

**Streams of Oil and Barrels of Conflict:  
An MSF Analysis of Canadian Energy Policy since  
the Failure of  
the National Energy Program**

**by**

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## **Abstract**

Canadian policy on environmental protectionism has shifted under the Trudeau government, in line with signing onto COP21, breaking with the previous governments' passivity towards climate change. However, the Government's stance appears muddled. Though TransMountain Expansion was approved, Northern Gateway Pipeline was rejected. This policy change shows that the Trudeau government aims to move a balanced approach towards economic growth and environmental sustainability. I ask how this shift happened? I analyse Canadian energy policy from 1980-2015 using Kingdon's multiple streams framework to demonstrate why previous governments have prioritised economic growth over environmental protectionism since the failure of the National Energy Program. I find two competing dialogues in Canadian energy policy: neoliberalism and securitisation. During the time-period analysed, neoliberalism has won over securitisation because economic growth was prioritised by stakeholders. As the effects of climate become more concrete and irrefutable, new stakeholders have found their voice in the energy policy debate.

**Keywords:** Energy Security; Energy Policy; Environmental Policy; Anthropogenic Climate Disruption; Canada

*For Gram and Jeanne*

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## List of Acronyms

ACD	Anthropogenic Climate Disruption
ACN	Action Canada Network
CCME	Canadian Council of Ministers on the Environment
CCS	Carbon Capture and Storage
CELA	Canadian Environmental Law Association
CUFTA	Canada-U.S. Free-Trade Agreement
DAPL	Dakota Access Pipeline
GHG	Greenhouse Gas
EPTA	Canada-Alberta Energy Pricing and Taxation Agreement
FIRA	Foreign Investment Review Agency
IORT	Incremental Oil Revenue Tax
MNC	Multinational Corporations
MSF	Multiple Streams Framework
NAFTA	North American Free-Trade Agreement
NEB	National Energy Board
NEP	The National Energy Program
OPEC	Organisation of Petroleum Exporting Countries
PGRT	Petroleum and Gas Revenue Tax
SAGD	Steam assisted gravity drainage
TMX	TransMountain Expansion

# Chapter 1.

## Introduction

In 1973, the Organising of the Petroleum Exporting Countries (OPEC) cut oil production causing a worldwide shortage in oil. Net-importing countries, countries that relied on importing oil for its supply, were unable to fulfil their need. The federal government faced a dilemma. It too was impacted by the crisis caused by the oil embargo. Like other non-OPEC countries, the federal government aimed to implement an energy security policy that would ensure its supply of oil. The result was the controversial, and short-lived, National Energy Program (NEP). The NEP failed after only five years of implementation; however, its effects on Canadian energy policy have lingered.

Since the failure of the NEP, there has not been a clear energy policy. Instead, Canadian decision-makers have focused on increasing economic growth from Canadian natural resources through finding and securitising markets for these resources. Securitising an object elevates it above normal politics. It gives the object an intrinsic value which needs to be protected from all phenomena that could cause it harm. By securitising markets, the federal government has aimed to intervene little in the bitumen sands. There is not a consensus on this policy path. Normative debates on energy policy persist. Advocates of an economic-based policy see oil as a commodity that ensures Canada's economic strength. Opponents of said policy see oil as more than a commodity. During the oil crisis, they saw oil as a public good that needed to be secured for Canadian use. Currently, the debate has shifted. The concern of many opponents is no longer about securing oil for Canadian use. Instead, they want to transition away from oil because of its impact on anthropogenic climate disruption (ACD).

In this study, I focus on energy policy generally, and oil specifically to understand why, until the current Trudeau government, governments were hesitant to implement ACD

mitigation policy. The importance of this work is to determine the political blockages that have kept the federal government from formulating a clear policy on climate. In this study, I tackle the question: what has enabled the energy policy to shift from an economic-growth based policy to a more balanced economic-environmental policy under the Trudeau government?

To answer this question, I use Kingdon's multiple streams framework (MSF) to explain the history of Canada's (lack) of ACD policy implementation. I will also use Hart and Victor's historical analysis, "Scientific Elites and the Making of US Policy for Climate Change Research, 1957-74" as a template on how to apply Kingdon's model to the Canadian decision-making process in energy policy. I will first give a summary of the MSF. I will also show how Hart and Victor use each stream to explain the eventual policing change (funding) in the US ACD scientific elites gained in their historical analysis from 1957-1974. I will translate this analysis to show how eventual energy policy change happened in Canada under Justin Trudeau. I then include the strengths and weaknesses of MSF in explaining decision-making.

## **1.1. Theoretical Framework**

### **1.1.1. Multiple Streams Framework**

According to Kingdon, there are three conditions that are necessary for policy change: problems, policies, and politics. These three together create an opportunity, or policy window, for a change in policy. Kingdon argues that these streams are independent of each other with the exception of "coupling."<sup>1</sup> For Kingdon, coupling occurs when an opportunity arises for the streams to converge through the actions of policy entrepreneurs.<sup>2</sup> Policy entrepreneurs are defined as actors either internal or external to government who advocate and compete for an idea or proposal to be considered.<sup>3</sup>

<sup>1</sup> John W. Kingdon, *Agendas, Alternatives, and Public Policies* (New York: HarperCollins College Publishers, 1995), 20.

<sup>2</sup> *Ibid.*, 173.

<sup>3</sup> *Ibid.*, 122-123 & 184.

## ***The Problem Stream***

The first stream is the problem stream. Kingdon defines a problem as a condition that is identified as needing change due to impacts that bring attention to the condition.<sup>4</sup> The first change discussed is the interpretation of indicators such as “federal expenditures and budgetary impacts.”<sup>5</sup> Focusing events also can occur during times such as “a crisis or disaster that comes along to call attention to the problem, a powerful symbol that catches on, or the personal experience of a policy member.”<sup>6</sup> Feedback given to governmental officials “often brings problems to their attention: programs that are not working as planned, implementation that does not square their interpretation of the legislative mandate, new problems that have arisen as a result of a program’s enactment, or anticipated consequences that must be remedied.”<sup>7</sup>

Hart and Victor start their narrative by exploring the history behind climate change and the discovery that increased carbon dioxide emissions cause the planet to warm. They explain the process as discovery of a hypothesis to hypothesis-change. The scientific elite discovered that increased carbon emissions do cause the planet’s temperature to increase, but they disagreed what the main cause of the emissions was. Hart and Victor explain that leading scientists Chamberlain and Arrhenius saw this warming caused by natural and man-made causes respectively.<sup>8</sup> The invention of nuclear weapons drew greater attention to the effect carbon emissions had on the.<sup>9</sup>

This paradigm shift event drew the scientific elite’s attention for two reasons: first, unlike the use of fossil fuels, nuclear weapons are inherently harmful. Fossil fuels are used to aid society in their day-to-day lives. Though fossil fuels may cause harm (carbon emissions), this harm is outweighed by its usefulness (an efficient source of energy). Second, nuclear weapons also gained more attention by scientists interested in climate

<sup>4</sup> Ibid., 91.

<sup>5</sup> Ibid., 91 & 94.

<sup>6</sup> Ibid.,98-99.

<sup>7</sup> Ibid., 100-101.

<sup>8</sup> David M. Hart and David G. Victor, “Scientific Elites and the Making of US Policy for Climate Change Research, 1957-1974,” in *Social Studies of Science* 23 (1993), 647.

<sup>9</sup> Ibid., 647-648.

change because it was a new technology. Since the technology was new, nuclear weapon testing provided scientists with the ability to test the carbon cycle because this new technology created new testable conditions.<sup>10</sup>

In my historical analysis of Canadian energy policy, I look for paradigm shift events as these events will result in interest for policy change. These events will include, but not exclusively, new governments, risk to supply, and risk to economy. These are also identified by Kingdon as likely to proceed policy change. Paradigm shift events are more likely to result in change because “[p]eople are sometimes reluctant to make big steps.”<sup>11</sup> Events, like those identified, give decision makers more license to create change because there is more expectation for change during these times. For example, when a new Prime Minister comes to office, there is an expectation for them to implement different policies than the previous Prime Minister. If that expectation did not exist, the previous Prime Minister would not have lost the election.

MSF suggests that decision makers seek policy change when there is a paradigm shift event.

### ***The Policy Stream***

The second stream is the policy stream that is “composed of such things as public mood, pressure group campaigns, election results, partisan or ideological distributions in [the legislature], and changes of administration.”<sup>12</sup> The three factors that are important are the national mood, organised political forces, and government in the political stream. The national mood gives a sense of the public’s appetite for policy change. The organised political forces are where actors make alliances and compromises for their preferred idea. Strong supporters will try to limit change to their preferred idea, but they will abandon it if there is strong opposition.<sup>13</sup>

<sup>10</sup> Ibid., 648.

<sup>11</sup> Kingdon, *Agendas, Alternatives, and Public Policies*, 80.

<sup>12</sup> Ibid., 145.

<sup>13</sup> Ibid., 151.

For Hart and Victor, policy change is when scientific elites are able to secure funding. Because of this, I will focus this summary on the scientific elite's ability to hold the US federal government's attention as this is a precursor to whether funding is awarded. From the 1940s-1960s, the federal government was reportedly interested in weather modification instead of climate monitoring. In 1966, atmospheric modellers almost were awarded funding for rain seeding.<sup>14</sup> Scientific elites finally found success in the 1970s after they gained the environmentalists as allies. This timing worked because at the same time Secretary of State Henry Kissinger was concerned with the effect "climatic disasters" had on the stability of the developing world.<sup>15</sup>

For Kingdon, consensus does not necessarily mean that everyone agrees that the policy should be implemented. Instead, gaining consensus is the ability to gather enough attention that determines whether or not there is *appetite for change*. This measurement is ambiguous and dependent on the situation. In Hart and Victor's case study "enough attention" is the number of congresspeople needed to award elite scientists funding. Atmospheric modellers almost received that measurement in 1966. In the 1970s, "enough attention" was that of Kissinger. Hart and Victor's analysis pins Kissinger as necessary for consensus as they do not expand on congress's role in awarding funding in the 1970s.

Determining what is "enough" is difficult. Though the NEP was supported by the majority of Canadians, the failure of the NEP shows that this was not enough. As shown by Hart and Victor's case study, enough can be as little as one person. For Canadian decision makers, more than one person will be needed to receive enough attention to determine the appetite. Determining the number of what is considered to be enough because each event is dependent on the situation. Because of this, I will not focus on quantifying what is considered enough attention to determine appetite for change.

