated to First Nations but only along the north coast of British Columbia. The largest grant made by Tides Canada, according to U.S. tax returns, was a payment of \$27.3 Million to the CCEFF. The stated purpose of this grant was "*to fund conservation planning projects and conservation initiatives of the Nuxalk and Lax Kw'alaams First Nations.*"

Of the \$62 million paid to Tides Canada by American foundations, 80 percent came from three foundations: the William & Flora Hewlett Foundation, the David & Lucile Packard Foundation and the Gordon & Betty Moore Foundation. The U.S. Tides Foundation, the parent organization of Tides Canada, has granted at least \$4.4 million directly to Tides Canada. The Bullitt Foundation, the Brainerd Foundation, the Wilburforce Foundation, the Hewlett Foundation and the Packard Foundation have all funded projects of Tides Canada through Tides U.S.

In general, these American foundations do not accept unsolicited proposals. In other words, they have ideas of their own. The Moore Foundation clearly states that unsolicited proposals are not accepted. The Hewlett foundation accepts unsolicited letters but clearly states, "Only on very rare occasions are grants awarded in response to (these) unsolicited funding inquiries." The Packard foundation accepts unsolicited proposals for some programs but not for the Marine Fisheries Program which has provided

much of the funding to B.C. environmental organizations funded by Packard. The fact that Tides Canada's big American funders do not accept unsolicited proposals raises a fair question: Who's calling the shots? Tides Canada or its American funders?<sup>109</sup>

b) Fundraising Through Partnerships with Third Parties

As noted above, Tides Canada's website includes information on how third parties may "partner" with Tides Canada to bolster "grassroots fundraising initiatives":

Fundraising Support

Tides Canada assists with the acceptance and stewardship of donations to grassroots fundraising initiatives and Canadian, U.S., and international charities.

Partner with us to make giving easier for your donors and more manageable for your organization.

Expand your donor base

Tides Canada facilitates international giving for your organization, allowing you to receive tax-deductible donations from both sides of the border. If your Canadian charity has donors in the U.S. or Canadian donors with U.S.-sourced income, we ensure they receive a U.S. charitable receipt. U.S. foundations can also benefit from this service.

U.S. and international charities that wish to extend tax benefits to Canadian donors can establish a collective giving fund at Tides Canada.

Establish a collective giving fund

Outsource the acceptance of donations by starting a collective giving fund at Tides Canada. You can then choose from a wide variety of service options. We can help with:

a range of donation methods including secure online giving, cheques by mail, credit card, and more complex gifts of publicly traded securities and bequests

affordable, customized online donation pages as well as donation reports you can access 24/7

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<sup>109</sup> Rethink Campaigns, "\$62 Million Paid to Tides Canada by American Foundations (2000 – 2010)", [http://fairquestions.typepad.com/rethink\\_campaigns/usa-foundations-paid-tides-canada-nearly-57-million.html](http://fairquestions.typepad.com/rethink_campaigns/usa-foundations-paid-tides-canada-nearly-57-million.html).

monthly donation spreadsheets

quarterly fund statements

grant-making planning, recommendations, review, and disbursements

receiving and receipting donations on both sides of the border

Can I partner with Tides Canada?

Please keep in mind the following criteria Tides uses to evaluate a potential fundraising partnership:

Your activities must be defined as charitable in accordance with Canada Revenue Agency guidelines.

Your activities must be consistent with the mission and mandate of Tides Canada.

Your organization must have a need for, and the potential to, benefit from our services.

Your organization must be willing to work in collaboration with Tides Canada, specifically in the areas of charitable regulatory policy, public communications, annual fundraising plans, and donor stewardship.

Your organization must demonstrate ability to maintain fundraising revenues of \$25,000 annually.

Extend your ability to receive complex gifts

If your organization does not have the ability to easily receive and receipt donations of shares, your donors can use Tides Canada for that purpose.

We also facilitate solutions for other types of planned gifts such as donations of insurance policies, real estate, retirement plans, and more.

We look forward to discussing how a partnership with Tides Canada can help provide a solution.<sup>110</sup>

c) CRA Guidance CG-013

CRA Guidance CG-013, Fundraising by Registered Charities, provides the following:

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<sup>110</sup> Tides Canada, "Information for Charities – Fundraising Support", <http://tidescanada.org/information-for-charities/fundraising/>.

All charities registered under the *Income Tax Act* are required by law to devote their resources to exclusively charitable purposes and activities. Although a charity can use some of its resources for fundraising to support the charitable activities that further its charitable purposes, it is the CRA's position that fundraising is not a charitable purpose in itself or a charitable activity that directly furthers a charitable purpose.

As a general rule, fundraising is any activity that includes a solicitation of present or future donations of cash or gifts in kind, whether the solicitation is explicit or implied.

Fundraising by registered charities must be conducted within legal parameters. Fundraising is acceptable provided it is not:

a purpose of the charity (a collateral, non-charitable purpose) [emphasis added];

delivering a more than incidental private benefit (a benefit that is not necessary, reasonable, or proportionate in relation to the resulting public benefit) [emphasis added];

illegal or contrary to public policy [emphasis added];

**deceptive** [emphasis added]; or

an unrelated business.

When evaluating a charity's fundraising activities, the CRA will consider a range of indicators and factors, including the following:

resources devoted to fundraising relative to resources devoted to charitable programs;

fundraising without an identifiable use or need for the proceeds;

the charity's fundraising expenses to fundraising revenue ratio;

inappropriate purchasing or staffing practices, including:

purchases of fundraising merchandise or services that do not increase fundraising revenue,

paying more than fair market value for fundraising merchandise or services, and

sole source or not-at-arm's length contracts with suppliers or service providers;

activities where most of the gross revenues go to contracted non-charitable parties;

commission-based fundraiser remuneration or payment of fundraisers based on the amount or number of donations;

misrepresentations in fundraising solicitations or in disclosure about fundraising costs, revenues or practices;

fundraising initiatives or arrangements that are not well documented;

the size of the charity;

causes with limited appeal;

donor development programs; and

involvement in gaming activities.

Charities that engage in unacceptable fundraising cannot be registered under the *Income Tax Act* because they are not constituted and operated exclusively for charitable purposes and devoting their resources to charitable activities. A registered charity that engages in unacceptable fundraising is liable to sanctions or the revocation of its registration [emphasis added].

Fundraising that is a purpose of the charity

Registered charities cannot have fundraising as a collateral purpose. Where fundraising is a focus of the organization - being more than ancillary and incidental - it may be a collateral non-charitable purpose in and of itself [emphasis added].

d) Interpretation of Applicable Law and Policy

Pursuant to the common law and CG-013, it is clear that CRA's position is that fundraising is not a charitable purpose in itself or a charitable activity that directly furthers a charitable purpose.

Where fundraising is a focus of an organization – being more than ancillary and incidental to its activities – fundraising may be a collateral non-charitable purpose in and of itself.

It is acknowledged that a public foundation may spend most of its time carrying out fundraising activities under the ITA. A public foundation is constituted and operated to fund **qualified donees** [emphasis added], which involves other registered charities. Creating and maintaining a fund or

funds and disbursing monies to qualified donees are usually a public foundation's primary activities.<sup>111</sup>

Assuming a public foundation meets all other requirements of the ITA, CRA may consider it to be constituted and operating primarily to fund qualified donees, and not for the collateral non-charitable purpose of fundraising, so long as:

funds disbursed to qualified donees typically exceed expenses related to fundraising, including compensation of staff, and

the foundation spends no more on fundraising than is required.

If these criteria are met and the fundraising activities do not deliver a more than incidental private benefit, and are not illegal, contrary to public policy, or deceptive, fundraising by a public foundation will generally be acceptable.<sup>112</sup>

In most cases, fundraising is considered to confer a private benefit when any benefit is provided to a person or organization that is not a charitable beneficiary, or when a benefit to a charitable beneficiary exceeds the bounds of charity.<sup>113</sup>

e) Tides Canada's Unstated Fundraising Purpose

EthicalOil.org submits that Tides Canada was designed to operate as a fundraising entity and conduit for funds directed at achieving certain political ends. As such, EthicalOil.org suggests that the CRA should investigate the fundraising activities of Tides Canada.

G. TIDES CANADA'S POLITICAL TIES

**EthicalOil.org submits that Tides Canada funds appear to flow from and between persons and organizations that do not stand arm's length from Tides Canada's directing participants. EthicalOil.org further submits that Tides Canada funds may have been directed towards the support for a political candidate.**

In the following *Open Letter to Mayor Gregor Robertson, Mike Magee, Joel Solomon, Carol Newell, James Morissey & Tides Canada* dated July 7, 2010, independent researcher Vivian Krause points to several interrelationships that deserve further scrutiny:

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<sup>111</sup> Canada Revenue Agency, "Guidance – Fundraising by Registered Charities", <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html>.

<sup>112</sup> Canada Revenue Agency, "Guidance – Fundraising by Registered Charities", <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html>.

<sup>113</sup> Canada Revenue Agency, "Guidance – Fundraising by Registered Charities", <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html>.

To:

Mr. Ross MacMillan, President, Tides Canada Foundation

Mr. James Morrissey, Treasurer, Tides Canada Foundation

Mayor Gregor Robertson (past director of Tides Canada Foundation)

Mr. Michael Magee, Chief of Staff, City of Vancouver (past Sr. Policy Advisor, Tides Canada)

Mr. Joel Solomon, Renewal Partners, Endswell/Tides Canada/U.S. Tides Foundation

Ms. Carol Newell, Endswell Foundation

RE: Revenues and Expenditures of Tides Canada Foundation

As a member of the public, I am writing to present my concerns, opinions and questions about the U.S. funding that has been channeled through Tides Canada Foundation, and how this has not exactly been out in the open.

U.S. tax returns and other information suggests to me that since 2000, Tides Canada has been granted at least \$43.7 Million from four huge, U.S. foundations which have about \$US 21.5 BILLION in assets.

Background:

According to my calculations based on the Vancouver Sun's database about election donations, four companies and various individuals affiliated with Tides Canada Foundation contributed at least \$US242, 000 to Vancouver Mayor Gregor Robertson's campaign, and Vision Vancouver. Other than CUPE, the single largest election campaign contributor was Joel Solomon and Renewal Partners.

Since 2000 or perhaps earlier, Solomon has been a director of both the U.S. Tides Foundation and Tides Canada Foundation.

According to the web-site of Tides Canada, both Mayor Gregor Robertson and the City of Vancouver's current Chief of Staff, Michael Magee, have been intimately involved with Tides Canada. Mayor Gregor Robertson is listed as a director of Tides Canada from 2002 to 2005. Michael Magee is listed as a Senior Policy Advisor to Tides Canada from 2002 to 2007.

In light of the above, I believe that it is fair to inquire about the operations of Tides Canada during the time that Mayor Robertson and Mr. Magee were involved. It also seems fair to inquire about Tides Canada since so many individuals and companies that are affiliated with this organization



seem to have made substantial financial contributions to Mayor Robertson's 2008 election campaign.

#### Funding to Initiate Tides Canada:

According to the web-site of Tides Canada, the initial money for its donor-advised funds was granted from a) the Endswell Foundation, b) the David & Lucile Packard Foundation ("**Packard**"), c) the J.W. McConnell Family Foundation, and d) James Morrissey who is currently listed as the treasurer of the Endswell Foundation, Tides Canada Foundation and the Sage Centre (Tides Canada Initiatives).

As outlined in detail at this blog, Packard has extensively supported Alaskan commercial fisheries while "reforming" fish farming, especially in British Columbia. Since 2000, Packard has granted at least \$US 75 Million for projects to sway consumers and retailers towards wild fish, especially Alaskan salmon.

Packard paid Tides Canada at least \$US 640,000 to initiate the Coastal Alliance for Aquaculture Reform (CAAR) and also paid about \$US 1 Million for Farmed and Dangerous, CAAR's campaign to "reform" salmon farming. Actually, CAAR runs two campaigns: 1) Farmed and Dangerous, and Wild Salmon Supporters which promotes high-end restaurants that sell wild salmon in New York, Detroit, Miami Beach, Las Vegas and other U.S. and Canadian cities. In North America, more than 90 percent of "wild" salmon is Alaskan so promoting "wild" salmon is tantamount to promoting Alaskan salmon. Discrediting farmed salmon shifts consumer and retailer demand away - which is precisely what U.S. tax returns say that environmental organizations have been paid to do.

At the time that research on PCBs in farmed salmon, and sea lice, was published in the journal *SCIENCE* and internationally publicized by Packard-funded organizations, the Editor-in-Chief of *SCIENCE*, Dr. Donald Kennedy, was a trustee of the Packard foundation.

Over roughly the same period that Packard funded the Farmed & Dangerous campaign, Packard also paid about \$US 7.8 Million for WWF to "encourage" Wal-Mart to preferentially sell Alaskan 'wild' fish, and to set "high standards" for aquaculture. The web-site of Tides Canada has reported that Mayor Gregor Robertson was involved with the Wild Salmon Fund (2002 - 2004) and the Happy Planet Fund.

#### Revenues and Expenditures:

According to my calculations based on publicly available information from Revenue Canada, between 2000 and 2008 Tides Canada had total revenues of about \$124 Million. Of that, \$26 Million was from tax-receipted

donations; nearly half of that seems to have come from a single source, the Endswell Foundation.

Renewal Partners says that over the last 15 years the Endswell Foundation made over 700 grants totaling over \$20 Million. I find that this statement doesn't match with publicly available information from Revenue Canada. According to my calculations based on Revenue Canada information, between 2000 and 2008 Endswell reported total expenditures of \$25.5 Million. Of that, \$11.8 Million (47%) appears to me to have been overhead (salaries, consulting fees, office expenses, etc.). Of the \$10.2 Million in Endswell grants for which the recipient is identified in information publicly available from Revenue Canada, 98 percent seems to have been granted to Tides Canada.

My calculations indicate that of the \$124 Million that Tides Canada had in revenues since 2000, about \$95 million was from other registered charities, gifts and "other sources." Thus, about 85 percent of the revenues of Tides Canada seems to have been money that was simply passed from one charity or source, through Tides Canada, to another. In the process, tens of millions appears to have been spent on salaries, consulting fees and other "administrative" expenses.

Questions:

In light of the above, I believe that its fair to ask:

Joel Solomon told the Huffington Post that Renewal Partners has a 50 year strategy with a 500 year vision. The company seeks to create a long term asset base for "social purpose real estate." So why did the assets of the Endswell Foundation (of which Joel Solomon is or has been the Executive Director) go from \$26 Million to \$11 Million (2000 - 2008)? Renewal Partners' "investment fund" closed on 21 June 2010. What happened?

Of the \$68,469 that Renewal Partners contributed to Mayor Gregor Robertson's campaign and Vision Vancouver, how much was from Renewal Land Company? Where did Tides Canada Foundation get \$95 Million reported as revenue from "other registered charities," "gifts" and "other sources?" How much of that originated in the U.S.?

To whom did Tides Canada re-grant the \$43.7 Million from American sources, and for what purposes? Specifically, to whom did Tides Canada and the Tides Foundation re-grant the \$US 7 Million to "address" oil and gas development in Canada?

Did the David and Lucile Packard Foundation provide the initial funds for Tides Canada (at least \$US 640,000) as part of its Market Intervention strategy to support marine fisheries?