What will be helpful in my analysis is to look at who Canadian decision makers look to for appetite and if they look at any group for appetite. For the purposes of this exercise, it will be difficult for me to keep the streams independent of each other as I believe that who decision makers tap to be allies will likely determine who they look to for

<sup>14</sup> Hart and Victor, "Scientific Elites," 659.

<sup>15</sup> Ibid., 665.

appetite for change. This can be problematic because it will create a confirmation bias where there seems to be an appetite for change when the group the decision maker considers is due to their allies. If a decision maker does this without considering the how stakeholders are effected by policy change, the policy will likely fail.

MSF suggests having a consensus with an appetite for change, decision makers must include those who will be affected by policy change.

### ***The Politics Stream***

The third stream is the politics stream where ideas and alternatives are formulated within policy communities. Kingdon defines policy communities as groups of “specialists in a given policy area” within and outside of the government.<sup>16</sup> He likens this process to that of biological natural selection. The movement of ideas and alternatives are similar to the “primeval soup.” Ideas are seen as organic. They evolve, blend, and fade as they interact in the “soup” or policy community.<sup>17</sup> Policy entrepreneurs act as advocates for their preferred policy, and policies that are deemed technically feasible, “compatible with the values of the specialists,” and anticipate future constraints (such as the budget) have greater chances to survive.<sup>18</sup>

Hart and Victor measure “policy change” by scientific elites by their ability to gain funding for research.<sup>19</sup> They summarise the two competing dialogues from 1957-1964 was between the carbon cycle and atmospheric modelling. Hart and Victor explain that atmospheric modelling was necessary for carbon cycle modelling, but atmospheric modelling had difficulty getting funding.<sup>20</sup> One main reason for this was because atmospheric modelling was not a priority of the scientific community.<sup>21</sup> Without the ability to gain the support of the scientific community, findings from atmospheric modelling, and the arguments framed by researchers because of those results went mostly unnoticed by

<sup>16</sup> Ibid., 117.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid., 131-138.

<sup>19</sup> Hart and Victor, “Scientific Elites,” 644.

<sup>20</sup> Ibid., 650.

<sup>21</sup> Ibid., 651.



the federal government.<sup>22</sup> More on the interest from the federal section will be discussed in the next section.

The third stream consists of finding allies, making compromises, or folding. Atmospheric and carbon cycle modellers had difficulty finding allies until the early 1970s when they were able to convince environmentalists that the greenhouse effect was an environmental concern.<sup>23</sup> In reframing the concern as environmental, researchers used similar language as environmentalists in their publications to court them instead of using typical scientific language they would normally use.<sup>24</sup> The scientific elite were aware that reframing the issue was not enough, but they also needed to use similar language. Reframing the greenhouse effect as an environmental concern would be insufficient if environmentalists were not shown why they should care about the greenhouse effect as an environmental concern. Doing this would be difficult if environmentalists were not engaged in the conversation, and the easiest way to engage them would be to use their language.

In my historical analysis, I will look for when and how decision makers go about courting allies and which parties the decision maker chooses to court. Hart and Victor's case study show the importance of appropriate allies. Allies are appropriate if they increase the likelihood the decision maker's proposed policy is successful. There are different conceptualisations of "success." For the purposes of this study, the success of a proposed policy is binary. A successful proposal is implemented and must have longevity. An unsuccessful proposal does not accomplish this.

I will also be looking at the compromises decision makers needed to make to gain allies. This will not determine the success of the proposal, but it will determine whether the policy that was implemented was able to fulfil its initial purpose. As this process can happen before or after a policy is implemented, I will be looking at the compromises made by the decision maker before and after implementation. This will determine whether or

<sup>22</sup> Ibid., 652.

<sup>23</sup> Ibid., 661.

<sup>24</sup> Ibid., 662.

not the decision maker was successful in courting appropriate allies or if the decision maker should not have pursued implementing the policy.

MSF suggests that decision makers court appropriate allies to ensure the success of their policy.

### ***The Virtue of Knowing when to Wait.***

Timing is necessary for policy change. For all the streams to couple there must be an opportunity or policy window. Kingdon explains that “the policy window presents the opportunity for a launch.”<sup>25</sup> He further explains that they “stay open only for short periods.”<sup>26</sup> If the streams do not couple in time to take advantage of an opportunity, the policy will either be abandoned, or decision makers will need to wait until another opportunity presents itself. Because timing is so important to Kingdon, this leaves an element of chance to policy making that is outside of the decision maker’s control.

Hart and Victor explain that scientific elites chose to wait until another policy window was revealed after they were unable to secure funding in the 1960s, and this patience paid off when they were able to successfully court allies before gaining the attention of Kissinger.<sup>27</sup> Timing was not only crucial for a policy window, but it was also crucial before the policy window opened. During the 1960s Hart and Victor did not identify other actors who, like Kissinger, were concerned with climatic impacts. Counterfactually, if there were, the scientific elites would not be prepared for a policy window when considering Kingdon’s conditions.

In my analysis, I need to determine whether the decision maker is prepared for a policy window. For the decision maker to be prepared, Kingdon’s three conditions must be fulfilled before the decision maker can attempt to change policy. Opportunity cannot be created artificially. Though this is not explicitly explained by Kingdon nor Hart and Victor, it is apparent in their works. Instead, decision makers must be aware and recognise when they can implement policy change for that change to be successful.

<sup>25</sup> Kingdon, *Agendas, Alternatives, and Public Policies*, 166.

<sup>26</sup> Ibid.

<sup>27</sup> Hart and Victor, “Scientific Elites.”

MSF suggests that decision makers are more successful at creating policy change if they recognise a policy window.

## 1.2. Research Methodology

I will utilise process tracing to answer my questions. This will allow me to create a rich timeframe of events that likely resulted in the lack of environmental policy in the bitumen sands from 1980 to 2015. The purpose of process tracing is to create a rich timeline of events that likely caused a specific policy or event.<sup>28</sup> This is not an easy task as it forces the researcher not only to have a vast knowledge of the historical events but also forces the researcher to be self-aware of their own biases and be willing to “step back” when their theories do not fit the timeline.<sup>29</sup> It is also necessary that the researcher communicates their findings in a way that is both transparent and satisfying.<sup>30</sup>

Process tracing has four tests for causation. Table 3 is a recreation of the table created by Bennett in his explanation of causation tests. This table shows the importance of conducting multiple tests as only one test can confirm a hypothesis, and this test is difficult to prove, and only two tests can eliminate a hypothesis.<sup>31</sup> My data for process tracing will include books, journal articles, political magazine articles, trade magazines, policy papers, and speeches. This list is not exhaustive, but it is meant to give an idea of the breadth of information I will collect to build my analysis. As warned by Bennett, I must be mindful of the amount of information I collect so as not to overwhelm the analysis.

<sup>28</sup> James Mahoney, “Process Tracing and Historical Explanation,” in *Security Studies* 24 no. 2 (2015), 201; Nina Tannenwald, “Process Tracing and Security Studies,” in *Security Studies* 24 no. 2 (2015), 221.

<sup>29</sup> Mahoney, “Historical Explanation,” 202-203; Tannenwald, “Security Studies,” 225.

<sup>30</sup> Mahoney, “Historical Explanation,” 201.

<sup>31</sup> *Ibid.*, 210-219.

**Table 3.1: Process Tracing: Four Tests for Causation<sup>32</sup>**

		Sufficient to Establish Causation	
		No	Yes
Necessary to Establish Causation	No	<b>Straw in the Wind</b> <i>Passing</i> affirms relevance of hypothesis but does not confirm it.  <i>Failing</i> suggests hypothesis may not be relevant, but does not eliminate it.	<b>Smoking Gun</b> <i>Passing</i> confirms hypothesis.  <i>Failing</i> does not eliminate it.
	Yes	<b>Hoop</b> <i>Passing</i> affirms relevance of hypothesis but does not confirm it.  <i>Failing</i> eliminates it.	<b>Doubly Decisive</b> <i>Passing</i> confirms hypothesis and eliminates others.  <i>Failing</i> eliminates it.

### 1.3. Limitations of Study

#### 1.3.1. Limitations of the Case Study

The first limitation of my study is the case study. I have chosen not to compare the Canadian experience with another oil producing country because the purpose of this study is to analyse each decision maker and the decision-making process as individual cases to determine the trend of the 35-year period. The purpose of a comparison is to shed light on the observation. Because the purpose of my study rests on both actions of the decision maker and the timing of implementation, the comparison would need to be exact to the Canadian experience.

<sup>32</sup> Andrew. Bennett, "Process Tracing and Causal Inference," in *Rethinking Social Inquiry: Diverse Tools, Shared Standards*, ed. Henry E. Brady and David Collier (Lanham: Rowman & Littlefield Publishers, Inc., 2010), 210.

I start my analysis in 1980 when the NEP was implemented because it was the first energy security policy the federal government implemented. I will show how the response to the NEP by oil-producing provinces and the U.S. and the failure of the NEP have impacted energy policy and policy on climate since the NEP's failure. I end my analysis in 2015 because the Conservative government was defeated in the election, and one of the reasons for its defeat is due to its inability to adapt to the growing saliency of ACD. This created an opportunity for the Trudeau government to implement energy policies that balance economic and environmental concerns. For example, the Trudeau Government approved the Kinder Morgan Transmountain Expansion pipeline for economic reasons, but the government rejected the Enbridge Northern Gateway pipeline because of environmental concerns.

### **1.3.2. Limitations of the Theoretical Framework**

The most prominent weakness reviewed in the literature is the doubt that Kingdon's streams are independent. Mukherjee and Howlett ask who are the actors in each stream, and they ask whether each stream consisted of different actors, and they conclude that the streams cannot be independent unless the actors are.<sup>33</sup> Instead, they see the streams as intertwining and feedback moving amongst the streams.<sup>34</sup> Robinson and Eller discuss whether the streams are independent, and they test whether MSF can make falsifiable predictions. In their model, they show that MSF can make falsifiable predictions when participation is not independent.<sup>35</sup> As I am not attempting to predict behaviour, this is not a concern for my study.

For the purposes of this exercise, it will be difficult for me to keep the streams independent of each other. The strength of MSF is it helps identify the actions that belong within each stream. In my research, MSF helps me categorise actions that occur do and

<sup>33</sup> Ishani Mukherjee and Michael Howlett, "Who is a Stream? Epistemic Communities, Instrument Constituencies and Advocacy Coalitions in Public Policy-Making," in *Politics and Governance* 3 no. 2 (2015).

<sup>34</sup> *Ibid.*, 71-72.

<sup>35</sup> Scott E. Robinson and Warren S. Eller, "Participation in Policy Streams: Testing the Separation of Problems and Solutions in Subnational Policy Systems," in *Policy Studies Journal* 38 no. 2 (2010) 210-212.

do not result in policy and identify why policies can fail. My historical analysis is 35 years to discover patterns that an analysis of a shorter period might miss. Within this period there are examples of policy successes and failures. I will ultimately show why little ACD mitigation policy was not mitigating policy was implemented during this time.

MSF also does not help explain or consider the vital role of federalism in the Canadian decision-making process. As Kingdon formulated MSF while examining the U.S., Canadian federalism would not be considered. The Constitution gives the provinces autonomy over their resources, and it also constrains the federal government from implementing policies that the provinces might perceive as negatively impacting their jurisdiction. In my analysis, I find that every decision-making process has either succeeded or failed due to the inclusion or exclusion of the relevant provincial governments.

### **1.3.3. Limitations of Methodology**

Two main drawbacks to using process tracing are “the ‘infinite regress’ problem and the ‘degrees of freedom’ problem.”<sup>36</sup> In other words, that there can be too much detail in the analysis, and a number of variables may not be less than “cases in a data set.”<sup>37</sup> To rectify this, the researcher must keep in mind that they cannot “examine every line of evidence in equal detail.”<sup>38</sup> This can be done through setting clear limits of my analysis. I have done so by setting a time limit for my analysis, and I have only chosen to explore uncontroversial economic or environmental policies that impacted the oil sector.

## **1.4. Context of the Issue**

Typically, energy security, as a concept, has an economic connotation. For many states, both importers and exporters, energy security is the activity of ensuring the

<sup>36</sup> Bennett, “Process Tracing and Causal Inference,” 209.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

availability of affordable and reliable energy resources.<sup>39</sup> For importers, the main goal is the diversification of reliable supplies to reduce the risk of supply disruptions such as those experienced worldwide during the 1973 oil crisis.<sup>40</sup> Exporters, on the other hand, can choose between the goals of self-sufficiency or net-exporter. Since dismantling the National Energy Program (NEP) in 1985, Canada has been a net exporter for economic reasons.<sup>41</sup>

Since the fall of the NEP in 1980, Canadian prime ministers have avoided interventionist policies for the bitumen sands because of its perceived economic importance and the jurisdictional authority given to the provinces.<sup>42</sup> Through the implementation of CUFTA and later NAFTA, Canada and the U.S. have developed “the world’s most integrated and efficient border.”<sup>43</sup> Due to the vast resources in Northern Alberta and innovations from companies like Sun Oil, now Suncor, the bitumen sands have, until the recent drop in the price of oil, provided both royalties and high-wage jobs.<sup>44</sup>

#### **1.4.1. The Failure of the NEP**

There are different rationales and motivations given why Pierre Trudeau implemented the NEP. During the 1980 election campaign, Trudeau made several promises to secure and expand Canada’s oil supply, to promote the development of oil alternatives, and to “expand and strengthen” the state-owned Petro-Canada.<sup>45</sup> Before the implementation of the NEP, the petroleum industry was the fastest growing industry in

<sup>39</sup> B.W. Ang, W.L. Chong, and T.S. Ng, “Energy Security: Definitions, dimensions and indexes,” *Renewable and Sustainable Energy Reviews* 42 (2015): 1081.

<sup>40</sup> Ibid.

<sup>41</sup> Ronald S. Ritchie, “Oil Self-Sufficiency for Canada?” *Canadian Public Policy* 6 no. 3 (1980): 464.

<sup>42</sup> Jeffrey Simpson, Mark Jaccard, and Nic Rivers, *Hot Air: Meeting Canada’s Climate Change Challenge*. (Toronto: Electra, 2007).

<sup>43</sup> Alexander Moens, Taymaz Rastin, and Gregory O’Keefe, “Achieving Energy Security through Integrated Canada-American Markets,” *Fraser Institute Digital Publication* (2006).

<sup>44</sup> Daniel Yergin, *The Quest: Energy, Security, and the Remaking of the Modern World* (New York: Penguin, 2011).

<sup>45</sup> Larry Pratt, “Energy: The Roots of National Policy,” in *Studies in Political Economy* 7 no. 1 (1982), 30.

Canada due to foreign interest in Canada's energy resources and the 1973 oil crisis.<sup>46</sup> The rise in the price of oil had negative fiscal impacts due to the balance-of-payments which Ottawa aimed to correct with the increase of tax revenue the NEP would provide.<sup>47</sup> The increased economic importance of the oil sector during the 1970s, and the consumption of oil not declining even with the embargo made the oil sector was attractive to the federal government.<sup>48</sup>

After the NEP was implemented Trudeau attempted to find allies in Alberta through the Canada-Alberta Pricing and Taxation Agreement (EPTA). Ottawa made large compromises to make the NEP more palatable to Alberta. The features of the EPTA were to raise the price of Canadian oil closer to the world prices, "raised the Petroleum and Gas Revenue Tax (PGRT) from 8 to 12 percent...[it] eliminated the export tax on gas...[and] created a new Incremental Oil Revenue Tax (IORT) set at 50 percent on the difference between old oil [that was discovered between 1973-1981] and NEP prices of oil minus royalties."<sup>49</sup> Missing from the literature is the problem of the Trudeau government seeking allies after the implementation of the NEP. While campaigning, Trudeau focused his plans for the NEP outside of the oil-producing provinces. Though he did find appetite for change, his methods for gauging appetite were flawed because his efforts were targeted to those who would benefit instead of already existing stakeholders.

Ottawa also dealt with significant pressure from the U.S. to repeal the NEP as they saw it as a significant threat to their own energy security. The 1973 oil crisis forced the U.S. to find other sources for its oil supply, and Canada, due to its location and form of governance, was the most appealing supplier. As mentioned, much of oil production in Canada was done by American oil companies. They lobbied the federal government to

<sup>46</sup> Ibid., 44-45.

<sup>47</sup> Ritchie, "Oil Self-Sufficiency for Canada." 465; Pratt, "Energy: The Roots of National Policy," 40.

<sup>48</sup> Ritchie, "Oil Self-Sufficiency for Canada," 467.

<sup>49</sup> Barbara Jenkins, "Reexamining the 'Obsolescing Bargain': A Study of Canada's National Energy Program," in *International Organization*, 40 no. 1 (1986), 149.



increase oil exports to the U.S. to increase the U.S. supply.<sup>50</sup> In response to the NEP, the U.S. government tried to pressure the Trudeau government to repeal through diplomatic means, and when those means were unsuccessful the U.S. acted in kind by blocking Canadian investment in the U.S.<sup>51</sup> They also considered escalating by bringing their concerns to GATT but did not because they did not believe they would benefit from the outcome.<sup>52</sup>

### **1.4.2. Let Free Trade Reign**

After winning the 1984 election, two of Brian Mulroney's goals were to improve relations with the provinces and to negotiate a free trade agreement with the United States. In 1985, the Conservative government and the Western oil-producing provinces signed the Western Accord. The Western Accord was signed to deregulate the pricing structure that was set by the NEP and return the Canadian price of oil to the world market price.<sup>53</sup> This move also showed the U.S. that the Canadian government was willing to reverse its protectionist policies.<sup>54</sup> A free trade agreement with the U.S., Canadian oil's largest customer, would correct the negative impact the NEP had on the oil sector. The U.S. was keen to secure Canadian oil for its supply because it was unlikely Canadian decision-makers would use its resources against the U.S. as the OPEC countries did. The OPEC countries showed that they were willing to use their resources to punish U.S. foreign

<sup>50</sup> Much if not most of the American pressure was from U.S. oil companies that were directly affected by the Canadian government's intent to raise the Canadian ownership level in the Canadian oil sector which was dominated by U.S. companies. This "nationalised" or "Canadianised" component of the NEP was seen as unacceptable. Raising Canadian ownership percent would have (and has not had) no effect in how much oil Canadian producers would want to sell to the U.S. – only how many Canadians would benefit from the oil industry.

<sup>51</sup> Stephen Clarkson, *Canada and the Reagan Challenge: Crisis and Adjustment, 1981-1985* (Toronto: James Lorimer & Company, Publishers, 1985), 32-35.

<sup>52</sup> Ibid.

<sup>53</sup> John F. Helliwell, Mary E. MacGregor, Robert N. McRae and Andre Plourde, *Oil and Gas in Canada: The Effect of Domestic Policies and World Events* (Ottawa: Canadian Tax Foundation, 1989), 75; John F. Helliwell, Mary E. MacGregor, Robert N. McRae and Andre Plourde, "The Western Accord and Lower World Oil Prices," in *Canadian Public Policy* 12 no. 2 (1986).

<sup>54</sup> Helliwell et al., *Oil and Gas in Canada*, 76.

policy, and the U.S. needed an oil producing trading partner that would not do the same.<sup>55</sup> This and years of careful negotiations eventually created an agreement that the Americans were willing to join.<sup>56</sup>

After securing a market for Alberta and the supply for the U.S., Mulroney successfully negotiated the 1991 U.S.-Canada Air Quality Agreement (Acid Rain Treaty).<sup>57</sup> The agreement was championed by Mulroney as most of the acid rain that falls in Canada originates from the U.S.<sup>58</sup> The treaty aimed to reduce SO<sub>2</sub> emissions by 50 percent by 2000 which the western provinces and the oil and gas industry did not support.<sup>59</sup> Analyses of the Mulroney years do not discuss that free trade was necessary for the Acid Rain Treaty. Nor is there much focus on Mulroney's success at implementing an emissions reduction policy that included the oil sector.

### 1.4.3. Pride of the Kyoto Protocol

The goal of the Kyoto Protocol was to bring carbon emissions to 1990 levels. Jean Chrétien's goal when going into negotiations at Kyoto "was to outdo the United States for reasons of personal or national pride."<sup>60</sup> Chrétien's pride resulted in a "commitment to reduce emissions to 6 percent below 1990 levels by 2008 to 2012."<sup>61</sup> This commitment was made without a plan on how it was going to be met, and it was also made without

<sup>55</sup> Sebastian Herbstreuth, *Oil and American Identity: A Culture of Dependency and the Impact on U.S. Foreign Policy* (London: I.B. Tauris, 2016), 128.

<sup>56</sup> Michael Hart, Bill Dymond and Colin Robertson, *Decision at Midnight: Inside the Canada-U.S. Free-Trade Negotiations* (Vancouver: UBC Press, 1994).