Between 2000 and 2005, Tides Canada overhead (salaries, consultants' fees, office supplies, etc.) was 28 percent of total expenditures. Why so high? Who are Tides Canada's consultants paid \$3.1 Million since 2003? How did Tides Canada spend \$1.1 Million on "other expenditures" in 2004 and 2005?

According to my calculations, three P.R. companies (Strategic Communications, Communicopia and Convergence Communications) that are very closely affiliated with Tides Canada Foundation, contributed a combined total of about \$112,000 (*NOTE: I was way off here, its more than triple what I originally thought*) to Mayor Robertson's campaign and Vision Vancouver. How much has Renewal Partners paid Strategic Communications and from where did those funds originate? How much did Renewal Partners "invest" in Communocopia?

Did Mayor Robertson's company, Happy Planet, contribute to the Happy Planet Fund at Tides Canada? Or did his company receive money from this fund? Or both? What was Mayor Robertson's involvement with Tides Canada's Wild Salmon Fund?

Without all the help from Tides Canada affiliated people and P.R. companies, how would Mayor Gregor Robertson have won the 2008 Vancouver municipal election?<sup>114</sup>

Researcher Vivian Krause is not the only voice to have expressed concern about the close ties between members of Tides Canada's executive, Vision Vancouver, and Mayor Robertson.

In his *Financial Post* article dated November 17, 2011 titled "Vancouver's Mystery Mayor", journalist Terence Corcoran wrote:

Gregor Robertson may be a good-looking front for, and participant in, an organized movement that has origins and funding support from unusual sources

For many Canadians, their first exposure to Vancouver Mayor Gregor Robertson has come in recent weeks as he rose to defend Occupy Vancouver's encampment outside the city's art gallery — and as he waffled on the need to remove the demonstrators.

At times it looked like the youthful Mayor, first elected in 2008, was looking to join the occupiers in solidarity. "There are very legitimate concerns about equality, climate change and the state of the world that

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<sup>114</sup> Rethink Campaigns, "Open Letter to Mayor Gregor Robertson, Mike Magee, Joel Solomon, Carol Newell, James Morissey & Tides Canada", [http://fairquestions.typepad.com/files/7\\_7\\_2010-nolinks-letter-mayor-robertson.pdf](http://fairquestions.typepad.com/files/7_7_2010-nolinks-letter-mayor-robertson.pdf).

almost all of us share and we are willing to see what a global protest like this might precipitate,” he said. “I believe this movement has a lot of support, and kudos to the protesters and police for keeping it constructive and peaceful.”

A heroin overdose death at the occupation site seemed to end the Mayor’s infatuation with the protests. Facing an election on Saturday, the Mayor is now seeking a court injunction to evict Occupy Vancouver. Still, the waffling continues. On Tuesday, he set a new distant deadline: “I want to see [the encampment] gone before the Grey Cup weekend,” he told *The Province* editorial board, giving OV another week.

So who is this Gregor Robertson? The Occupy Vancouver episode is instructive. If nothing else, Canadians have seen the Mayor as a card-carrying leftist, a sympathizer with unfocused youths, radical activists and a potential mobilizer around a list of fashionable green and social causes.

That would not be news to Vancouver voters, who in 2008 installed Mr. Robertson as Mayor and gave members of his new political party, Vision Vancouver, eight of the city’s 11 council seats. What might be news to city voters is the tangled and unusual web of radically minded backers and unusual funders who, in a few short years, have masterminded Vision Vancouver’s takeover of Vancouver City Hall.

Since mayors of Vancouver sometimes use the city as a springboard to provincial politics — former premiers Mike Harcourt and Gordon Campbell being prime recent examples — the answer to the riddle of Gregor Robertson’s rise to local power is of some consequence nationally.

How did the owner of Happy Planet, a tiny fruit juice operation in Cortes Island, a remote post 270 kilometres northwest of Vancouver, rise in a few short years to lead Canada’s third-largest city?

For more than a year, Vancouver writer Vivian Krause has been trying to piece together the players behind an unusual network of charities, corporations and personalities that have been instrumental in Mr. Robertson’s amazing rise. At her *Fair Questions* blog site, Ms. Krause has amassed a storehouse of information — tax returns, filings, corporate documents and other research.

What she found is a group of individuals who now hold power positions at city hall. The network is also the same agglomeration of interests, many with connections to U.S. activist charities, that have provided millions of dollars in funding to environmental and other groups that have spearheaded attacks on Canadian resource development.

The implication is that Mayor Robertson is a good-looking front for, and participant in, an organized movement that has origins and funding support

from unusual sources, possibly including some charities that have complex relationships with organizations in the United States. Over the last five years, this network has donated more than \$340,000 to Vision Vancouver and Mr. Robertson's candidacy. Their objective is to use Vancouver as a staging ground for a radical transformation of British Columbia politics.

Perhaps the leader of this effort is a man named Joel Solomon, a multi-faceted operator who over the years has been a key executive at a number of organizations and charities that make up the network. At the heart of this network is the cross-border Tides charitable operation, which has dispersed millions, including \$10-million to anti-oil sands activists, \$28-million to B.C. First Nations for rain-forest protection, and funds for anti-salmon farming campaigns and other purposes.

Mr. Solomon's Vancouver objectives were clearly spelled out in recent speeches and interviews. "So we make business investments, charitable grants, support collaborations, leadership development and capacity building, with the hopes of influencing public policy and creating models of sustainability solutions long-term," he has said. In this line, he sees Vancouver: "The election of Mayor Robertson is the result of creating conditions where these things could take hold. Nearly 20 years of moving in a purposeful direction."

In Vancouver, as Ms. Krause documents, Mr. Solomon — a native of Nashville and a dual citizen of Canada and the United States — sits at the epicentre of a funding machine of corporate and charitable connections through which hundreds of millions have flowed. He is former chair of the U.S. Tides charitable foundation, vice-chair of Tides Canada, president of the Endswell charitable foundation, president of Renewal Partners, an investment firm, and Independent Investments, another investment firm.

Mr. Robertson, before entering politics, has also held positions within these and other organizations, and has business dealings with them. His Happy Planet fruit juice operation was backed in part by Mr. Solomon's Renewal Partners. He was a Tides Canada director. And he owns real estate near ocean-front property assembled by Tides Canada. His key staff at city hall are former Tides staffers.

So far, despite explicit challenges from Suzanne Anton — his opponent in this coming Saturday's election — Mr. Robertson has refused to answer any of the questions raised by Ms. Krause's *Fair Questions* blog or respond to the growing calls for him to clear the air.

The *National Post*'s Brian Hutchison, in a column posted Tuesday, asked: "Why are Americans influencing Vancouver politics? Have any laws been broken? Why won't the Mayor speak to this?" *The Globe and Mail*'s Gary Mason, in a Tweet, said the "Mayor refuses to answer @FairQuestions on

this whole thing. Seems to me he could clear it all up in a second if he wanted.”

Some questions raised by Ms. Krause’s research\_might not be that easy to answer.<sup>115</sup>

On May 11, 2012, journalist Sam Cooper of the British Columbia-based newspaper *The Province* provided an update on the underlying controversy:

Charity linked to Vancouver mayor under review

A green charity linked to Vancouver Mayor Gregor Robertson is under audit by Canadian authorities.

The Canada Revenue Agency is reviewing Tides Canada's books for 2008-09 based on information uncovered by North Vancouver researcher Vivian Krause, Krause told *The Province*.

Krause, who for years has posed questions about U.S. funding sources of B.C. environmental campaigns on her "Fair Questions" blog, claimed she has talked with both the RCMP and the CRA in connection to Robertson's political funding.

In posts on her blog, Krause notes that Robertson is a former director of Tides Canada, and his top political advisers have also been connected to Tides Canada.

Using U.S. tax records, Krause has pointed to about \$60 million donated to Tides Canada by U.S. foundations. She noted Tides Canada and another green charity with common directorship, Endswell Foundation, contributed funds to a group of five public-relations and investment companies. Using civic election records, Krause showed these companies - Interdependent Investments Ltd., Renewal Partners, Strategic Communications, Convergence Communications and Com-municopia - were top funders for Vision Vancouver and Robertson in 2008.

The Province contacted Robert-son's office but he was preparing to travel to a conference in Germany and wasn't made available for an interview.

Tides Canada president Ross McMillan confirmed that CRA investigators have attended his Vancouver office, but "none of the issues asked in [Krause's] blog," have been raised. "Directly or indirectly we have never had involvement in a political campaign."

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<sup>115</sup> National Post, November 17, 2012, "Vancouver’s Mystery Mayor", <http://fullcomment.nationalpost.com/2011/11/15/brian-hutchinson-is-a-u-s-charity-pulling-the-strings-of-vancouver-mayor/>.

#### VIVIAN KRAUSE: CRUSADING BLOGGER

As Vivian Krause sees it, foreign interests are pouring money into B.C. in efforts to foment dissent, and block proposed pipelines to carry Alberta crude oil to Asia.

Krause has a master's degree in science, and experience as a UN worker trained to assign aid abroad and oversee spending.

She has worked in the B.C. salmon farming industry and says she has found evidence of a fishy campaign involving foreign funding and flawed science, aimed at stunting farmed B.C. salmon businesses in favour of Alaskan wild salmon.

For the past five years she has been researching the politics and funding surrounding campaigns against Alberta's oilsands.

She says U.S. funders and lobby groups are influencing power brokers in B.C. to block the contentious Enbridge Northern Gateway pipeline, proposed to connect the oilsands of Alberta to a tanker terminal at Kitimat.

Krause insists that she has no connection to any of the resource industries that her research appears to support. But she has received thousands of dollars in honorarium payments from some of these industry groups for conference speeches.<sup>116</sup>

EthicalOil.org suggests that CRA should further investigate the facts cited and conclusions reached by the insightful writers noted above. The ITA is clear that a registered charity may not support a political party or candidate. As provided in this letter, above, it appears that Tides Canada has usurped the role of the CRA in deciding which non-qualified donees deserve the benefit of tax-exempt donations by issuing charitable receipts on their behalf.

#### H. CONCLUSION

EthicalOil.org submits that the activities and unstated purposes of Tides Canada contravene the laws and policies applicable to registered charities in Canada. Tides Canada displays a disregard for these laws and policies under the guise of promoting environmental causes. Instead, Tides Canada appears to be supporting, both directly and indirectly, a political agenda that seeks to undermine the policies of duly elected Canadian legislatures regarding resource development and export, and on occasion engaging in outright partisan campaigning. This is not charitable work and does not merit charitable tax treatment.

It is respectfully submitted that the CRA fully audit Tides Canada and all of its projects that touch on political matters such as the environment, resource development, production and export, and indeed the enforcement of the ITA on charities. If Tides Canada is indeed

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<sup>116</sup> The Province, May 11, 2012, "Charity Linked to Vancouver Mayor Under Review", <http://www2.canada.com/theprovince/news/story.html>.

violating the law, the charitable status of Tides Foundation and Tides Initiatives should be immediately revoked.

Yours truly,

**SAMANTHA KERNAHAN**

DRAFT





**APPENDIX 1**  
**TIDES CANADA'S "NEWS AND EVENTS" AS**  
**EXAMPLE OF TIDES POLITICAL ACTIVITIES**

As an overview of Tides Canada's own political activities, the following posts are found on Tides Canada's News and Events webpage<sup>117</sup>:

1. Tides Canada supports Black Out Speak Out campaign - environmental charities for nature and democracy - May 23, 2012
2. "Even Alberta Agrees, Oil Cannot Be Forever" - Huffington Post, May 23, 2012
3. "CRA audits charitable status of Tides Canada amid Tory attack" – The Globe And Mail, May 8, 2012 / May 8, 2012
4. Tides Canada supports the reinvention of ForestEthics in Canada / April 17, 2012
5. How Canada might climb the clean-energy ranks / April 12, 2012
6. Tides Canada responds to 2012 Federal budget / March 29, 2012
7. Canada Water Week 2012: Sometimes a time for celebration is also a time for action / March 22, 2012
8. "Seize the clean energy opportunity," Tides Canada tells Senate / March 8, 2012
9. "Carbon tax review could lead to better future for B.C." Vancouver Sun, Feb 28 / February 29, 2012
10. Canada's hidden energy crisis -- it's real, it's urgent, and the answer is right in front of us / February 13, 2012

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<sup>117</sup> Tides Canada, "About Us – News and Events", <http://tidescanada.org/about/news-and-events/>.

**Edmonton Office**  
600 West Chambers  
12220 Stony Plain Road  
Edmonton, AB T5N 3Y4  
p. 780.482.9200  
f. 780.482.9100  
tf. 1.800.567.9200

**Calgary Office**  
1600 Stock Exchange Tower  
300 – 5<sup>th</sup> Avenue SW  
Calgary, AB T2P 3C4  
p. 403.543.9120  
f. 403.543.9150  
tf. 1.888.543.9120

**Yellowknife Office**  
1001 Precambrian Building  
4920 – 52<sup>nd</sup> Street  
Yellowknife, NT X1A 3T1  
p. 867.766.7677  
f. 867.766.7678  
tf. 1.888.836.6684

11. Tides Canada: The National New Energy Opportunity / February 1, 2012
12. "Let's have open, honest debate about our energy future" The Tyee, Jan 31 / January 31, 2012
13. Canadians deserve a full debate on our energy future / January 10, 2012
14. 'From Knowledge to Action' - Tides Canada participates in shaping the final International Polar Year conference / January 5, 2012
15. Climate leadership ensures a better future / December 19, 2011
16. Business leaders urge B.C. to "Stay the Course" on climate leadership / December 19, 2011
17. "Applause for U.S. funds aimed at improving our environment" Business in Vancouver, Dec 13-19 / December 15, 2011
18. "Tech investor paints rosy picture of going green in the oil sands" Calgary Herald, Nov 15 / November 15, 2011
19. Supporting Northern Solutions for Northern Challenges: Tides Canada's Dave and Kim reflect on their travels / November 8, 2011
20. "Clean energy will generate much needed jobs for B.C." Vancouver Sun, Oct 19, Op Ed / October 19, 2011
21. "With a gift from Google, Canadian activists get on the map" - The Globe And Mail, Sep 28, 2011 / September 28, 2011
22. "Ottawa threatened by oceans planning" - Vancouver Sun, Sep 16, Op Ed / September 16, 2011
23. Tides Canada launches fund to support implementation of historic Atlin-Taku Land Use Agreement / July 19, 2011
24. Vancouver Sun covers Tides Canada's 'New Energy Vision for Canada' / July 13, 2011
25. Tides Canada's David Secord to speak about the Arctic at WorldFuture 2011 Conference / July 7, 2011
26. When oil goes out of fashion / July 5, 2011
27. Oceans Initiative launches Quiet Ocean Campaign / June 8, 2011
28. Tides Canada exploring potential for greenest city fund / January 17, 2011



## APPENDIX 2

### TIDES CANADA'S FUNDING OF NON-QUALIFIED DONEES

#### EXAMPLES FROM TIDES CANADA'S 2010 ANNUAL REPORT

As stated in Tides Canada's 2010 Annual Report,

*Unique to Tides Canada, Collective Giving Funds are the perfect solution for fundraising initiatives wanting to leverage donations towards their charitable activities*<sup>118</sup>  
[emphasis added].

Below, confirmation of fund recipient's charitable status (as a non-qualified donee) is provided based on the CRA Charities Listing search tool<sup>119</sup> as well as examples of recipient's own acknowledgement that Tides Canada, not the fund recipient itself, is able to issue charitable donation receipts.