<sup>57</sup> What is not clear is whether Mulroney strategically secured a free trade with the U.S. to ensure it would agree to signing the Acid Rain Treaty. He likely saw the logic of a free trade agreement as an instrument to help reduce sulphur dioxide in Canada and the U.S.

<sup>58</sup> Kathryn Harrison, *Passing the Buck: Federalism and Canadian Environmental Policy* (Vancouver: UBC Press, 1996), 109.

<sup>59</sup> Don Munton, "Acid Rain and Transboundary Air Quality in Canadian-American Relations," in *American Review of Canadian Studies* 27 no. 3 (1997); Vicki L. Golic and Terry Forrest Young, "Resolution of the United States-Canadian Conflict Over Acid Rain Controls," in *The Journal of Environmental and Development* 2 no. 1 (1993), 85.

<sup>60</sup> Kathryn Harrison, "The Struggle of Ideas and Self-Interest in Canadian Climate Policy," in *Global Commons, Domestic Decisions*, ed. Kathryn Harrison and Lisa McIntosh Sundstrom (Cambridge: MIT Press, 2010), 178.

<sup>61</sup> Ibid.

consulting the provinces as Mulroney did during the NAFTA negotiations. The provinces were “outraged” when the commitments were made.<sup>62</sup> For the oil sector, the commitments could decrease the profits it was enjoying during this boom period. Interestingly, Chrétien’s methods for an “interventionist” policy that would impact the oil sector is like those of Trudeau’s as he made similar mistakes as discussed above. This comparison is also missed by the literature. Because of the similarities, it is not surprising that Stephen Harper was hostile towards it.

#### **1.4.4. Never NEP Again**

Harper’s hostility towards Kyoto can be explained by his personal history. Harper’s support for the bitumen sands is attributed to his personal experience with the recession in the early 1980s and his belief that it was caused by the establishment of the NEP.<sup>63</sup> His actions reflected a desire to limit the possibility of another recession due to regulations. During his tenure, Prime Minister Harper sought to increase bitumen trade. The instability in the Middle East after 9/11 resulting in the rise in oil prices and the depletion of conventional oil sources in North America have made the bitumen sands economically viable.<sup>64</sup> President George W. Bush was not interested in implementing Kyoto.<sup>65</sup> With an ally in the U.S. and support from the oil-producing provinces, Harper’s policy to “water down” Canada’s emission reductions efforts did not suffer the same problems as Trudeau or Chrétien’s interventionist policies, but Harper showed caution by not withdrawing from Kyoto when he entered office. The Harper government stayed in Kyoto because it was politically beneficial. When coming into office in 2006, the Conservatives only won a minority government. The Liberals, NDP, and Bloc Québécois supported the Kyoto, and

<sup>62</sup> Ibid.

<sup>63</sup> William Johnson, *Stephen Harper and the Future of Canada* (Toronto: McClelland and Stewart Ltd., 2005).

<sup>64</sup> Mark S. Winfield, “‘Dirty Oil,’ ‘Responsible Resource Development’ and the Prospects for a National Conversation about Energy Sustainability in Canada,” in *Journal of Environmental Law* 25 (2013), 25.

<sup>65</sup> Julian Borger, “Bush Kills Global Warming Treaty,” in *The Guardian* (Washington, D.C.), 29 March 2001.

the Conservatives were also “interested in courting Québec...[which] had expressed support for Kyoto.”<sup>66</sup>

Though there are many historical accounts of Harper’s experience in Alberta during the NEP as the reason why Harper reduced regulations on the oil sector, what is interestingly missing is the exploration of this history as a political blockage for ACD mitigation policy. As saliency for ACD mitigation policy rose in both Canada and in the U.S., and as the price of oil fell in 2014, there is little discussion of reasoning for Harper’s inability or refusal to adapt to the changing mood. Even Alberta’s mood changed shown by the election of its first NDP government in 2015 and the implementation of carbon tax in 2016. Nor does any of the literature link these governments together to determine overall trends in decision making.

## **1.5. Aim of Study**

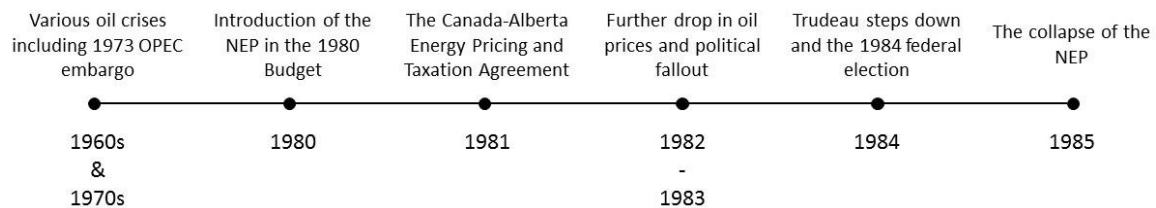
Canada has vast oil resources, but the federal government does not have a coherent energy policy. Since the implementation of the NEP, the oil-producing provinces are hostile towards any federal policy that is perceived as intervening in the oil sector. The result of this dynamic is the federal government’s reluctance to implementing an ACD mitigation policy. In my study, I aim to discover why this dynamic persisted for thirty-five years before the shift under the Trudeau government. The timeline will provide a better representation of this dynamic than focusing on only once decision maker or event because it will reveal political blockages, such as federalism, that might not be apparent in a smaller analysis.

<sup>66</sup> Heather A. Smith, “Political Parties and Canadian Climate Change in Policy,” in *International Journal* 64 no. 1 (2008), 58.

## Chapter 2.

### The Failure of the NEP: 1980-1985

Figure 2.1 shows a general timeline of events that leads up from the implementation of the NEP to its failure. These events will be highlighted in this chapter. These events will show that the Trudeau government attempted to act unilaterally to implement the NEP. The NEP is the catalyst for Canadian policy making on oil. The rejection by Alberta and the U.S., and the subsequent failure of the NEP resulted in the federal government taking a more supportive role to the oil-producing provinces in formulating energy policy. Interventionist policies have not been implemented since the NEP because of the perception that any (economic or environmental) federal interventionist energy policy would undermine the autonomy of the provinces to govern within their jurisdiction. These policies would also put the oil-producing provinces at a disadvantage because such policy would address the concern and interest of the federal government and non-producing provinces at the expense of the oil producing provinces.



**Figure 2.1: The Timeline of the NEP**

## 2.1. The Problem Stream:

### 2.1.1. External Shocks

The NEP was introduced in the 1980 budget in response to the oil embargo. The NEP aimed to protect Canada from future risks of shocks to its supply such as the shocks caused by the embargo. The 1973 oil embargo was started by the oil producing countries in the Arab peninsula, namely Saudi Arabia, because they wanted Israel to stay within the boundaries set by UN Resolution 242 in 1967, and during this time, a common idea amongst Arab nations was to use oil as a weapon against the United States and other

countries that supported Israel.<sup>67</sup> By interrupting oil supply, these Arab countries believed that they could force policy change. The embargo, as a paradigm shift, forced Canada to re-examine its own energy policy. Most of the oil Canada produced was exported since Canada produced more oil than it consumed.

### **2.1.2. Domestic Concerns**

The NEP was not the only tool Trudeau utilised to create policy change. Concern about foreign-owned oil producers also grew. Before their defeat in the 1979 election, the Liberal government introduced the Foreign Investment Review Act (implemented in 1974) and created the Foreign Investment Review Agency (FIRA) in 1973. FIRA's mandate was to determine whether foreign investments and businesses that want to or already do business in Canada were to the benefit of the country.<sup>68</sup> It was established due to the high amount of foreign investment and multinational corporations (MNC) in the country. Before the implementation of the NEP, the petroleum industry was the fastest growing industry in Canada due to foreign interest in Canada's energy resources and the 1973 oil crisis.<sup>69</sup> During this time, "the largest integrated companies (all foreign-controlled) [accounted] for between 45 and 50 per cent of total industry profit, and the foreign segment as a whole [captured] about 70 per cent of industry profit."<sup>70</sup>

Figures 2.2 to 2.5 show how the embargo affected the price of oil, Canadian crude production, Canadian net imports of oil, and exports of oil respectively. The price of oil steadily climbed after 1973 until it jumped from \$55.24 per barrel in 1978 to \$82.51 in 1979, and it spiked to \$109.51 in 1980. Though production of oil did drop after the oil crisis as seen in figure 2.3, it did not change as much as imports (figure 2.4), and exports (figure 2.5) did. In comparison to the changes in oil imports and exports after 1973, crude production in Canada stayed relatively stable. This, the decreased imports and increased

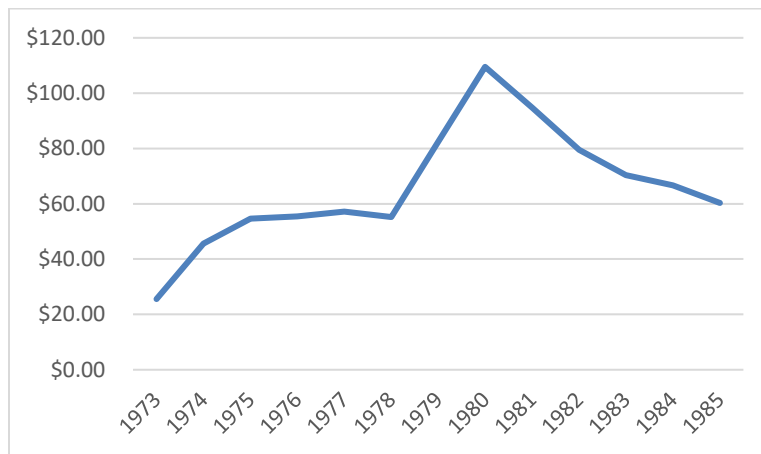
<sup>67</sup> Daniel Yergin, *The Prize: The Epic Quest for Oil, Money and Power* (New York: Free Press, 2009), 588.

<sup>68</sup> Charles Getman, "Canada's National Energy Program: An Analysis," in *Houston Journal of International Law* 3 no. 1 (1980), 158.

<sup>69</sup> Pratt, "Energy: The Roots of National Policy," 44-45.

<sup>70</sup> *Ibid.*, 47.

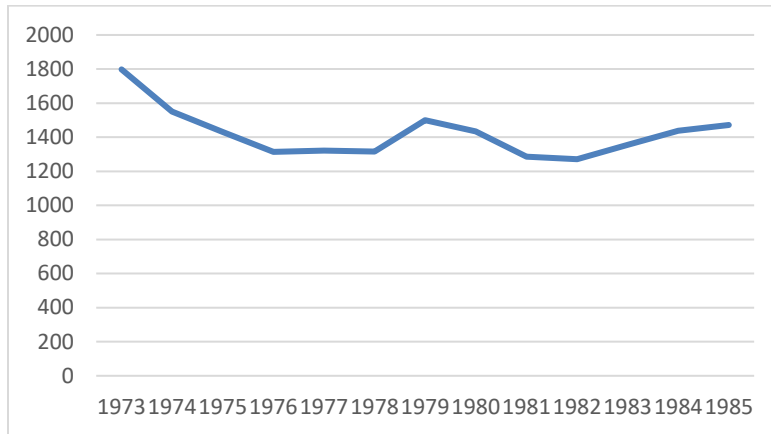
exports resulted in increased revenues for the oil industry and oil-producing provinces. To increase the amount of revenue from the oil industry to the federal government the Conservative government under Joe Clark “proposed a new excise tax on gasoline consumption in their December budget: this brought down the minority government on a parliamentary vote of confidence.”<sup>71</sup> The defeat of the Clark government created another paradigm shift event.



**Figure 2.2: The Price of Oil per Barrel 1973-1985 in USD (inflation adjusted)**

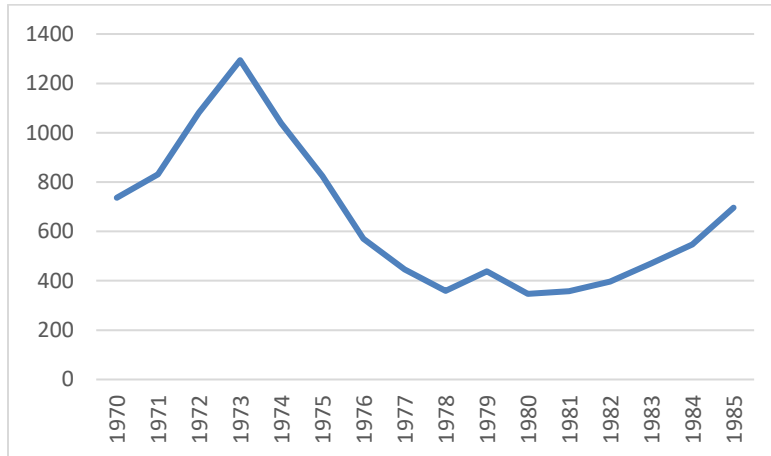
Adapted from “Historical Crude Oil Prices (Table)” *Inflationdata.com*, created: 1 May 2015, updated: n.d. retrieved from [http://inflationdata.com/Inflation/Inflation\\_Rate/Historical\\_Oil\\_Prices\\_Table.asp](http://inflationdata.com/Inflation/Inflation_Rate/Historical_Oil_Prices_Table.asp)

<sup>71</sup> *Ibid.*, 34.



**Figure 2.3: Oil Production in Thousands of Barrels per Day 1973-1985**

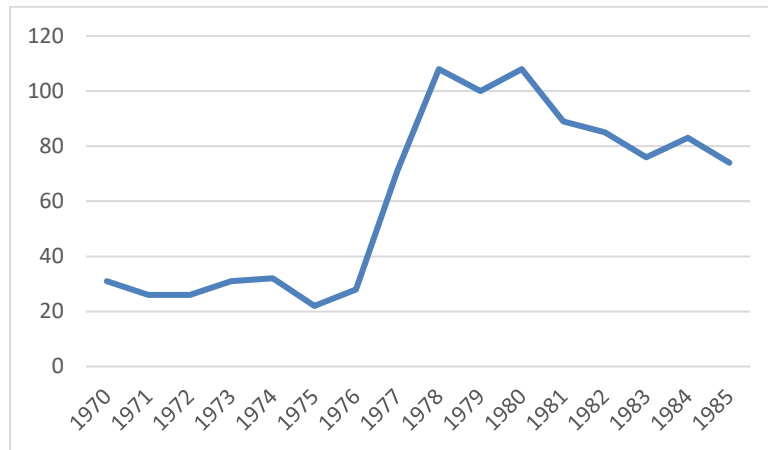
Adapted from "Monthly Energy Review," EIA, n.d. retrieved from <http://www.eia.gov/totalenergy/data/browser/?tbl=T11.01B#/?f=M&start=197301&end=201609&charted=0-11-12>



**Figure 2.4: Petroleum Net Imports in Thousand Barrels per Day 1970-1985**

Adapted from "Table 5.7 Petroleum Net Imports by Country of Origin 1960-2011," EIA, release date, 27 September 2012. retrieved from <https://www.eia.gov/totalenergy/data/annual/showtext.php?t=ptb0507>





**Figure 2.5: Petroleum Net Exports in Thousand Barrels per Day 1970-1985**  
 Adapted from “Table 5.6 Petroleum Exports by Country of Destination, 1960-2011,” EIA, release date, 27 September 2012. retrieved from <https://www.eia.gov/totalenergy/data/annual/showtext.php?t=ptb0506>

## 2.2. The Policy Stream

The Liberals announced their ideas for an energy policy during the 1980 election. In a speech in Halifax, Trudeau outlined goals that would become the NEP such as securing energy supplies for domestic use and increasing Canadian ownership in the oil sector.<sup>72</sup> Halifax is an interesting location for such a speech. Trudeau’s appeal to non-oil-producing provinces, especially those that were going through hard economic times, built support for such policies. With the increase in oil prices, promises the Liberals made such as those mentioned above gave them a perceived mandate when they won the election.<sup>73</sup>

### 2.2.1. The National Energy Plan

In the 1980 budget, the justification for NEP was to eliminate Canada’s dependence on foreign oil thus Canada would not be “unnecessarily subject to the vagaries of the world oil market.”<sup>74</sup> Not only was NEP meant to protect Canada from

<sup>72</sup> Pratt, “Energy: The Roots of National Policy,” 30.

<sup>73</sup> Jenkins, “Reexamining the ‘Obsolescing Bargain,’” 146.

<sup>74</sup> Canada, Ministry of Finance, *the Budget* (Ottawa, 1980), 6.

vagaries, but, according to the budget, it was meant to create “*opportunity* for all Canadians to participate in the energy industry... [and] *fairness*, with a pricing and revenue sharing regime which recognizes the needs and rights of all Canadians.”<sup>75</sup>

The NEP created production and energy initiatives by moving away from depletion allowances for oil and gas exploration to direct incentives for Canadian companies.<sup>76</sup> The main concern was that the depletion allowances “primarily benefitted large established corporations which [were] for the most part foreign owned and controlled.”<sup>77</sup> Energy initiatives in the NEP were aimed at reducing the country’s dependency on oil “onto natural gas, electricity and other fuels which [Canada has] in greater supply.”<sup>78</sup> In other words, the aim was not just to reduce, or eliminate, Canada’s reliance on foreign oil, but to reduce Canada’s reliance on oil.

The dominance of “foreign-owned and controlled” energy sector firms was troubling to key decision makers Prime Minister Trudeau and Minister of Energy, Mines and Resources Marc Lalonde.<sup>79</sup> The provision to reduce foreign oil production ownership also echoed nationalist concerns that lead to the creation of the FIRA and nationalisation/Canadianisation of Petro-Canada in 1973 discussed below.<sup>80</sup> The goal of the Canadian Ownership provision was to establish the objectives of, “at least 50 per cent Canadian ownership of oil and gas production by 1990; Canadian control of significant number of the larger oil and gas firms; and an early increase in the share of the oil and gas sector owned by the Government of Canada.”<sup>81</sup> All of these provisions, in the opinion of Trudeau and Lalonde, should make Canada more self-sufficient.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid., 7, 9-10.

<sup>77</sup> Ibid., 9.

<sup>78</sup> Ibid., 10.

<sup>79</sup> G. Bruce Doern and Glen B. Toner, *The Politics of Energy: The Development and Implementation of the NEP* (Toronto: Methuen Publications, 1985), 39.

<sup>80</sup> Jack L. Granatstein and Robert Bothwell, *Pirouette: Pierre Trudeau and Canadian Foreign Policy* (Toronto: University of Toronto Press, 1990), 72 and 86.

<sup>81</sup> Ministry of Finance, *the Budget*, 11.

Lalonde's main concerns were rising oil prices and inflation, and a self-sufficient energy policy seemed to be the logical response.<sup>82</sup> Lalonde's perception of the ideal energy policy was shaped when he was energy critic, and "by what he saw before him in the House of Commons, where the Tories were clearly reveal[ed] their incapacity to get their energy act together."<sup>83</sup> Lalonde's motivation for formulating the NEP included oil shortages caused by the Iranian revolution and subsequent 1980 Iran-Iraq war, and the failure to "negotiate [with Alberta] a new pricing and revenue-sharing arrangement."<sup>84</sup>

Another aim of the NEP was to reduce Canada's reliance on oil by finding alternatives to reduce Canada's dependence on oil. The policy was proactive instead of reactive to supply concerns. The main concern was that Canadian oil would temporarily fulfil Canada's demand, and the technology innovations that now make extraction from the bitumen sands economically viable were had only begun to be developed.<sup>85</sup> One option was to transition from oil to natural gas. Though Alberta does have vast natural gas reserves, this aim does not take consideration the economic impact transiting from oil would have on the Albertan economy.

The NEP is characterised as either a nationalisation policy or a "Canadianisation" policy of the oil sector. Pratt argues that nationalisation "involves the coercive expropriation of privately-owned (often foreign-owned) assets by the state in return for financial compensation."<sup>86</sup> Regardless of the NEP's goal of expanding state-owned Petro-Canada, the government also aimed, not to increase state control of the oil sector, but give Canadian businesses an advantage to enter and gain control of the oil sector. If the goal of the federal government were to nationalise the sector, it would instead have the aim to remove the control of the oil sands from the MNCs to Petro-Canada. The ultimate goal of the federal government was not to gain control of the oil sector, but to increase federal revenues through encouraging Canadian capital and to secure domestic supply.

<sup>82</sup> Doern and Toner, *The Politics of Energy*, 39.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid., 39 and 44.

<sup>85</sup> James J. Heron and Elma K. Spady, "Oil Sands: The Canadian Experience," in *Annual Review of Energy* 8 no. 1 (1983).

<sup>86</sup> Pratt, "Energy: The Roots of National Policy," 41.

## 2.3. The Politics Stream

### 2.3.1. No Allies needed?

During the 1980 election campaign, Trudeau made several promises to secure and expand Canada's oil supply, to promote the development of oil alternatives, and to "expand and strengthen" the state-owned Petro-Canada.<sup>87</sup> Petro-Canada was created to start the "Canadianisation" of the oil industry.<sup>88</sup> During the campaign, Trudeau expressed that he also wanted energy "to become part of the 'larger economic strategy.'"<sup>89</sup> The Liberals viewed their victory in 1980 as validation of their energy Canadianisation plan.<sup>90</sup> Because of this view, neither he nor Lalonde, sought out allies for this policy.