Further, examples are provided of some of the political activities undertaken by fund recipients regarding Canada's current policy stance on resource export and development.

#### **BIG WILD FUND**

Recipient: The Big Wild

Canadian Charitable Status: NO

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<sup>118</sup> Tides Canada, 2010 Annual Report, <http://tidescanada.org/pages/ar2010/>.

<sup>119</sup> Canada Revenue Agency, "Charities Listings", <http://www.cra-arc.gc.ca/chrts-gvng/lstngs/menu-eng.html>.

**Edmonton Office**  
600 West Chambers  
12220 Stony Plain Road  
Edmonton, AB T5N 3Y4  
p. 780.482.9200  
f. 780.482.9100  
tf. 1.800.567.9200

**Calgary Office**  
1600 Stock Exchange Tower  
300 – 5<sup>th</sup> Avenue SW  
Calgary, AB T2P 3C4  
p. 403.543.9120  
f. 403.543.9150  
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1001 Precambrian Building  
4920 – 52<sup>nd</sup> Street  
Yellowknife, NT X1A 3T1  
p. 867.766.7677  
f. 867.766.7678  
tf. 1.888.836.6684

Fundraising Statement:

Donations are administered by Tides Canada, a national public foundation dedicated to helping people invest wisely in innovative charitable initiatives focused on environmental and social justice issues.

You can make cheques payable to:

Tides Canada Foundation – The Big Wild Fund

Please mail cheques to:

Tides Canada Foundation  
400 – 163 Hastings Street West  
Vancouver, BC V6B 1H5<sup>120</sup>

Example of Political Activity:

NEWS ON THE BIG WILD

Black Out Speak Out

by theolamb | June 2, 2012

On Monday, June 4th, we will join our co-founders, the Canadian Parks and Wilderness Society, and take part in BlackOutSpeakOut, an online movement of organizations darkening their websites in protest against specific measures Canada's federal Government is taking to silence Canadians across the country.

Why speak out? Dare to be Deep, our feature marine conservation campaign in partnership with CPAWS, risks serious setbacks if Bill C-38 to implement the 2012 federal budgets is adopted.<sup>121</sup>

**CANADIAN YOUTH CLIMATE COALITION FUND**

Recipient: Canadian Youth Climate Coalition (“CYCC”)

Canadian Charitable Status: NO

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<sup>120</sup> The Big Wild, “Donate – The Big Wild Fund”, <http://www.thebigwild.org/big-wild-fund>.

<sup>121</sup> Canada Revenue Agency, “Policy Statement – Political Activities”, September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

Fundraising Statement:

The Canadian Youth Climate Coalition is a project of Tides Canada Initiatives, a registered charity (Canadian charitable number 130560188 RR0001).

All donations made to CYCC will be put directly to supporting our campaigns and projects and tax receipts will be issued to donors. The support of individual donors allows CYCC to continue to successfully support the Canadian youth climate movement.

To make a donation to support our work please donate through Tides Canada Initiatives.<sup>122</sup>

Example of Political Activity:

‘Stop Harper’s Gang’ says former Senate Page in challenging Wildrose leader

April 23, 2012

Brigette DePape, [CYCC Regional Volunteer Coordinator] the “Rogue Page” who disrupted the federal throne speech with a “Stop Harper” sign challenged Wildrose leader Danielle Smith as she arrived to cast her ballot at a polling station in High River with a similar sign reading “Stop Harper’s Gang” .

“We know that the same people who are behind Stephen Harper’s gutting of the laws which protect the environment, his waging war on civil society groups for speaking up for Canadian values, and his absolute refusal to take action on climate change are the same gang who are behind the Wildrose,” says DePape. “If elected, the Wildrose Party and its policies – which are more radical than even the Harper government – will negatively impact the entire country”.

[...]

“Since my action in the Senate I have been meeting with youth across Canada,” says DePape. “Many young people cannot vote, and I felt compelled to share the voices of youth who will be gravely effected by Danielle Smith’s agenda, and take action to protect our future which is being severely threatened with the expansion of the tar sands and climate change.”

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<sup>122</sup> Canadian Youth Climate Coalition, “Support Our Work – Donate”, <http://www.ourclimate.ca/wordpress/support-our-work/donate/>.

She called on other Albertans and Canadians to mobilize in their communities, concluding, “People from across Canada need to find creative ways to take action to expose these dangerous agendas, and to mobilize to take back control over our future and our country”.<sup>123</sup>

### CANOPY FUND

Recipient: Canopy

Canadian Charitable Status: NO

Fundraising Statement:

Canopy has established the Canopy Fund at Tides Canada Foundation for the purpose of supporting charitable activities identified by Canopy. These activities include safeguarding forests and the environment by harnessing the power of the marketplace and changing business practices. Donors to Tides Canada Foundation may request that their donation be added to the Canopy Fund and, subject to the requirements of the *Income Tax Act*, they will receive a charitable tax receipt.

Tides Canada Foundation is dedicated to helping donors contribute wisely to innovative charitable initiatives focused on environmental and social justice issues.<sup>124</sup>

Example of Political Activity:

#### Great Bear Rainforest

British Columbia made headlines when it promised to save the Great Bear Rainforest six years ago. The media interest came from around the world, likely because the province’s coastal temperate rainforests have been the source of such intense conflict, including the largest act of civil disobedience in Canadian history, with more than 1-thousand protesters arrested.

[...]

The science commissioned jointly by the provincial government, forest industry, First Nations and environmental organizations is clear: at least 70% of the natural level of old-growth in the Great Bear Rainforest needs to

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<sup>123</sup> The Media Co-op, “Stop Harper’s Gang’ says former Senate Page in challenging Wildrose leader”, <http://www.mediacoop.ca/newsrelease/10613>.

<sup>124</sup> Canada Revenue Agency, “Policy Statement – Political Activities”, September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

be secured if we want to protect one of the planet's last intact coastal temperate rainforests from disappearing forever.

**Canopy and its allies, along with the coastal forest industry, are asking for the government to fully implement the Great Bear Rainforest Agreements prior to an upcoming provincial election.** <sup>125</sup> [emphasis added].

**FORESTETHICS CHARITABLE INITIATIVES FUND**

Recipient: ForestEthics

Canadian Charitable Status: NO

Fundraising Statement: CHANGED AFTER FORESTETHICS SPLIT FROM TIDES  
CANADA IN APRIL 2012

Current statement:

Notice to Our Canadian Donors:

ForestEthics is now operating as two different non-profit societies in Canada.

ForestEthics Advocacy

ForestEthics Advocacy Association will continue to perform our hard-hitting advocacy work 100% of the time without government interference, but we cannot issue tax receipts.

Forest Ethics Solutions Society

If you wish to receive an official income tax receipt, please consider a donation to ForestEthics Solutions Society, which is focused on the continued implementation of the Great Bear Rainforest and Canadian Boreal Forest Agreements.

To donate to ForestEthics Solutions Society, or if you have other questions about making gifts, please contact Mary Humphries at 360-734-2951, extension 200 or [mary@forestethics.org](mailto:mary@forestethics.org).<sup>126</sup>

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<sup>125</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

<sup>126</sup> ForestEthics, "Donate", [https://salsa.democracyinaction.org/o/281/p/salsa/donation/common/public/?donate\\_page\\_KEY=1841](https://salsa.democracyinaction.org/o/281/p/salsa/donation/common/public/?donate_page_KEY=1841)

Example of Political Activity:

Top reasons to oppose changes to the Fisheries Act

Tuesday Jun 5, 2012

1. These massive changes are undemocratic.
2. Protection for fish habitat is greatly weakened.
3. Only lakes and rivers supporting commercial, recreational or aboriginal fisheries will be protected.
4. The Feds are off-loading responsibilities to provinces and industry.
5. Dept. of Fisheries and Oceans (DFO) cuts undermine public and fish safety.
6. Changes are being made to facilitate projects such as Enbridge's Northern Gateway pipeline and tanker proposal.
- ...
6. In Who's Interest?

The Fisheries Act is being changed to accommodate industry, such as Enbridge's Northern Gateway pipelines that proposes to cross nearly 800 rivers and streams [emphasis added]. As Minister Ashfield has acknowledged to the media, the federal government's planned overhaul of the Fisheries Act may reduce the regulatory constraints faced by energy companies like Enbridge, thus expediting project approvals [emphasis added]. The budget cuts to scientific research, including nearly all scientists monitoring ocean pollution across Canada, as well as the shutting down of Environment Canada's oil spill response staff in BC, comes at the same time that Enbridge proposes to introduce over 225 oil tankers a year to the north coast, and Kinder Morgan plans to expand its TransMountain pipeline, resulting in increased oil tanker traffic out of Burrard Inlet. The timing of these changes say more than many Conservative politicians are willing to admit.<sup>127</sup>

**OCEANS FUND**

Recipient: Living Oceans Society

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<sup>127</sup> ForestEthics, "Stop Canada's Tar Sands – Tar Sands News", <http://forestethics.org/canadas-fisheries-act>.



Canadian Charitable Status: NO

Fundraising Statement:

The Oceans Fund

Living Oceans Society advises Tides Canada Foundation regarding grants made from the Oceans Fund. Contributions donated to the Oceans Fund are granted to various charitable organizations that we collaborate with to support work that advances our mission of research and education projects to increase public awareness of the problems affecting our ocean and solutions that will ensure healthy oceans for generations to come. Donations to support this charitable work are eligible for a charitable tax receipt issued by Tides Canada Foundation.

Tides Canada charitable number: BN 86894 7797 RR0001<sup>128</sup>

Example of Political Activity:

Transport Canada's nod of approval for Northern Gateway Tankers misleads Canadians

Transport Canada's review of the marine transportation components for Enbridge's Northern Gateway project offers empty reassurances on the safety of the proposed oil tanker routes. Due to the fact that the studies reviewed were paid for and conducted by Enbridge, it is unsurprising that a summary of the reports supports Enbridge's position [emphasis added].

Transport Canada's conclusion assumes that Enbridge will implement all safety recommendations, yet Enbridge is legally allowed to ignore them. Enbridge will not be responsible for the tankers or for cleaning up any oil they spill. Once the oil leaves the pipeline, Enbridge is absolved from all risk. The vessels and their cargo are the responsibility of the ships' owners. **When a spill occurs, Enbridge can watch from the shoreline as Canadian taxpayers are left with the bill for cleanup and compensation costs** [emphasis added].

"The public is being asked to trust a company that has no liability for the marine aspects of its project, including oil tankers," said Katie Terhune, Energy Campaign Manager for Living Oceans Society. "Why would anyone trust a company with a horrible record for oil spills that has preached empty promises before?"<sup>129</sup>

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<sup>128</sup> Living Oceans Society, "Donate", <http://www.livingoceans.org/donate>.

<sup>129</sup> Living Oceans Society, "Media Center", <http://www.livingoceans.org/media/releases/tankers/transport-canada%E2%80%99s-nod-approval-northern-gateway-tankers->

**PACIFIC WILD FUND**

Recipient: Pacific Wild

Canadian Charitable Status: NO

Fundraising Statement:

We gratefully accept contributions to support our endeavours.

Pacific Wild is a donor-advised fund at Tides Canada Foundation. We use these funds to collaborate with various charitable organizations to support conservation of British Columbia's coastal wildlife. Donations to support this charitable work are eligible for a charitable tax receipt issued by Tides Canada Foundation.<sup>130</sup>

Example of Political Activity:

Ten reasons to support Pacific Wild's effort to stop Enbridge's Northern Gateway project

If Enbridge's Northern Gateway pipeline is built and super tankers full of oil begin transiting the waters of the Great Bear Rainforest, these ten things will happen:

(in no particular order)

- 1) Warming planet - Tar sands production, the dirtiest oil in the world and the single largest contributor to green house gas emissions in Canada, will increase dramatically, contributing to further climate destabilization.
- 2) Rivers of oil - Pipelines permanently destroy wildlife habitat and fragment wildlife corridors, they also rupture and routinely spill. Enbridge has recorded over 800 spills, releasing about 168,645 barrels of oil into the environment. Over 1000 waterways will be placed at risk, including the Skeena and Fraser rivers.
- 3) Oceans of oil - An oil spill on the BC coast will occur and, depending on the size, will cause irreversible damage to coastal livelihoods, economies, culture and ecology. The viscosity of raw bitumen makes it virtually impossible to contain or recover once a spill occurs.

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<sup>130</sup> Pacific Wild, "Support Pacific Wild – Charitable Donation", <http://www.pacificwild.org/site/support-pacific-wild.html>.

- 4) First Nations - Rights and title, as protected under the Canadian constitution, will be challenged, re-written or ignored. So far 74 different first nations, including all coastal first nations, are adamantly opposed to Enbridge.
- 5) Opportunity lost – Instead of investing its oil wealth into a rapid and strategic transition from fossil fuels to an economy built on renewable energy, Canadians will inherit ecological and economic uncertainty for generations.
- 6) A quiet ocean - The acoustic pollution caused by oil tankers, the loudest vessels in the world, will displace whales. Fin, humpback and orca cannot communicate and forage amid the loud disturbance caused by super tankers. One of the last quiet refuges for whales will be lost.
- 7) Ship strikes – Ships will collide with whales causing death and injury. Gray, humpback, orca and fin whales will be under constant threat.
- 8) Job killer – Exporting raw bitumen produces few permanent jobs while putting tens of thousands of sustainable jobs at risk.
- 9) Dutch disease – Canada’s economy will be unduly influenced by the price of oil, causing artificially high currency rates at the expense of the country’s manufacturing sector.
- 10) Defining issue of a nation – Canada’s international reputation will be fully squandered as we join the roster of petro states. We will have chosen a path of oil over the democratic wishes of Canada’s citizens, our environment, and our economy.<sup>131</sup>

#### RAINFOREST ACTION NETWORK CANADA FUND

Recipient: Rainforest Action Network

Canadian Charitable Status: NO

Fundraising Statement:

Rainforest Action Network has established the Rainforest Action Network Canada Fund at Tides Canada Foundation for the purpose of supporting 3charitable activities identified by Rainforest Action Network.

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<sup>131</sup> Pacific Wild, “Our Work – No Tankers/No Pipeline”, <http://www.pacificwild.org/site/our-work/no-tankers-no-pipeline/support-our-effort-to-stop-enbridges-northern-gateway-project.html>.

Donors to Tides Canada Foundation may direct that their donation be added to Rainforest Action Network Canada Fund and, subject to the requirements of the *Income Tax Act*, will receive a charitable tax receipt.

In their 24-year history, Rainforest Action Network has secured hundreds of critical victories for the environment and Indigenous communities around the world and have helped protect millions of acres of forests in Indonesia, Canada, Chile, Brazil and beyond.

Tides Canada Foundation is dedicated to helping donors contribute wisely in innovative charitable initiatives focused on environmental and social justice issues. Tides Canada Foundation provides the support we need to reach our philanthropic goals and affect real, lasting change.<sup>132</sup>

Example of Political Activity:

#### TAR SANDS

International banks and investors are pouring billions of dollars into expansion of the Canadian tar sands, the dirtiest and most desperate attempt yet to profit from and prolong our crippling addiction to oil.