Despite hostility from the oil-producing provinces, the rest of Canada showed great support for the NEP's aim to Canadianise the oil sector: "According to polls conducted just after the announcement of the NEP in the budget of October 1980, 84% of Canadians favored an increase of Canadianization of the energy industry."<sup>91</sup> The support from the rest of Canada suggests that Trudeau's campaign strategy to sell the NEP as a means to not only shield Canada from increased oil prices but also to benefit the Canadian economy as 70% of Canadians "believed that the new policy would result in an increased number of jobs for Canadians."<sup>92</sup>

There was an assumption made by the Trudeau government that the approval of the majority of Canadians was sufficient support. As shown in Hart and Victor's article, consensus does not equate to a majority; it must be targeted to a strategic group. The schism between Canadians from oil-producing provinces and those from the rest of Canada can easily be explained by risk versus reward. The revenue redistribution

<sup>87</sup> Ibid., 30.

<sup>88</sup> Ibid., Getman, "Canada's National Energy Program," 162.

<sup>89</sup> Pratt, "Energy: The Roots of National Policy," 27.

<sup>90</sup> Jenkins, "Reexamining the 'Obsolescing Bargain,'" 145.

<sup>91</sup> Patrick James and Robert Michelin, "The Canadian National Energy Program and Its Aftermath: Perspectives on an Era of Confrontation," *American Review of Canadian Studies*, 19 no. 1 (1989), 65.

<sup>92</sup> Ibid.

provision disproportionately distributed the risk to oil producing countries while the rewards it aimed to give to the federal government and the rest of Canada.

The Trudeau government should have focused on the oil-producing provinces' appetite for change instead of the rest of Canada because of the risk Alberta bared. Instead, he focused the general population's appetite for change because the impact of the oil crisis affected the entire country. Before their defeat in 1979, the Liberals faced new energy realities with the 1973 embargo. After they won the election in 1980, there were additional risks to energy supply and further risk the affordability oil prices including the Iranian Revolution and the "political breakdown in Saudi Arabia."<sup>93</sup> The rise in the price oil had a negative fiscal impact due to the balance-of-payments which Ottawa aimed to correct with the increase of tax revenue the NEP would provide.<sup>94</sup> The increased economic importance of the oil sector during the 1970s, and the consumption of oil not declining even with the embargo made the oil sector was attractive to the federal government.<sup>95</sup> Critics of the NEP question the motivations of the federal government.<sup>96</sup>

Pratt identifies another reason Trudeau did not seek consensus from only oil-producing provinces as Trudeau sought greater federal centralisation. Pratt argues that "New Federalism" was the motivation for the NEP instead of the economic hardship caused by the embargo.<sup>97</sup> One part of Trudeau's vision of new federalism was to correct "the problem of 'fiscal federalism' and the strains in federal-provincial relations over the division of public revenues and the financing of government program and services."<sup>98</sup> New federalism aims to redistribute powers from decentralised to centralised.<sup>99</sup> How this

<sup>93</sup> Ritchie, "Oil Self-Sufficiency for Canada," 464.

<sup>94</sup> Ibid., 465; Pratt, "Energy: The Roots of National Policy," 40.

<sup>95</sup> Ritchie, "Oil Self-Sufficiency for Canada," 467.

<sup>96</sup> The critics who question the motivations of the federal government do so because they saw the NEP mostly as a power grab by the federal government. Critiques of the federal government's strategy to deal with the consequences of the embargo tend not to provide with alternative strategies. The focus of their discussion only focuses on the federal government infringing on the oil-producing provinces jurisdiction.

<sup>97</sup> Pratt, "Energy: The Roots of National Policy," 37.

<sup>98</sup> Ibid.

<sup>99</sup> Bruce G. Pollard, "Canadian Energy Policy in 1985: Toward a Renewed Federalism?" in *Publius* 16 no. 3 (1986), 164.

perceived power grab affected provincial-federal relations will be discussed further below. Though the Trudeau government had the support of the majority of Canadians there were two parties it should have attempted to court as allies: the Canadian oil companies and the U.S.

### ***Canadian Oil Companies Reject the NEP***

During the various oil crises during the 1960s and 1970s, MNCs from the oil industry “lobbied extensively to expand oil interdependence between the United States and Canada through increased oil exports.”<sup>100</sup> The aim of lobbying the federal government was to secure the investments MNCs made in the bitumen sands.<sup>101</sup> Since the aim of the NEP was to Canadianise the energy sector, MNCs opposed it. Shortly after the NEP was announced, “Gulf Canada’s market value dropped \$1.3 billion. Imperial Oil lost an estimated \$1 billion in value in a stock market crash...In about two years following the introduction of the NEP, an outflow of approximately C\$10 billion in investment funds also ensued.”<sup>102</sup> Canadian-owned oil companies were also upset with the NEP as they saw the move as negatively interventionist even though the NEP was created to benefit Canadian-owned companies.<sup>103</sup> There are few reports in the literature of whether or not Canadian oil companies were actively lobbying the federal government. Considering that the Canadian oil companies opposed the NEP, it does not seem likely that Canadian oil companies lobbied the federal government for greater access to bitumen sands.

By approaching the Canadian oil companies while they were still in the policy formulation stage, Trudeau and Lalonde would have benefited from their rejection of the idea. This would have allowed Trudeau and Lalonde to make two decisions. The first decision they could have made was to abandon the idea of energy security since it was not palatable by even Canadian-owned oil companies and avoided the political fallout. The second decision they could have made was to negotiate and compromise with the oil companies to make a policy that would more likely support.

<sup>100</sup> Jenkins, “Reexamining the ‘Obsolescing Bargain,’” 144.

<sup>101</sup> Doern and Toner, *The Politics of Energy*, 35.

<sup>102</sup> Jenkins, “Reexamining the ‘Obsolescing Bargain,’” 148.

<sup>103</sup> *Ibid.*, 156.

## ***The NEP's Threat to American Oil Supply***

The second ally Trudeau should have attempted to court was the U.S. Canadian and U.S. elections were both held in 1980, and the NEP was announced the month before the U.S. election. While Trudeau and Lalonde were developing the NEP, the Carter Administration was trying to implement similar protectionist policies for American oil sector, and Trudeau did not prepare for a negative response from the U.S. because of Carter's similar policy goals.<sup>104</sup> The inability to anticipate the response from the U.S. left the Trudeau government unprepared for the intensity of the U.S.'s reaction. Trudeau and Lalonde did not consider the growing importance of Canadian oil to the U.S. as "Canada was the only industrialized Western nation with a surplus of petroleum, the United States began to view it as a strategic energy source."<sup>105</sup>

The U.S. also suffered from the 1973 embargo, and during the 1960-70s oil crises, the MNC lobbying the federal government aimed to expand the Canada-U.S. "interdependence" and to alleviate the shock of the embargo. The 1979 Iranian revolution caused another shock to supply, and Canada provided a stable source of oil for the U.S. Though Carter's policies appeared to be similar to Canada's, Trudeau and Lalonde showed little consideration of how much Canadian petroleum products were being exported to the U.S., and how many products were being exported in relation to other petroleum products the U.S. imported from other countries. There also was little consideration given to how Congress would respond since they, along with Presidential candidate Reagan, were hostile to the NEP.

Ideologically, Ronald Reagan's policies aligned with neoliberalism. Since those who held similar ideology believed in free trade and limited government, Reagan was ideologically opposed to the NEP. The Americans saw the NEP as a means to "pick off U.S. enterprise."<sup>106</sup> The U.S. treated the NEP as a threat to its economy and business:

The United States retaliated against the perceived threat. It introduced and successfully won a partial condemnation of Canada's actions from the

<sup>104</sup> Doern and Toner, *The Politics of Energy*, 35.

<sup>105</sup> Jenkins, "Reexamining the 'Obsolescing Bargain,'" 144.

<sup>106</sup> *Ibid.*, 161.

GATT. Members of Congress introduced several pieces of legislation, including bills denying Canadian companies reciprocal-country status under the Mineral Lands Leasing Act and placing a nine-month moratorium on Canadian acquisitions of U.S. energy companies.<sup>107</sup>

Not only this, but the Reagan administration considered retaliation by the use of other “economic weapons” to persuade the Trudeau government to make concessions on both the NEP and FIRA such as the U.S.-Canada automotive agreement, harassment of Canadian exports, and “opening a case under section 301 of the U.S. Trade Act of 1974.”<sup>108</sup>

The U.S. took the NEP “as a direct slap in the face.”<sup>109</sup> A U.S. official accused the Canadian government of causing harm to the U.S. despite its self-characterisation of being “vulnerable.”<sup>110</sup> By characterising itself as vulnerable, it appears that the Americans believed that Canadians would not implement such a policy because of the harm this policy would inflict on the U.S. During the short period of time the NEP was implemented, relations between the U.S. and Canada declined.<sup>111</sup> Trudeau implemented the NEP only eight months after returning to office. By rushing to take advantage of the high price of oil, Trudeau and Lalonde were unable to anticipate and respond to the hostility from the U.S.

### **2.3.2. Seeking Consensus After the Fact**

Provinces have jurisdiction over their resources through the Constitutional Act of 1791. Though the rest of the country was suffering from the embargo, oil-producing provinces, like Alberta, flourished.<sup>112</sup> The oil-producing provinces believed the NEP was not fair because of the finite nature of oil and because oil was the only resource the federal

<sup>107</sup> Ibid., 162.

<sup>108</sup> Clarkson, *Canada and the Reagan Challenge*, 34.

<sup>109</sup> Jenkins, “Reexamining the ‘Obsolescing Bargain,’” 148.

<sup>110</sup> Ibid.

<sup>111</sup> Doern and Toner, *The Politics of Energy*, 36.

<sup>112</sup> Ibid., 261.



government targeted through an interventionist policy.<sup>113</sup> During this time, the oil sands reserves in Alberta were estimated at 25 billion barrels.<sup>114</sup> The oil-producing provinces claiming that oil is just another resource is both true and an under-estimation of the importance of oil. Oil is the most important resource in the world. The current way of life that is enjoyed is due to the efficient manner oil can produce energy, but oil is also a commodity.

Whether or not oil-producing provinces are correct about the nature of oil, they planned on resisting Ottawa before NEP was passed. Peter Lougheed said of the NEP in early 1980:

Any unilateral action by the federal government – particularly one by a federal government that’s been rejected by western Canada – will be resisted by our citizens in the strongest and most determined way. It would be a tragic miscalculation by Ottawa if they misjudge the resolve of Albertans in this matter.<sup>115</sup>

Alberta’s response to the NEP was to reduce production of oil by “180 000 barrels of oil per day in three equal stages over nine months; the withholding of provincial approval for the Alsands and Cold Lake projects; and, the mounting of a constitutional challenge.”<sup>116</sup> Though the NEP was supported by the majority of Canadians after it was passed, the Trudeau government were not able to anticipate how above statement from Lougheed turned into a legitimate challenge to the NEP.

It is not surprising that oil-producing provinces did not support the NEP. As part of the question of *fairness*, the NEP “allowed for a gradual increase in domestic prices; however, it limited Alberta’s ability to raise prices to international levels.”<sup>117</sup> The Albertan government, in particular, was hostile towards the NEP. Artificially keeping oil prices low

<sup>113</sup> Ibid., 263.

<sup>114</sup> Ibid.

<sup>115</sup> Ibid., 266; James and Michelin, “The Canadian National Energy Program and Its Aftermath,” 65.

<sup>116</sup> Doern and Toner, *The Politics of Energy*, 267.

<sup>117</sup> Christopher J. Kukucha, *The Provinces and Canadian Foreign Trade Policy* (Vancouver: UBC Press, 2008), 41.

was a means used by the Liberal government to shield Canada from the rise in the cost of oil.<sup>118</sup> Alberta's response to the NEP was threefold: "It would challenge the legality of Ottawa's proposed tax on natural gas, delay the approval of new tarsands and heavy oil projects, and gradually reduce oil shipments to eastern Canada over a period of nine months."<sup>119</sup> The NEP was a paradigm shift event to the Alberta government. It viewed the provisions as a threat to the Albertan economy. As an attempt to gain Alberta's support, the Liberal government began negotiating the Canada-Alberta Energy Pricing and Taxation Agreement (EPTA) with Alberta.

Ottawa compromised with the oil-producing provinces to make the NEP more palatable. In 1981, Trudeau and Alberta premier Peter Lougheed signed the EPTA. The features of the EPTA were to raise the price of Canadian oil closer to the world prices, "raised the Petroleum and Gas Revenue Tax (PGRT) from 8 to 12 percent...[it] eliminated the export tax on gas...[and] created a new Incremental Oil Revenue Tax (IORT) set at 50 percent on the difference between old oil [that was discovered between 1973-1981] and NEP prices of oil minus royalties."<sup>120</sup>

Ottawa also amended the NEP in 1982 by reducing the PGRT by 1 percent and created a \$250,000 annual credit, suspending of the IORT, and a new pricing regime to increase the price of "old oil."<sup>121</sup> In 1983, Ottawa and Alberta to "widen the 'new oil' category, which raised the proportion of domestic production eligible for world prices from 15 percent to 30 percent."<sup>122</sup> Regardless of these compromises, the perception of the NEP for the recession Alberta suffered even though the recession was worldwide, and the drop in the price of oil was not caused by the NEP but by market prices.<sup>123</sup>

The timing of this agreement made this process moot. The federal and Alberta government signed EPTA before the price of oil dropped from \$94.83 in 1981 to \$79.50 in

<sup>118</sup> Jenkins, "Reexamining the 'Obsolescing Bargain,'" 149.

<sup>119</sup> Doern and Toner, *The Politics of Energy*, 106.

<sup>120</sup> Jenkins, "Reexamining the 'Obsolescing Bargain,'" 149.

<sup>121</sup> *Ibid.*

<sup>122</sup> *Ibid.*, 150.

<sup>123</sup> *Ibid.*, 160.

1982. During this time, Imperial Oil, Shell Oil, and Gulf Oil cancelled major projects in the bitumen sands.<sup>124</sup> The recession that occurred during this time also exacerbated tensions between Western Canada and the federal government, and “[t]he NEP became the straw man for this lull in investment as oil producers cursed the government for destroying the industry’s vitality.”<sup>125</sup> Negative public opinion of the NEP was “manipulated by self-aggrandizing provincial elites, the oil industry and the media (including Eastern controlled newspapers attempting to increase Western circulation).<sup>126</sup> In Western Canada, the narrative was that the NEP was a policy for the federal government to increase its revenues “at the expense of Alberta” instead of one to bring Canada self-sufficiency.<sup>127</sup>

## 2.4. Conclusion

The 1973 OPEC embargo caused economic disparity across Canada. The oil-producing provinces were booming because of the higher cost of oil and the increased demand from the U.S.; however, the non-oil-producing provinces were suffering from increased oil prices. Trudeau correctly recognised the opportunity for change caused by the embargo. The NEP’s provisions aimed to correct the negative impact of the embargo by ensuring Canadian energy security while using the oil sector to grow the economies of the non-oil-producing provinces. While this decision-making process fulfilled the problem and policy streams of Kingdon’s framework, it did not fulfil the politics stream because Trudeau mistook the majority of Canadian’s support for the NEP as enough for consensus. By not seeking allies with the Canadian oil companies and the U.S. before implementation, Trudeau did not have support from stakeholders.

The NEP ultimately failed because the Trudeau government, in the attempt to redefine Canadian federalism, acted unilaterally. The goal of oil self-sufficiency through securitising oil resources was an affront to the neoliberal values of Alberta and other oil-producing provinces, oil companies, and the U.S. Though Trudeau had the support of the

<sup>124</sup> Ibid., 148.

<sup>125</sup> Ibid., 160.

<sup>126</sup> Pratt, “Energy: The Roots of National Policy,” 29.

<sup>127</sup> Brain L. Scarfe, “The Federal Budget and Energy Program, October 28<sup>th</sup>, 1980: A Review,” in *Canadian Public Policy* 7 no. 1 (1981), 8.

majority of Canadians, this did not shield the NEP from the vociferation from those who opposed. Trudeau did try to compromise with Lougheed after the fact; however, this tripped the power dynamic in Lougheed's favour because Trudeau needed his approval for the NEP to be successful. Ultimately, bad planning and poor timing became Trudeau's undoing.

Trudeau stepped down before the 1984 election believing that the Liberals could not win if he were to stay. John Turner took over as leader and Prime Minister. Though Turner was not a supporter of Trudeau's policies, this was not enough for the Liberals to win the election. Mulroney's success/Turner's failure was not dependent on their positions on the NEP, but it was a factor. Concerns such as Quebec nationalism were important issues during this campaign.<sup>128</sup> Shortly after the election, the Conservative government worked to repair and strengthen Canada-U.S. relations, and Trudeau's FIRA and the NEP was no more.<sup>129</sup>

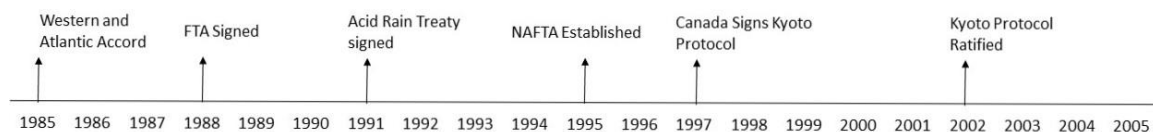
<sup>128</sup> Clarkson, *Canada and the Reagan Challenge*, 356.

<sup>129</sup> *Ibid.*, 358.

## Chapter 3.

### Opening the Market and Hints of Environmentalism: 1985-2005

Figure 3.1 is a general timeline of events during a twenty-year period that I will discuss. Because this time period is much larger than the time period discussed in the previous chapter, I will limit myself to policies that had a significant impact on the bitumen sands. The failure of the NEP led to an entrenchment of neoliberal values so that a policy similar to the NEP could not be implemented in the future. CUFTA and NAFTA are significant because of the provisions in them that stop Canada's ability to implement a protectionist oil policy, but they did not limit Canada's ability to implement ACD mitigating policies. Though limited, NAFTA has environmental protectionist provisions, and the Mulroney government successfully negotiated the Acid Rain Treaty with the U.S. that reduced sulphur emissions. These successes were only possible because Mulroney was able to court allies. Chrétien was not able to build on to this success while trying to implement the Kyoto Protocol. Even though he initially had the support of the U.S., he lost it after the 2000 election, and he did not attempt to court the provinces during the negotiation process.



**Figure 3.1: The Timeline of Free Trade to Kyoto**

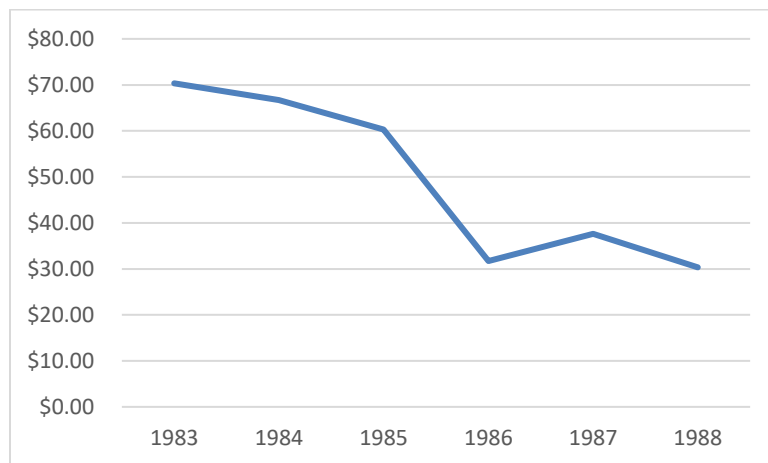
#### 3.1. The Problem Stream:

After winning the 1984 election, two of Mulroney's goals were to improve relations with the provinces and to negotiate a free trade agreement with the United States. Though Mulroney previously did not support Canada entering into a free trade agreement with the United States, this stance changed shortly after coming into office. Negotiations started in 1983 and lasted for five years. Both Canada and the United States had protectionist policies when they entered into negotiations. There were other sectors in Canada where

protectionist policies that proved to be more problematic such agriculture and forestry. While I will discuss these briefly in relation to the oil sector (mainly the bitumen sands), they will not be the focus of this discussion.