Tar sands oil is the worst type of oil for the climate, producing three times the greenhouse gas emissions of conventionally produced oil because of the energy required to extract and process tar sands oil. Tar sands consist of heavy crude oil mixed with sand, clay and bitumen. Extraction entails burning natural gas to generate enough heat and steam to melt the oil out of the sand. As many as five barrels of water are needed to produce a single barrel of oil.

TransCanada's proposed \$7 billion Keystone XL pipeline would ship heavy crude from Canada's oil sands to refineries on the Texas Gulf Coast. Citizens from across the country have bravely taken action to make a strong statement to President Obama that enough is enough. We should not spend even one more dollar to build infrastructure that will continue our dangerous addiction to oil. The president must do the right thing now and say no to the Keystone XL pipeline.

Now is the time to join a broad coalition of concerned citizens who are organizing to stop the pipeline. Take action now.<sup>133</sup>

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<sup>132</sup> Rainforest Action Network, "Donate to RAN", <https://www.gifttool.com/donations/>.

<sup>133</sup> Canada Revenue Agency, "Policy Statement – Political Activities", September 2, 2003, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>.

**THE TYEE PUBLIC INTEREST JOURNALISM FUND/THE TYEE SOLUTIONS SOCIETY FUND**

Recipient: The Tyee

Canadian Charitable Status: NO

Fundraising Statement: AS CURRENTLY STATED ON TIDES CANADA'S WEBSITE:

The Tyee has established The Tyee Solutions Society Fund at Tides Canada Foundation for the purpose of producing catalytic solutions-oriented journalism and conducting research on social, economic and environmental issues of broad concern to Canadians.<sup>134</sup>

Example of Political Activity:

A Greener Way to Get Bitumen?

Extracting oil sands crude is energy intensive, making it one of the 'dirtiest' fuels. Fixable? Sixth in a series.

By Geoff Dembicki, Today, TheTyee.ca

[...]

Bottom of Form

[...]

[...]Last year, Alberta's in situ operations *alone emitted* an estimated 19 megatons of CO<sub>2</sub>, equivalent to the annual climate impact of 3.7 million cars.

That number will almost certainly rise: an estimated 80 per cent of remaining bitumen reserves *are accessible only* by the higher-emission process.

[...]

Tactical targeting

But if bitumen's carbon footprint is unlikely to be easily trimmed or decisive to the climate, why then do environmental groups focus so intensely on it? The answer may lie in the difference between strategy and tactics.

---

<sup>134</sup> Tides Canada, "Donate Now", <http://tidescanada.org/sup/education-research-and-capacity-building/>.

Pretty much all major environmental groups—as well as many *oil sands firms* -- agree publically or privately that an economy-wide price on greenhouse gas emissions would be the most effective way to fight climate change. But the current political atmosphere in North America makes it hard to advocate for such a sweeping policy.

Instead, environmentalists sustain attention to climate change by focusing the public on visible symbols of our fossil fuel addiction. And few are more potent than northern Alberta's toxic moonscapes, oil drenched ducks, rapidly growing greenhouse gas emissions, and its vulnerable pipelines stretching across America's heartland.<sup>135</sup>

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<sup>135</sup> The Tyee, <http://thetyee.ca/News/2012/06/25/Greener-Bitumen/index.html>.



McLENNAN ROSS LLP  
LEGAL COUNSEL

**APPENDIX 3**  
**THE TAR SANDS CAMPAIGN**  
**Rockefeller Brothers Fund Presentation**

July 2008

(Powerpoint Slides as Follows)

DRAFT

**Edmonton Office**  
600 West Chambers  
12220 Stony Plain Road  
Edmonton, AB T5N 3Y4  
**p.** 780.482.9200  
**f.** 780.482.9100  
**tf.** 1.800.567.9200

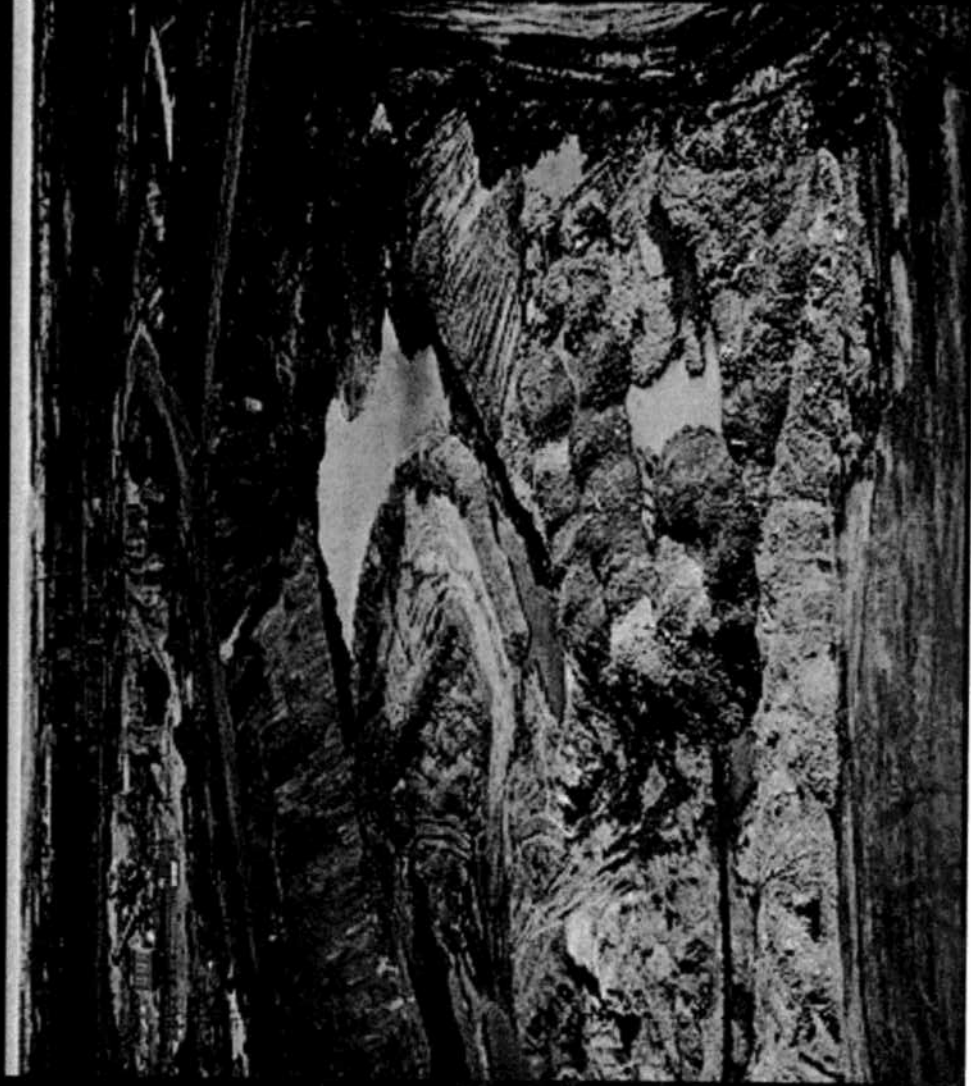
**Calgary Office**  
1600 Stock Exchange Tower  
300 – 5<sup>th</sup> Avenue SW  
Calgary, AB T2P 3C4  
**p.** 403.543.9120  
**f.** 403.543.9150  
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# The Tar Sands Campaign

**Michael Northrop,**  
Program Officer  
Rockefeller Brothers Fund  
July 2008



Rockefeller  
Brothers Fund  
Philanthropy for an Interdependent World



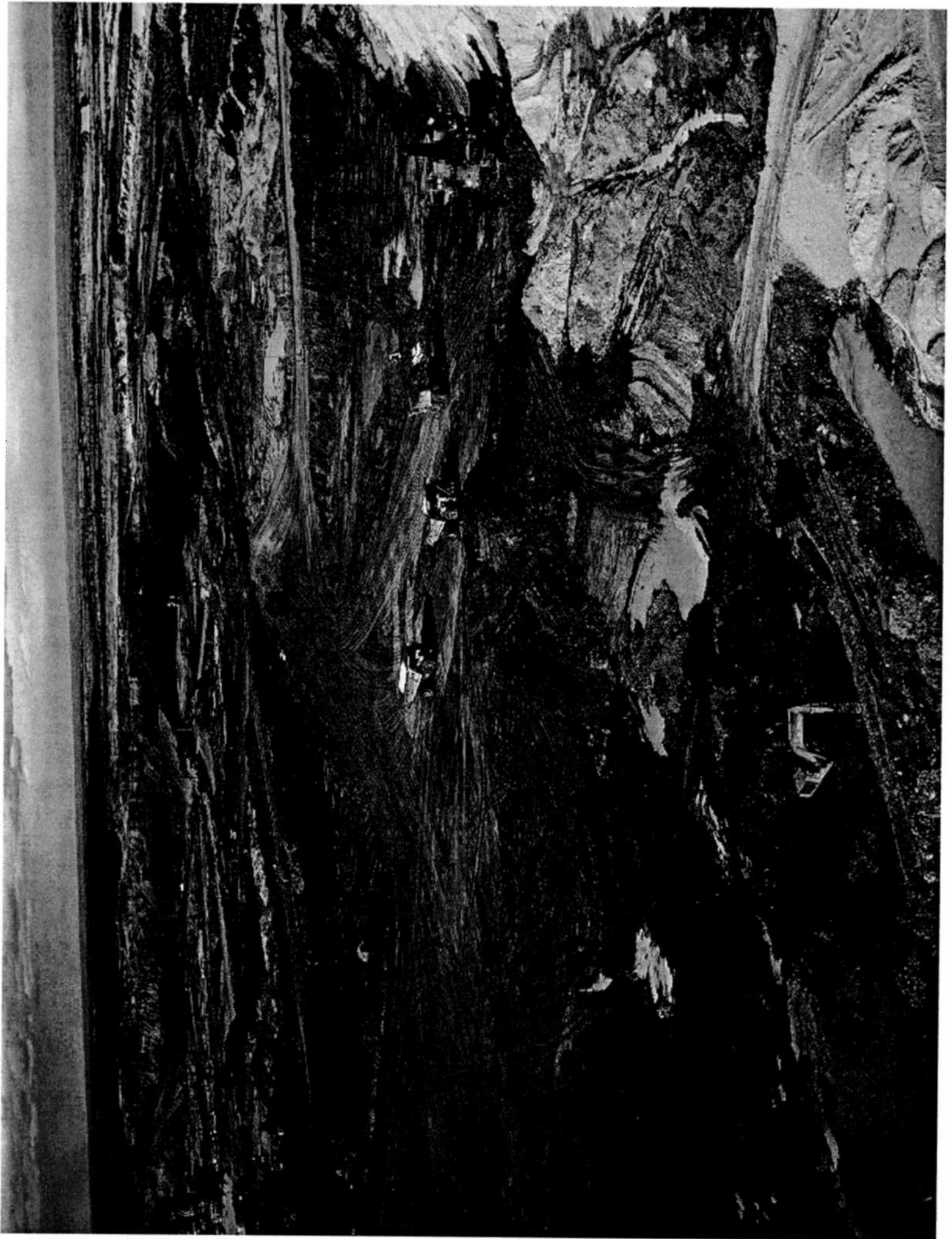
**Lake Athabasca**

An aerial photograph of a vast, flat landscape. The terrain is a mix of dark and light patches, suggesting different soil types or vegetation. A prominent, light-colored, winding feature runs across the middle of the image, likely a river or a road. In the lower-left corner, there is a dark, rectangular area. Several white arrows point from text labels to specific features in the landscape.

**Fort Chipewyan**

**Athabasca River**

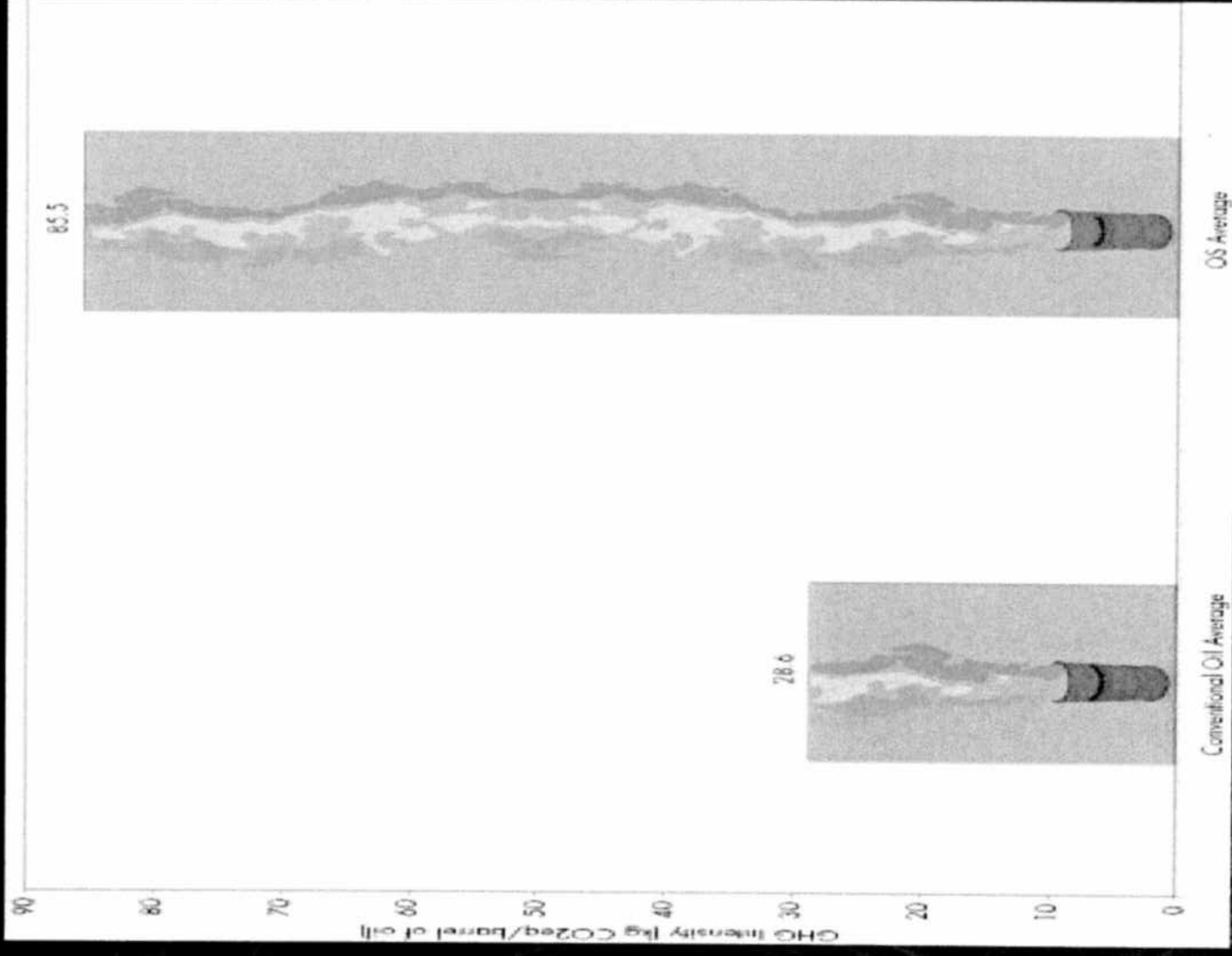
**Tailings Pond**





# A Globally Significant Threat

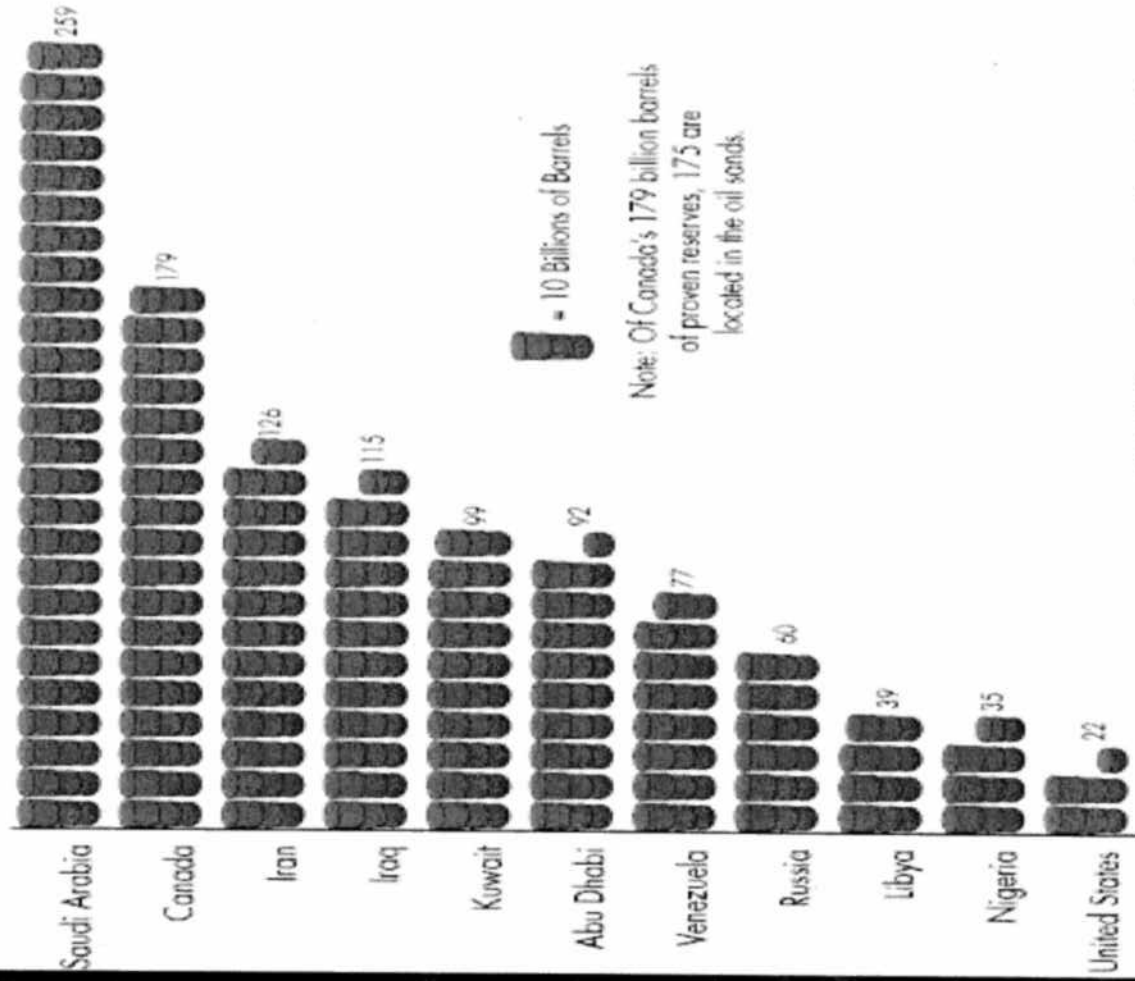
- Global Warming



# A Globally Significant Threat

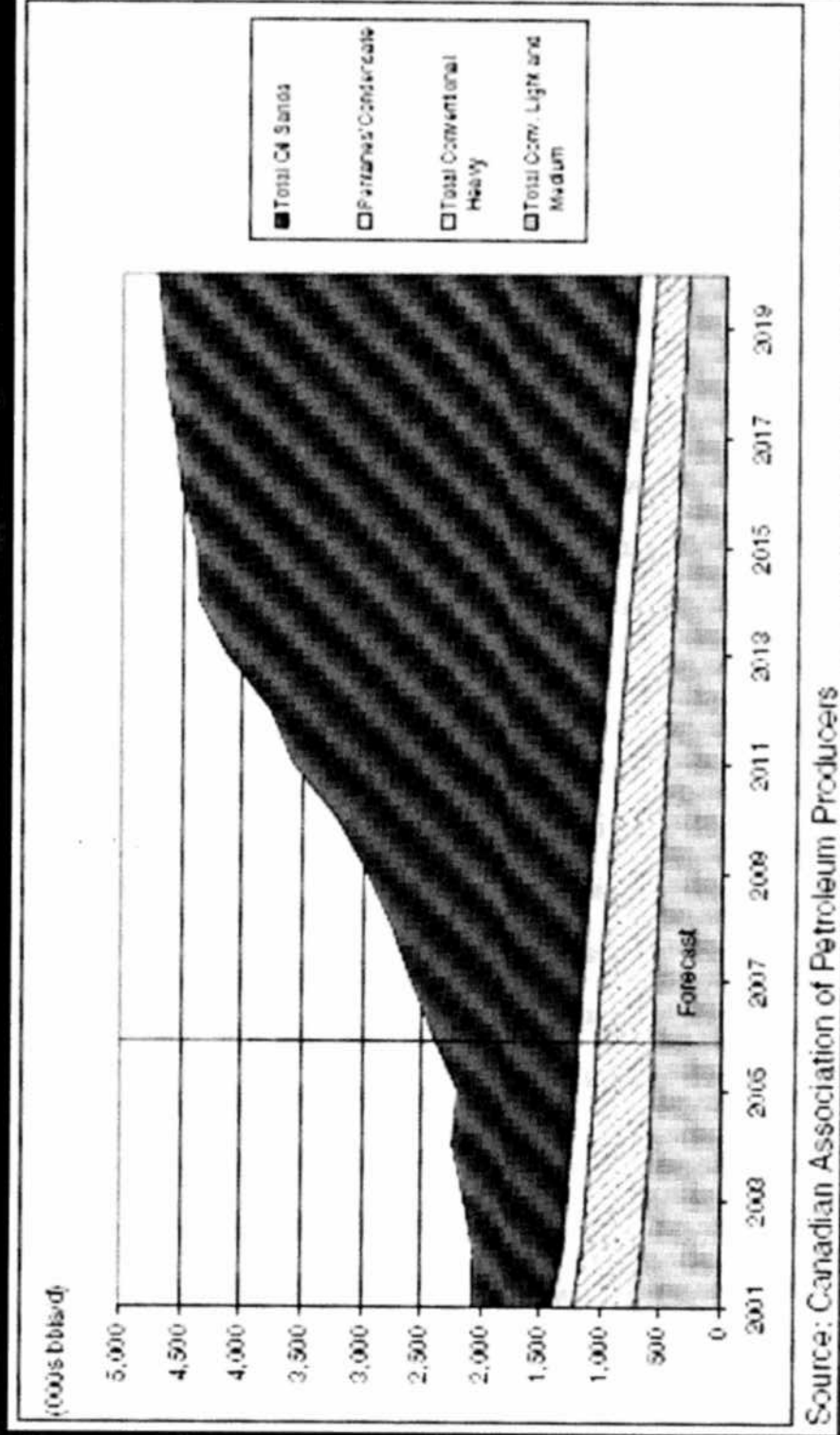
- Global Warming
- Oil Addiction

## Oil Reserves by Country (Billions of Barrels as of December 2004)



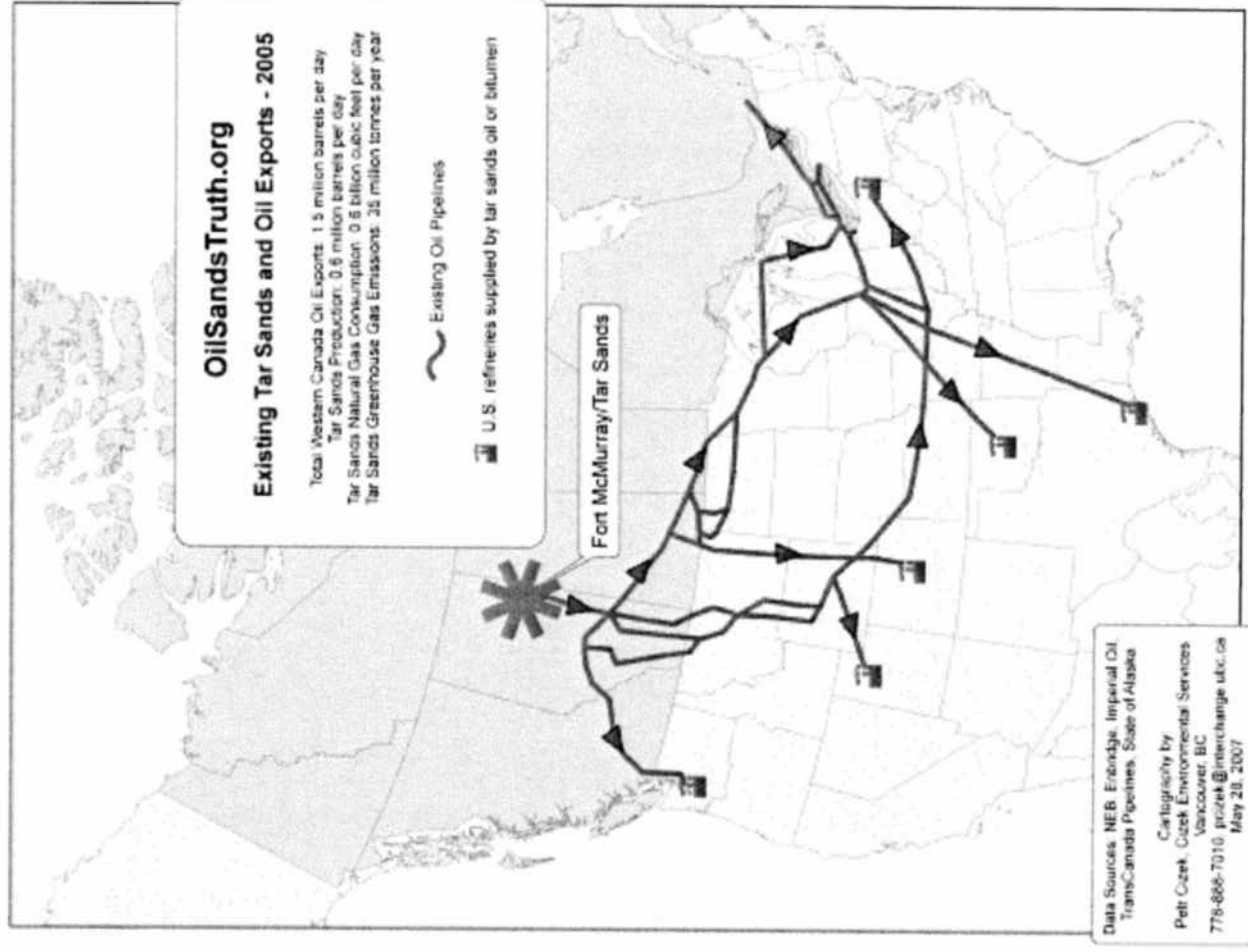
SOURCE: Oil and Gas Journal December 2004

# A Globally Significant Threat



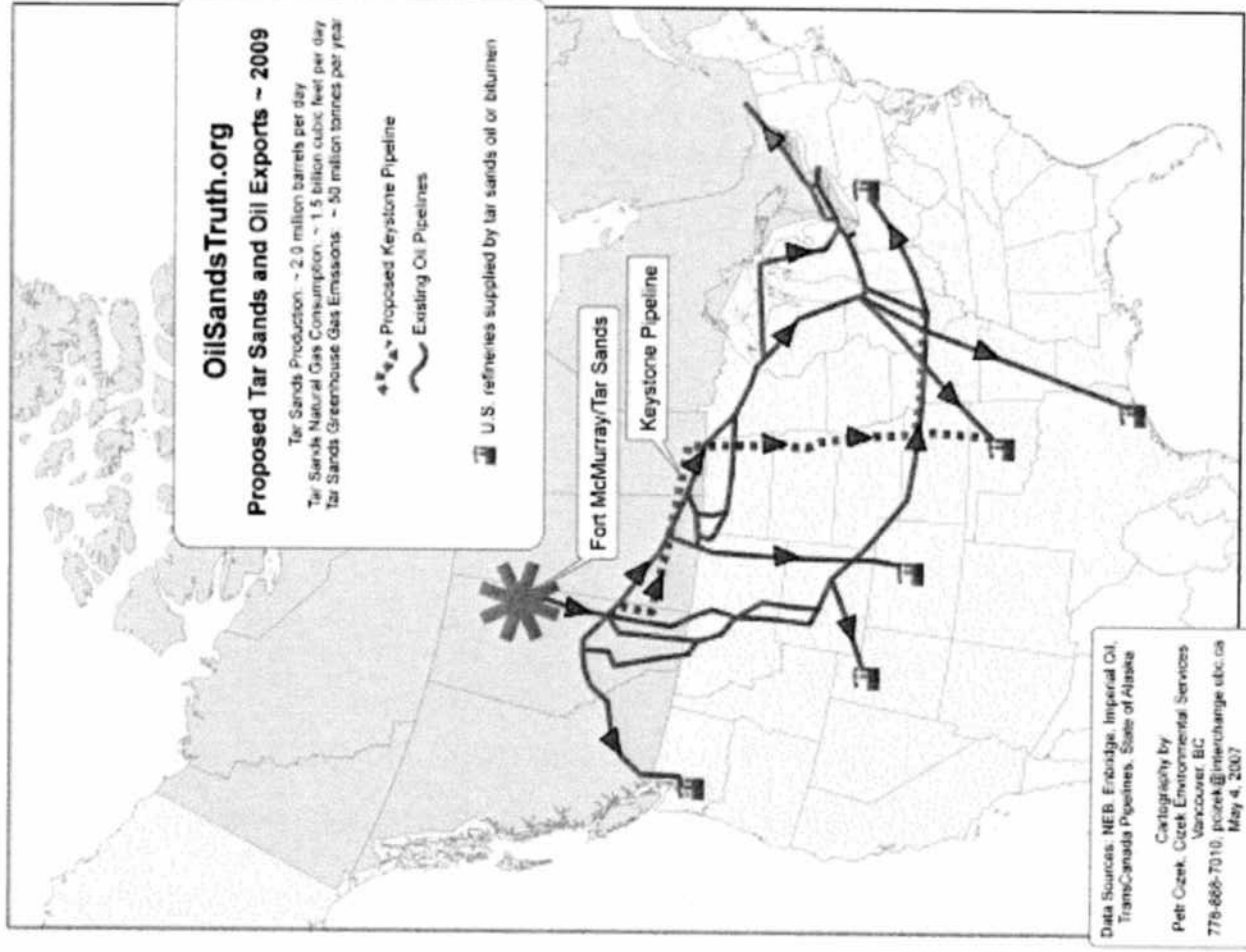
# A Globally Significant Threat

- 17 US Refinery Expansions
- 5 New US Refineries



# A Globally Significant Threat

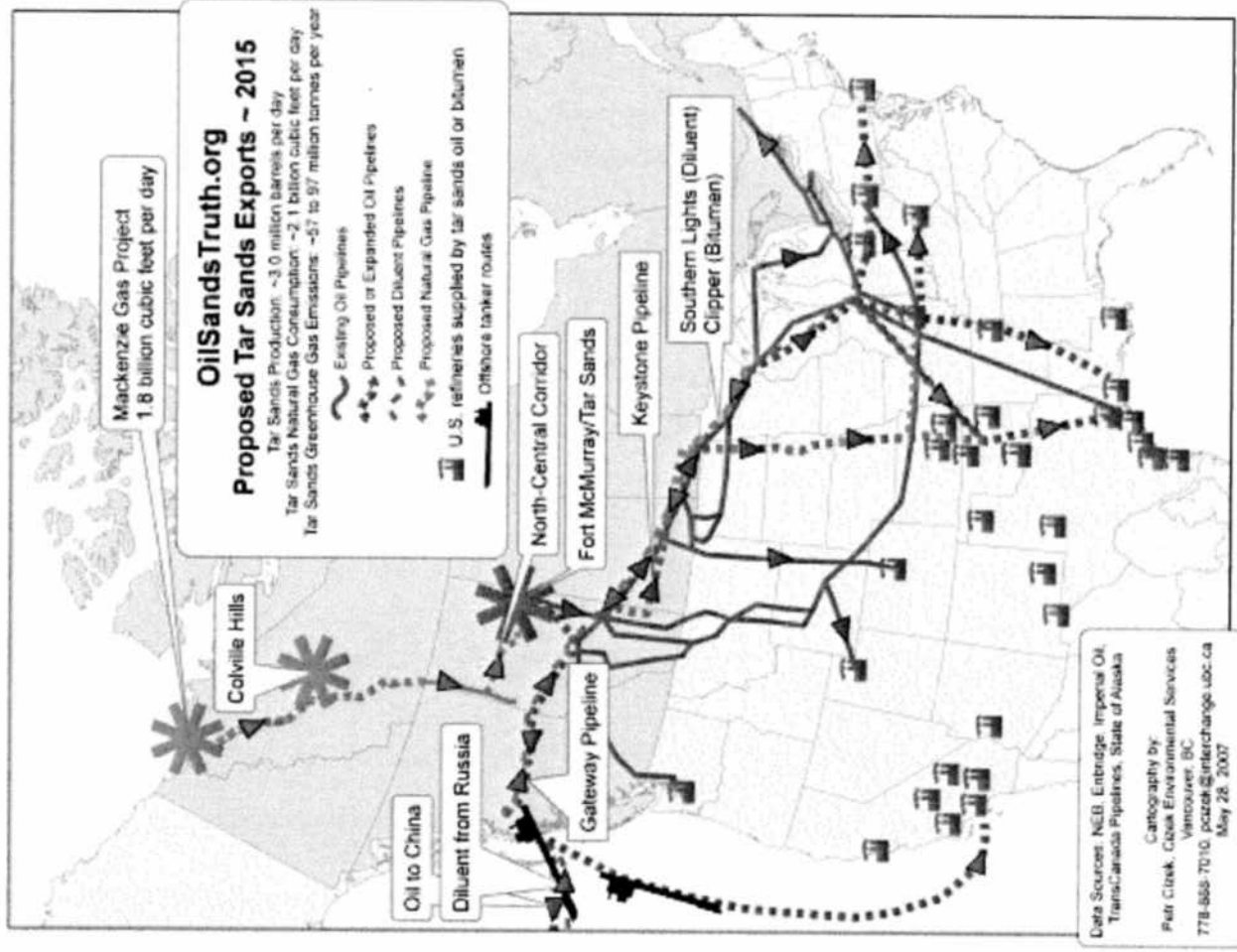
- 1.6 more barrels/day by 2015
- 1.1 more barrels/day of tar sands





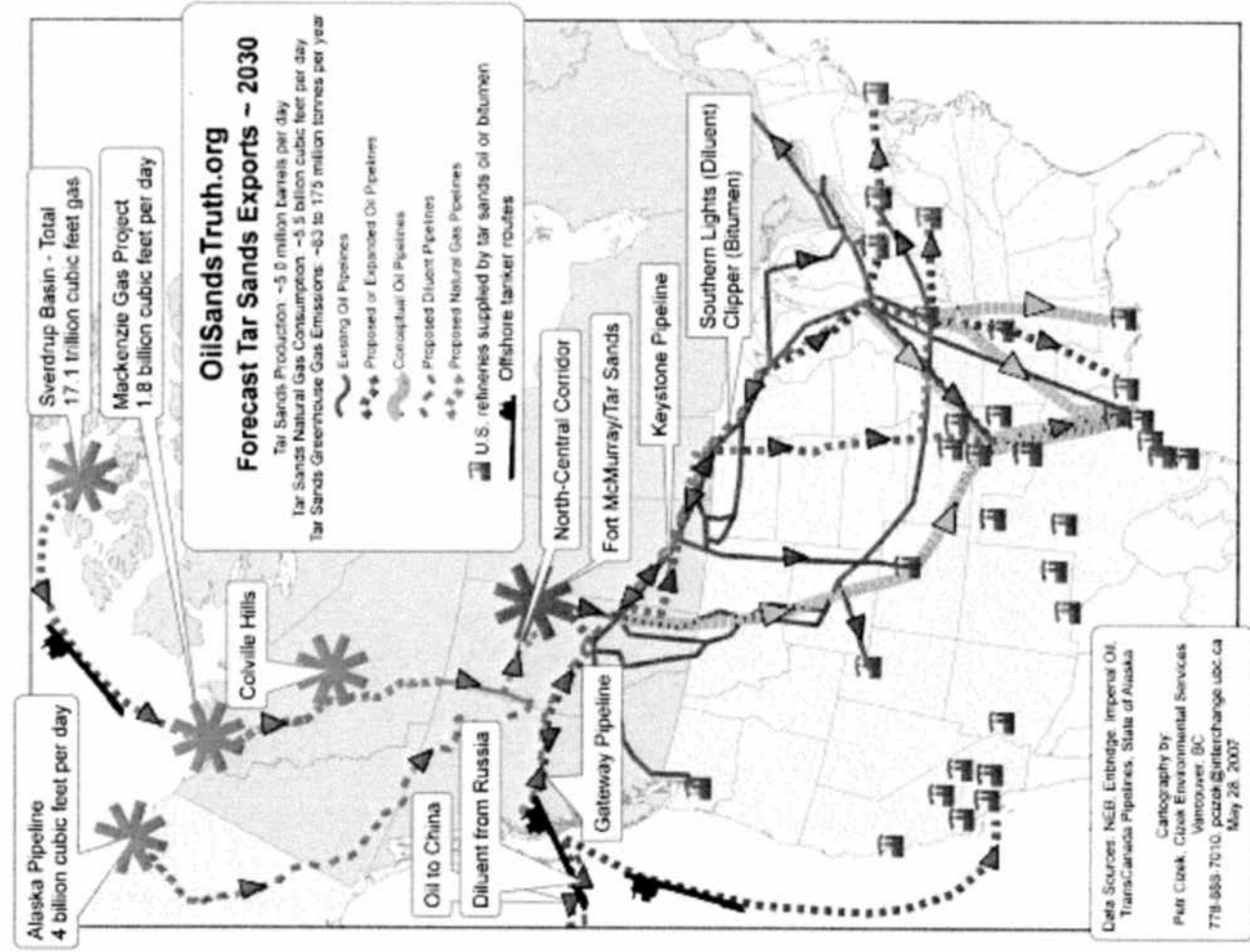
# A Globally Significant Threat

- \$100B in Pipeline and Refinery Expansions in the US
- Keystone Pipeline on-line by end of 2009 if approved



# A Globally Significant Threat

- Mackenzie Pipeline
- Gateway Pipeline
- Tanker Traffic



# A Globally Significant Response

- Network of leading US and Canadian NGOs
- Coordinated Campaign Structure
- RBF & Hewlett Foundations
- \$7M/year Campaign



# The Tar Sands Campaign: Strategy and Structure

Michael Marx  
Executive Director  
Corporate Ethics International  
July 2008



# Our Theory of Change

- Raise the Negatives
- Raise the Costs
- Slow Down and Stop Infrastructure
- Enroll Key Decision-Makers



# Goals of the Tar Sands Campaign

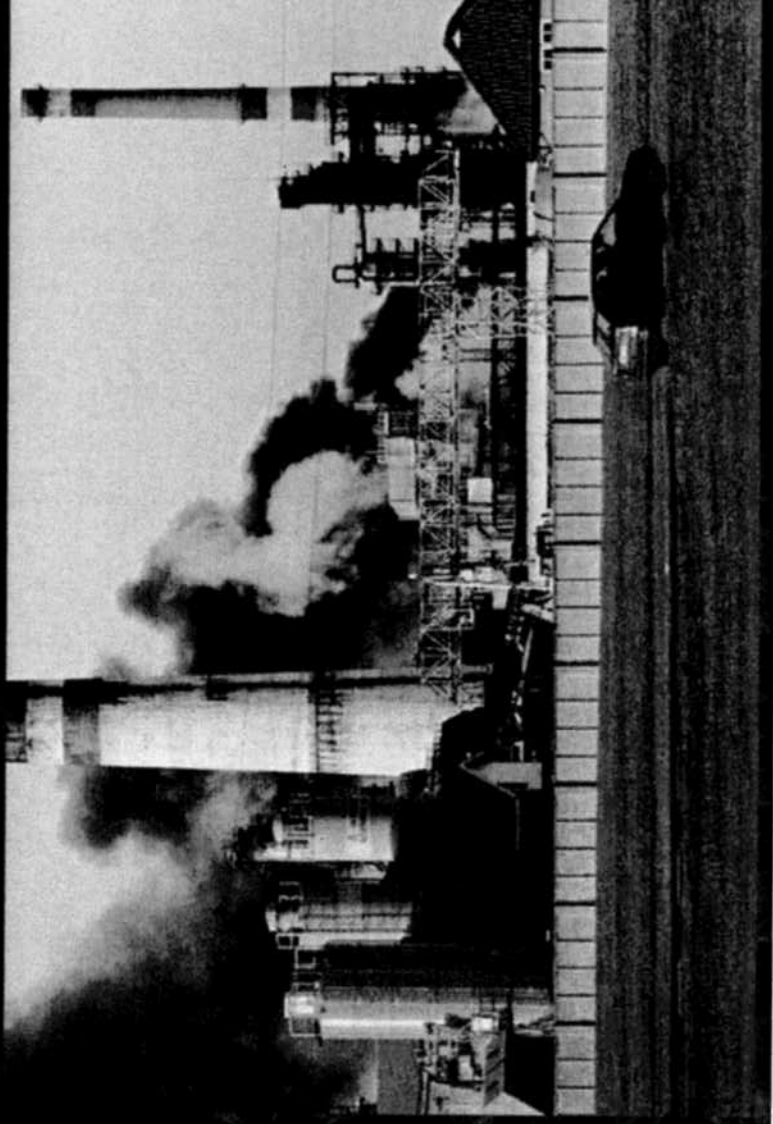
- Short-term: Change the Debate
- Mid-term: Moratorium
- Long-term: New Energy Paradigm

**MIGRATING TO  
NEW ENERGY  
Paradigms**  
**PART 1**

# Five Strategic Campaign Tracks

## Track 1:

Stop/Limit Pipelines  
and Refinery  
Expansions



# Five Strategic Campaign Tracks

## Track 2:

Force Tar Sands  
Water, Toxics, and  
Land Reforms





# Five Strategic Campaign Tracks

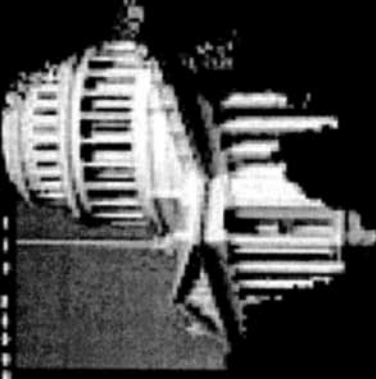
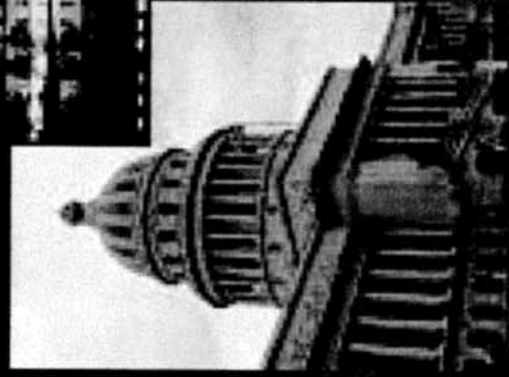
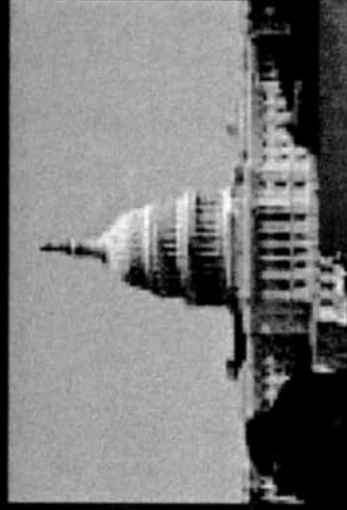
## Track 3:

Significantly Reduce  
Future Demand for  
Tar Sands Oil



# Five Strategic Campaign Tracks

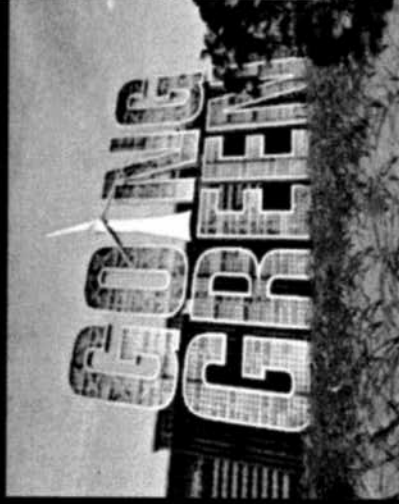
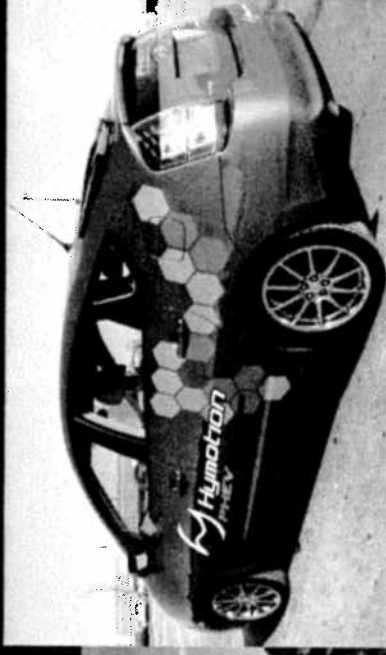
**Track 4:**  
Leverage the Tar  
Sands Debate for  
Policy Victories in  
the US and  
Canada



# Five Strategic Campaign Tracks

## Track 5:

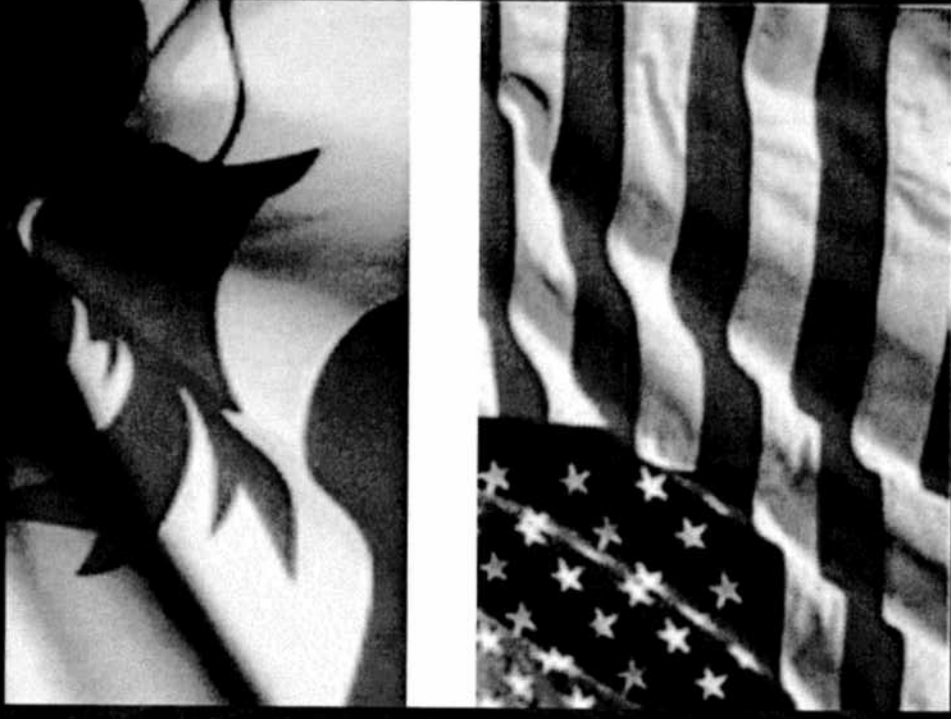
Generate Unity  
Around the Fuels  
Endgame and Sell it  
to Decision-Makers



# Tar Sands Campaign Structure

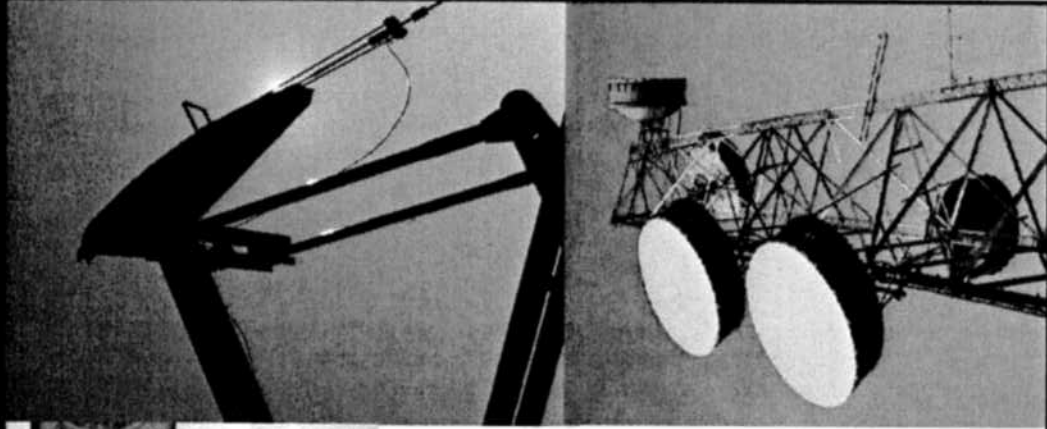
Campaign Coordinator

- US Coordinator
- Canadian Coordinator



# Tar Sands Campaign Structure

- Four Campaign Groups
  - Policy
  - Demand
  - Infrastructure
  - Communications



# Tar Sands Campaign Structure

## Steering Committee

- Coordinators
- Funders
- Campaign Group Reps
- Tides Tar Sands Fund



# Tar Sands Campaign Budget

\$7 Million/year

- Legal Suits
- Organizing
- Education
- Legislation



# Tar Sands & the Canadian Context

Dan Woynillowicz,  
Director External and Strategic Relations  
Pembina Institute (Canada)

July 2008





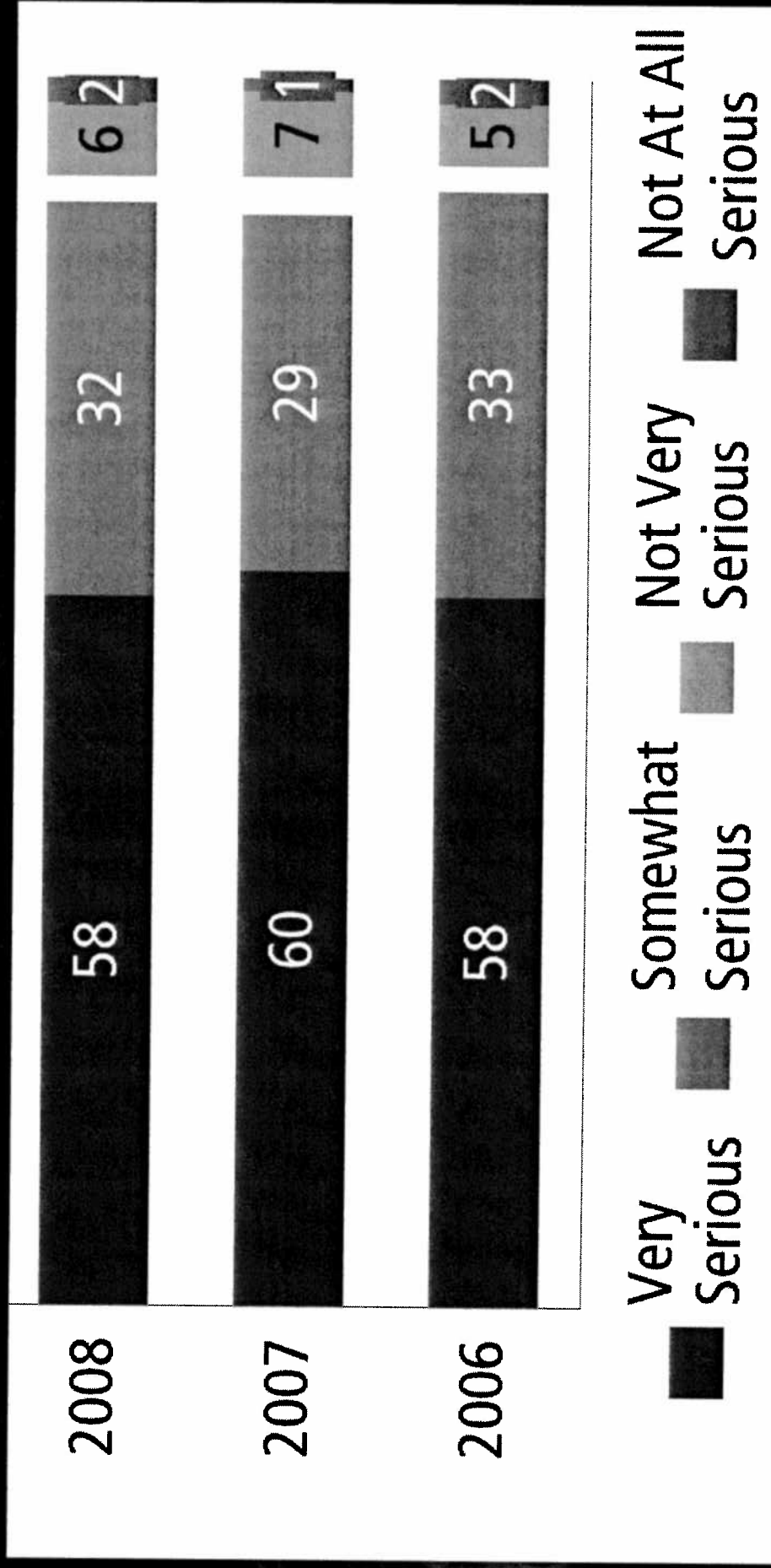
# The Pembina Institute

- Founded in Alberta in 1985 as an energy/environment think-tank
  - Policy research and analysis
  - Public interest advocacy and action
  - Public & private sector environmental analysis and consulting
  - Public / school education
- Active on tar sands issues since mid-1990s
- Launched significant tar sands outreach campaign in 2005
- Recognized content expertise, credibility and ability to engage directly with provincial/federal governments and industry

# Canadian Political Context

## Seriousness of Global Warming

2006-2008



# Canadian Political Context



# Strategic Track 1:

- Stop/Limit Pipelines and Refinery Expansions



Photo: David Dodge Copyright © The Pembina Institute

# Strategic Track 2:

- Force Tar Sands Water, Toxics, and Land Reforms



## Strategic Track 3:

- Significantly Reduce Future Demand for Tar Sands Oil



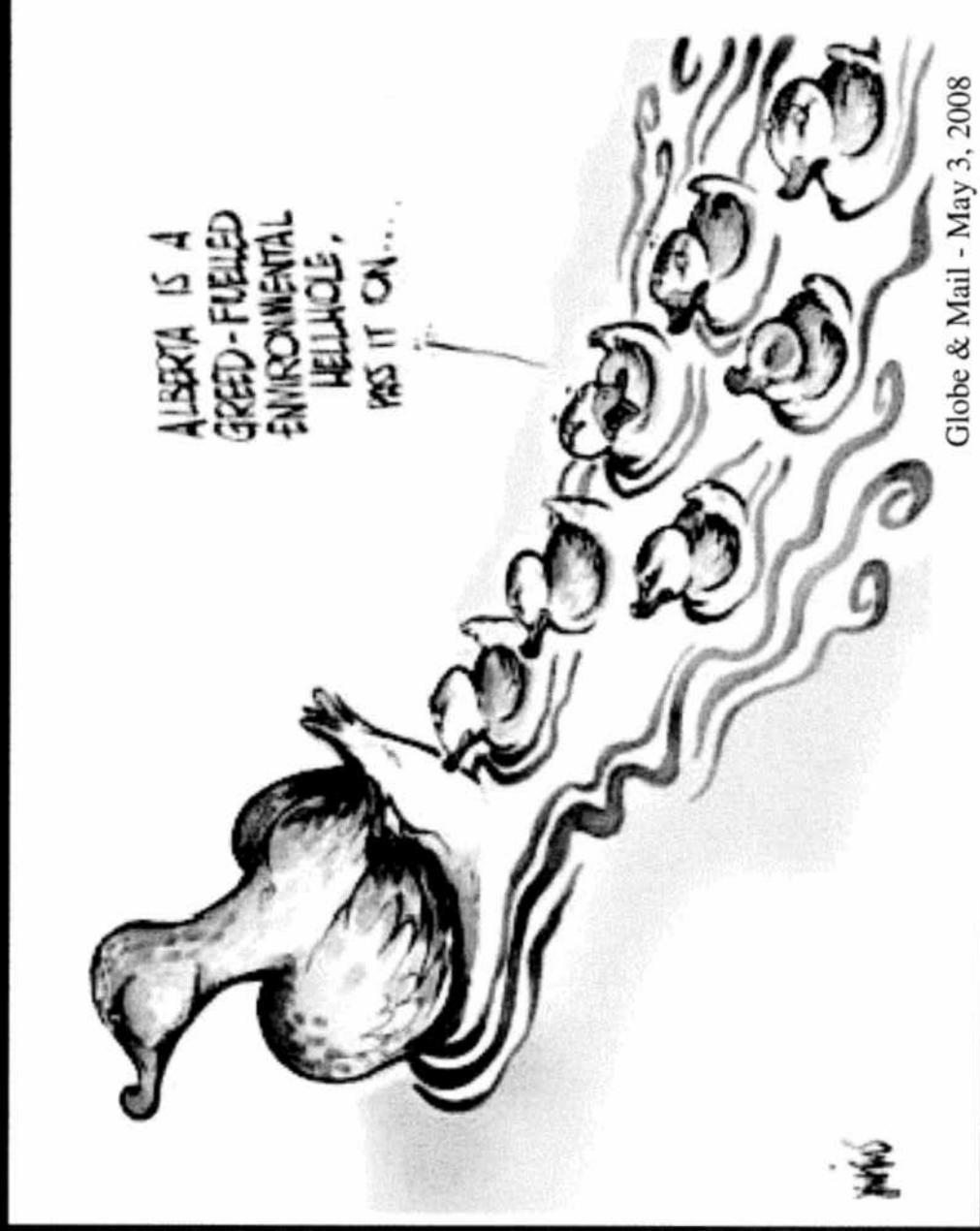
# Strategic Track 4:

- Leverage the Tar Sands Debate for Policy Victories in the US and Canada



# Strategic Track 5:

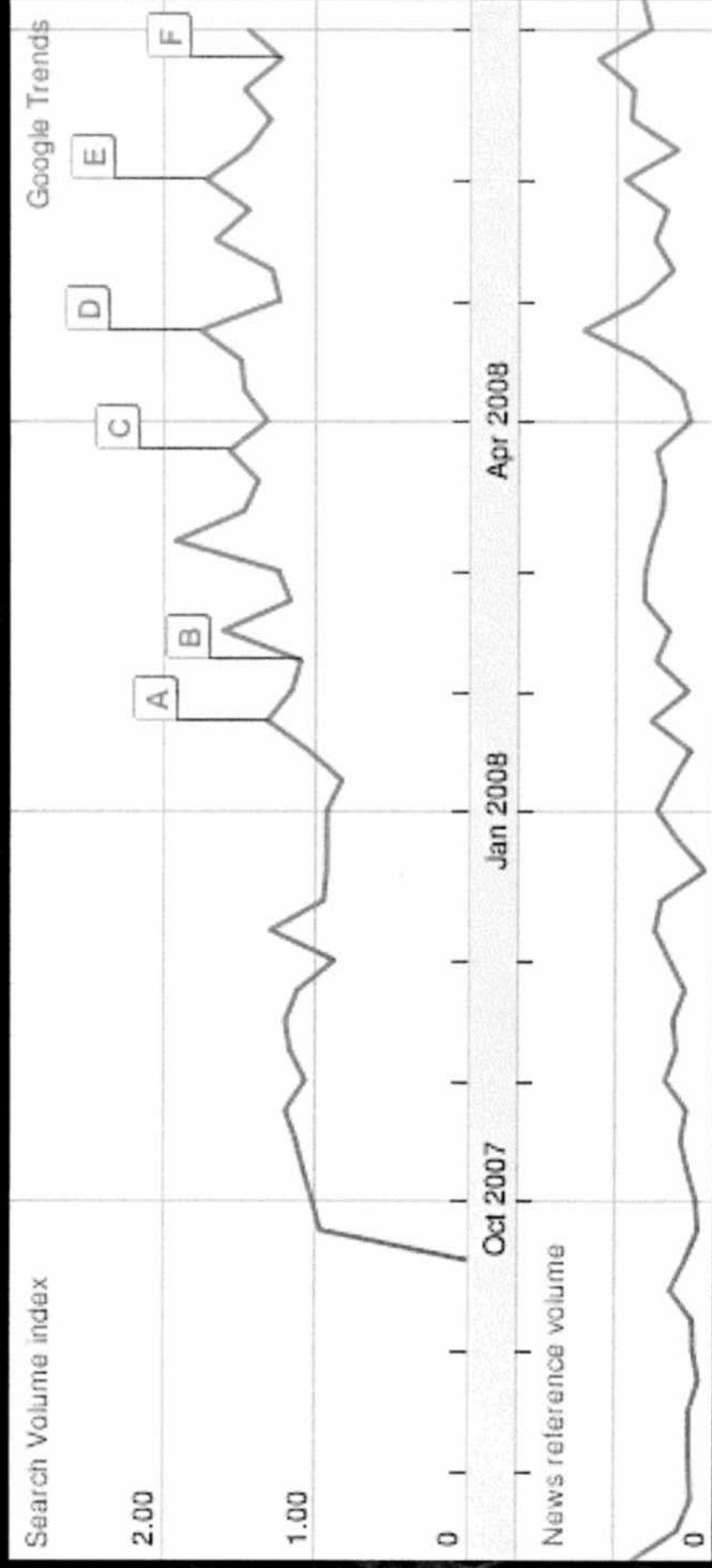
- Generate Unity Around the Fuels Endgame and Sell it to Decision-Makers





# Success

- Increasing media attention over past 12 months



# Success

- Tar sands was major topic at Premier's summit; Stelmach can't escape pressure in Canada or US
- Government responding to increased pressure:
  - Federal government 2018 tar sands cap
  - Alberta's \$2 billion in CCS
- BUT not willing to go far enough yet to clean up the problem.

# Resources Required

- Support for ongoing engagement in regulatory approvals processes
- Communications, media and web resources
- First Nations and other legal challenges
- Public mobilization in Ontario and Quebec

More info:

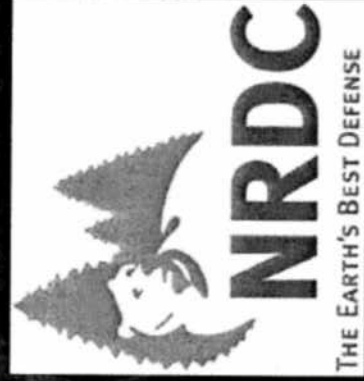
Contact [danw@pembina.org](mailto:danw@pembina.org) 1-403-538-7782

Visit [www.oilsandswatch.org](http://www.oilsandswatch.org)

# Drawing a Line in the Sand on the Canadian Tar Sands: US Campaign Strategies

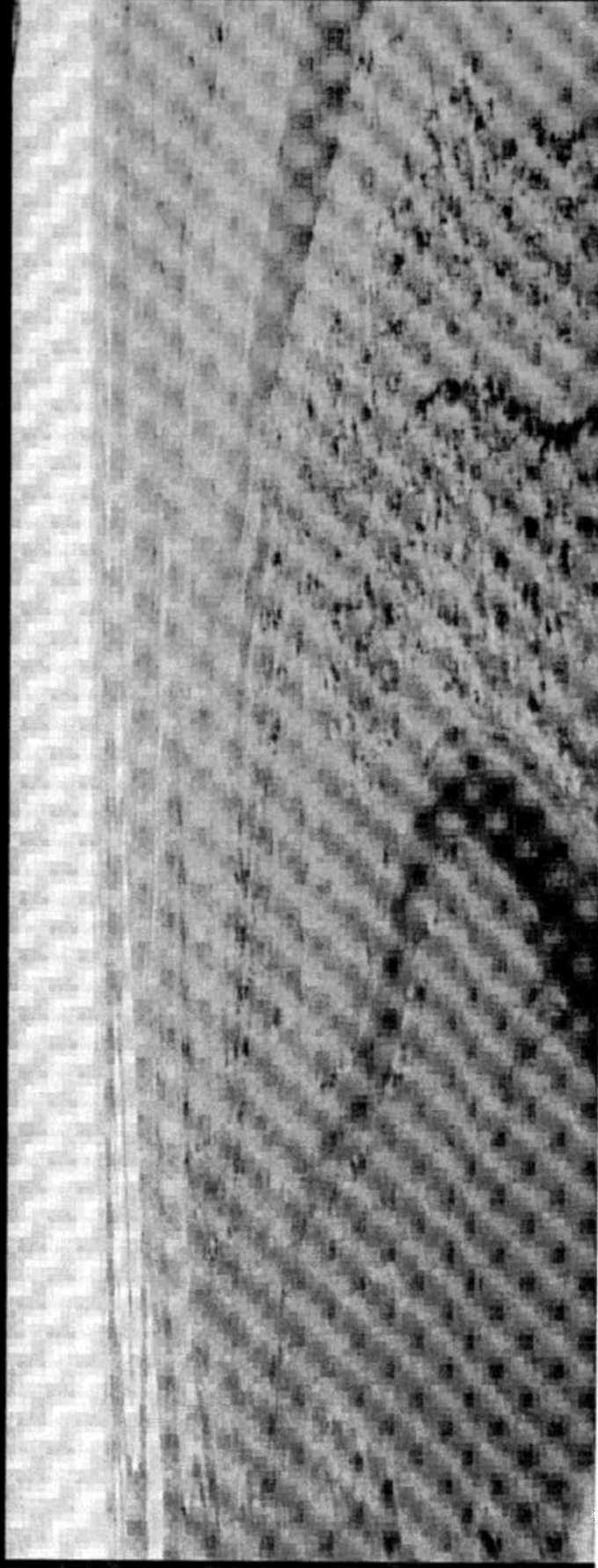
Susan Casey-Lefkowitz,  
Senior Attorney

NRDC on behalf of Tar Sands Coalition  
July 2008



# Why should we care in the United States?

- Global warming
- Boreal forest
- Environmental justice
- Migratory birds

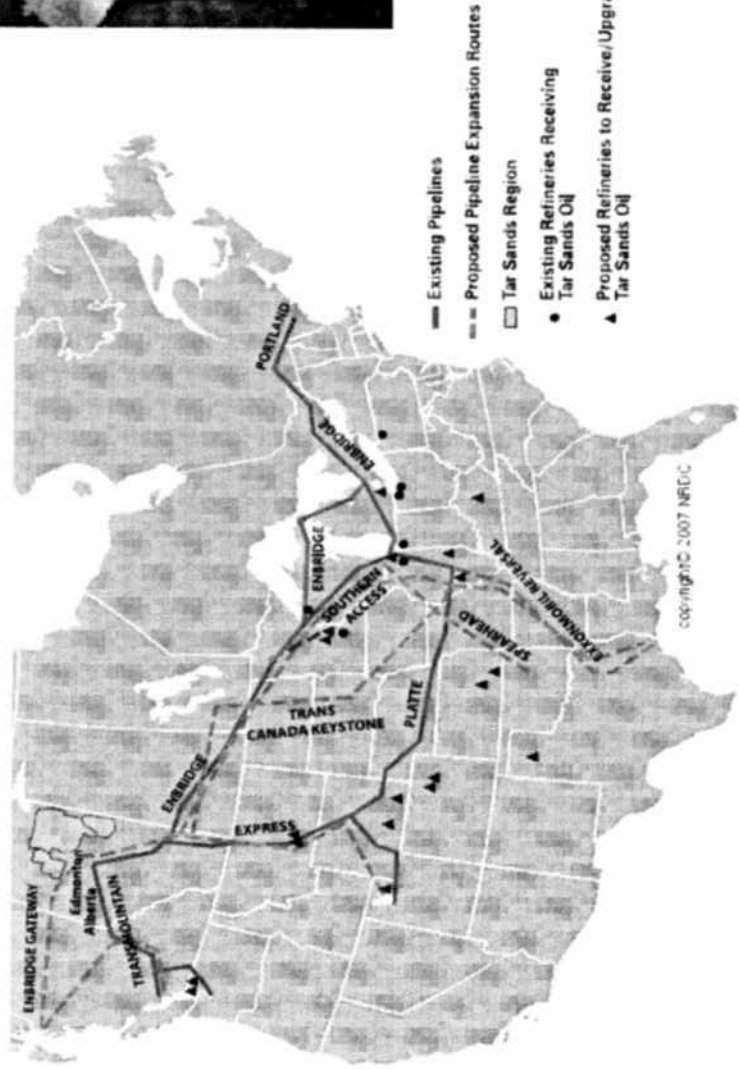


# Strategic Track 1:

- Stop/Limit Pipelines and Refinery Expansions



Tar Sands Links to the United States



# Strategic Track 3:

- Support low carbon fuel standard.
- Support lifecycle analysis.
- Protect government procurement rule.
- Fight infrastructure subsidies.



## Canada [Not just mounties and ice hockey anymore]

Canada's governments are allowing the Boreal forest to be dug up to bring America the world's dirtiest oil. Producing tar sands oil releases three times the global warming pollution of conventional oil and creates giant toxic lakes you can see from space.

And that's not all. Coming soon is a multimillion-dollar public relations campaign to tell you everything's fine.



Natural Resources Defense Council \* Sierra Club \* League of Conservation Voters  
Earthjustice \* Environment America \* World Wildlife Fund \* Greenpeace US  
Greenpeace Canada \* Public Citizen \* Southern Alliance for Clean Energy  
Friends Committee on National Legislation \* Boreal Songbird Initiative  
The Pembina Institute \* Council of Canadians \* Environmental Defence Canada  
Corporate Ethics International \* Toxics Watch Society of Alberta \* ForestEthics  
Oil Change International \* Rainforest Action Network \* Earthworks  
Global Community Monitor \* Polaris Institute \* Sierra Club of Canada  
Western Organization of Research Councils \* Friends of the Earth  
Indigenous Environmental Network

May 7, 2008

Dear Senator,

On behalf of our millions of members and activists, we urge you to oppose amendments to the 2008 National Defense Authorization Bill that would repeal section 526 of the Energy Security and Independence Act of 2007. We also urge you to oppose the authorization of long-term contracting authority for unconventional fuels to the



# Strategic Track 3, cont.:



- U.S. airlines for first time targeted to reduce global warming pollution.
- U.S. Conference of Mayors passed High Carbon Fuels resolution in May 2008 – local procurement rules next.
- Companies with fleets – many have made commitments around global warming. Tar sands commitments should be next.
- The Midwest and Western regions of the United States are ripe for regional campaigns focused on tar sands oil.

# Strategic Track 4: Leverage the Tar Sands Debate for Policy Victories

Support and provide incentives for:

- Comprehensive global warming legislation.
- Energy efficiency.
- Alternative fuels.



# Strategic Track 5: Unifying and Promoting the Fuels End-Game

- Tar sands as example of the “wrong” transportation fuel path.
- Tar sands as motivator for environmental community to come together around a clear path of environmentally sustainable energy and fuels for our future.
- Participate in the work to identify and unify around a plan for breaking our dependence on oil.

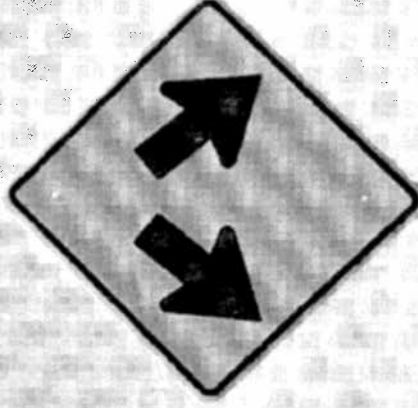
*“Today I challenge our nation to commit to producing 100 percent of our electricity from renewable energy and truly clean carbon-free sources within 10 years.*

*Our success depends on our willingness as a people to undertake this journey and to complete it within 10 years. Once again, we have an opportunity to take a giant leap for humankind”. – Al Gore, July 2008*

## Driving It Home

Choosing the Right Path for Fueling  
North America's Transportation Future

July 2008



A joint report by  
Natural Resources Defense Council  
Western Resource Institute  
Purdue Institute



# Theory of Change: Raise the Financial Risks

- **Banks:** Investment portfolio, global warming commitments and conservation commitments.
- **Investors:** Raise investment risk profile of toxics, health liability, water limitations, infrastructure limitations and global warming pollution. Prevent the proposed modification of SEC reserves reporting rules that would reward and encourage further tar sands exploitation

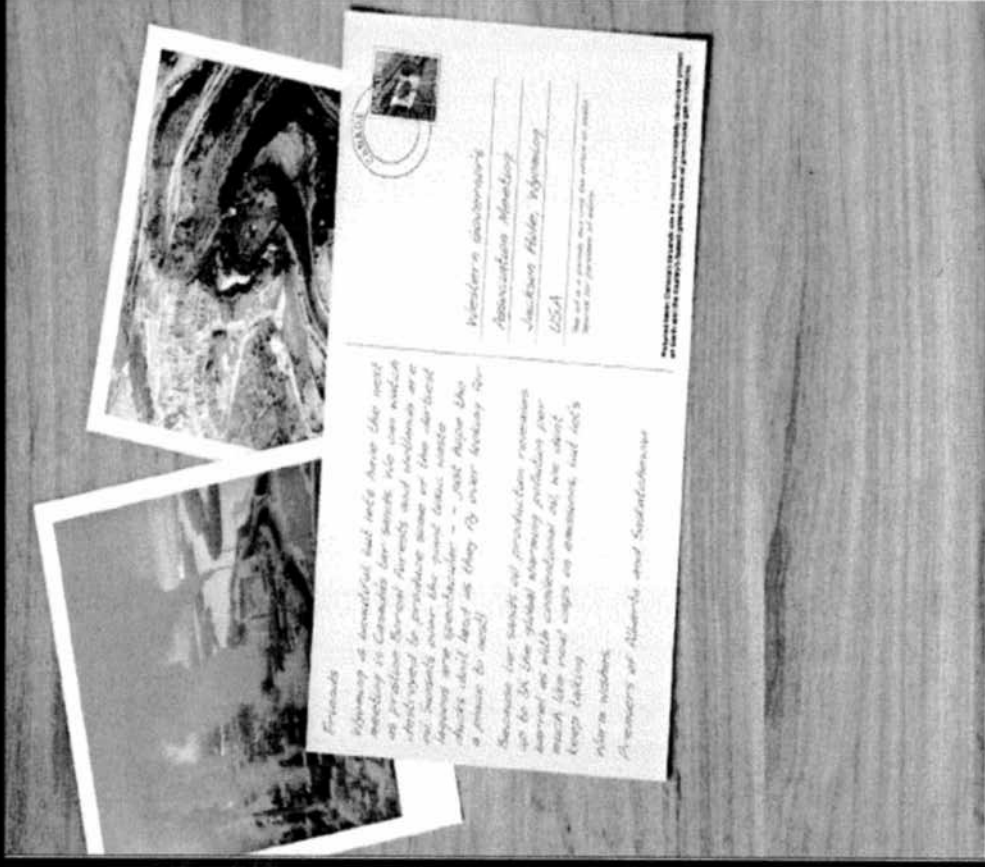


Human Energy™



# Theory of Change: Define the Terms of the Debate

- Opinion- leaders.
- Links to groups working on global warming, energy, transportation, liquid coal, oil shale and conservation.
- Push back against tar sands propaganda in the United States.
- Communications/media.



“If politicians remain at loggerheads, citizens must lead. Those last drops [of oil] are no solution. They yield continued exorbitant profits for a short-sighted self-serving industry, but no alleviation of our addiction or long-term energy source.”

***James Hansen, Global Warming Twenty Years Later: Tipping Points Near, June 23, 2008***

# The Tar Sands Campaign

## Closing Thoughts

Thank you for your  
participation