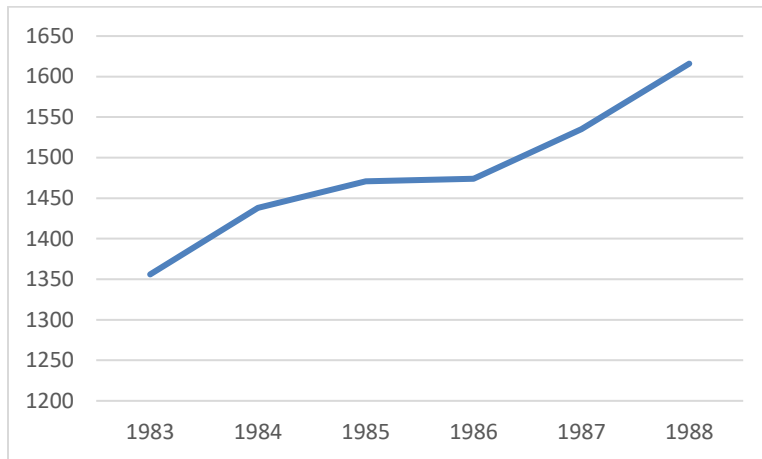
### 3.1.1. The Legacy of the NEP on the Oil Sector

The industry had not bounced back since the initial drop in the price of oil during the Embargo. Free trade appeared to be the solution to their economic problems. Figure 3.2 shows that the price of oil had not recovered since the embargo. Figures 3.3 and 3.4 show that despite the increased production of oil during this time period, exports did not rise in kind. The state of oil exports was a growing concern for oil-producing provinces. For Alberta, the oil sector was and still is a major contributor to its economy, and it needed to secure a market for the oil it produces.



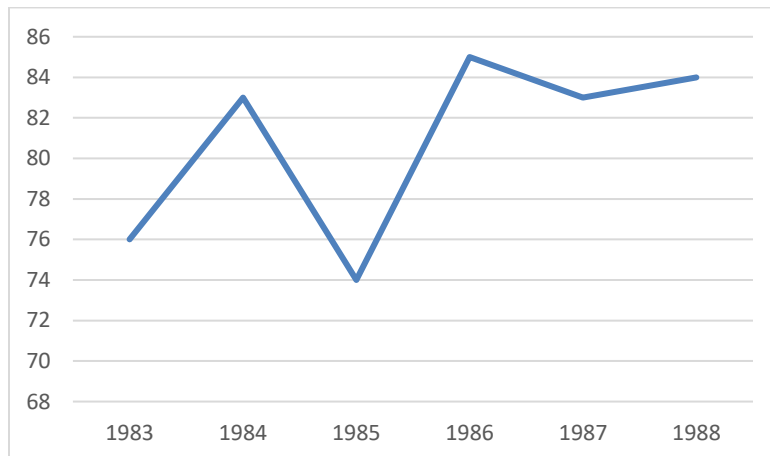
**Figure 3.2: The Price of Oil per Barrel 1983-1988 in USD (inflation adjusted)**

Adapted from "Historical Crude Oil Prices (Table)" *Inflationdata.com*, created: 1 May 2015, updated: n.d. retrieved from [http://inflationdata.com/Inflation/Inflation\\_Rate/Historical\\_Oil\\_Prices\\_Table.asp](http://inflationdata.com/Inflation/Inflation_Rate/Historical_Oil_Prices_Table.asp)



**Figure 3.3: Oil Production in Thousands of Barrels per Day 1983-1988**

Adapted from "Table 11.1b World Crude Oil Production: Persian Gulf Nations, Non-OPEC, and World," EIA, n.d. retrieved from <http://www.eia.gov/totalenergy/data/browser/?tbl=T11.01B#/?f=M&start=197301&end=201609&charted=0-11-12>



**Figure 3.4: Petroleum Net Exports in Thousand Barrels per Day 1983-1988**

Adapted from "Table 5.6 Petroleum Exports by Country of Destination, 1960-2011," EIA, release date, 27 September 2012. retrieved from <https://www.eia.gov/totalenergy/data/annual/showtext.php?t=ptb0506>

### 3.1.2. American Reluctance

Though the Americans wanted access to Canadian markets, they were reluctant to remove their own protectionist regulations that they had in place because members of Congress and the Reagan administration were afraid if they removed these policies, they

would give Canada an advantage.<sup>130</sup> For example, the Americans perceived the Canadian legislative determined stumpage fees as subsidies, since U.S. stumpage is determined by the market.<sup>131</sup> Agriculture was another problem sector. Negotiations on agriculture were hindered due to lobbying in the U.S. by the U.S. textile lobby.<sup>132</sup> American interest in entering a free trade agreement with Canada was due to its location, and its government structure, as it, like the U.S., is a liberal democracy.<sup>133</sup> It was less likely the Canadian government would use its resources against the U.S. as the OPEC countries did. The OPEC countries showed that they were willing to use their resources to punish U.S. foreign policy, and the U.S. needed an oil producing trading partner that would not do the same.<sup>134</sup> This and years of careful negotiations eventually created an agreement that the Americans were willing to join.<sup>135</sup>

### 3.1.3. Raining Acid

In Canada, acid rain was a problem for around a decade before a sulfur-reducing agreement was established with the U.S. Canada needed the U.S. to enter into the treaty because most of the acid rain Eastern Canada experienced moved from the U.S. via air currents.<sup>136</sup> Attempts to get the U.S. to negotiate a sulphur dioxide emissions reduction agreement began with the Trudeau government in the 1970s, and the continued efforts to influence the U.S. to enter into negotiations shows that not only the importance for Canadians. The U.S showed little concern for implementing such a policy under Reagan.

<sup>130</sup> Hart et al., *Decision at Midnight*.

<sup>131</sup> Ibid.

<sup>132</sup> Ibid., 156.

<sup>133</sup> Herbstreuth, *Oil and American Identity*, 127-128.

<sup>134</sup> Ibid., 128.

<sup>135</sup> Hart et al., *Decisions at Midnight*.

<sup>136</sup> Golich and Young, "Resolution of the United States-Canadian Conflict Over Acid Rain," 73-74; G. Fenech, "The Canadian Acid Rain Strategy," in *Environmental Science and Policy* 1 no. 3 (1998).



### **3.1.4. The Pride of Kyoto**

In the 1990s, oil trade between Canada and the U.S. increased, but concerns over the negative impact human activity had on the environment also increased. The production of oil increased after NAFTA was ratified, shown in figure 3.3, emissions also increased as shown in figure 3.9. The sulphur emissions reductions seemed to exacerbate carbon emissions in the oil and gas sector.

Leading up to Kyoto, Canadian public interest for the implementation of environmental policies increased.<sup>137</sup> In a Gallup poll conducted in 1992, 61 percent of Canadians believed that air pollution was “very serious,” and 58 percent believed that global warming was “very serious.”<sup>138</sup> Concern over the environment does not necessarily translate to the public wanting the government to interfere in the oil industry. In that same poll, Canadians were also asked what they believed was the cause of global warming; 32 percent of Canadians believed that it was caused by “pollution,” and only 22 percent believed it was caused by “fossil fuel use.”<sup>139</sup> Without a clear cause, it is unclear how the public wanted the government to respond to their environmental concerns, or if the public wanted the government to intervene.

## **3.2. The Policy Stream:**

### **3.2.1. The Western Accord**

Before Mulroney could start negotiations with the U.S., he needed to improve Ottawa’s relations with the oil-producing provinces. As they were a stakeholder in U.S.-Canada trade, they would be an important ally to before entering in 1985, the Conservative government and the Western oil-producing provinces signed the Western Accord. Along with the Atlantic Accord, which was signed by the Conservative government and

<sup>137</sup> Steven Bernstein, “International Institutions and the Framing of Domestic Policies: The Kyoto Protocol and Canada’s Response to Climate Change,” in *Policy Sciences* 35 (2002), 221.

<sup>138</sup> Riley E. Dunlap, “Lay Perceptions of Global Risk: Public Views of Global Warming in Cross-National Context,” in *International Sociology* 13 no. 4 (1998), 478.

<sup>139</sup> Dunlap, “Lay Perceptions of Global Risk,” 481.

Newfoundland, the Western Accord was signed to deregulate the pricing structure that was set by the NEP and return the Canadian price of oil to the world market price.<sup>140</sup> This move also showed the U.S. government that the Canadian government was willing to reverse its protectionist policies.<sup>141</sup> The NEP's categorisation of "old" and "new" oil was also removed so that any oil product extracted from Canada could be sent to market at once price, and taxes that were created with the implementation of the NEP were also removed, and the removal of these regulations also increased oil export by about 23 percent.<sup>142</sup>

### 3.2.2. Free Trade Agreements

The Mulroney government soon dismantled the NEP, and through agreements such as the Western Accord, signalled that the federal government was no longer interested in the securitisation of oil as a resource. Instead, oil was secured as an economic means by Canada entering into CUFTA and NAFTA with the U.S. For the oil industry and oil-producing provinces, chapter 9 in CUFTA and chapter 6 in NAFTA corrected the wrongs the NEP created by ensuring that no future government could create a protectionist, interventionist policy that would reduce oil exported to the U.S. such as the NEP.<sup>143</sup>

After the first three years of the CUFTA being signed, oil exports to the US increased. There were doubts that Canada would be able to keep exporting high quantities of oil to the U.S. because Canada has limited amount of conventional crude.<sup>144</sup> In the decade after NAFTA was ratified, the GDP increased by 11 percent.<sup>145</sup> The energy

<sup>140</sup> Helliwell et al., *Oil and Gas in Canada*, 75; Helliwell, et al., "The Western Accord."

<sup>141</sup> Helliwell et al., *Oil and Gas in Canada*, 76.

<sup>142</sup> Ibid.

<sup>143</sup> Monica Gattinger, "From Government to Governance in the Energy Sector: The States of the Canada-U.S. Energy Relationship," in *The American Review of Canadian Studies* 35 no. 2 (2005).

<sup>144</sup> Robert N. McRae, "Canadian Energy Development Under the Free Trade Agreement," in *Energy Policy* 19 no. 5 (1991), 476.

<sup>145</sup> Martin A. Andresen, "The Effect of North American Trade Liberalization on the Nature of Canadian Trade, 1989-2002," in *The American Review of Canadian Studies* 36 no. 2 (2006), 284.

sector boomed after NAFTA was ratified; “[e]nergy products’ share of overall Canadian exports increased from 8.1 percent in 1999 to 15.2 percent in 2003 and 25.8 percent in 2008.”<sup>146</sup> This growth in energy exports also resulted in growth in energy production and jobs in the energy industry.<sup>147</sup> The proximity of the U.S. has allowed decision-makers in both countries to develop “the world’s most integrated and efficient energy border.”<sup>148</sup> The Canadian government was no longer interested in shielding Canada from shocks to oil supply and cost. The new goal was Canada-U.S. integration. Integration would keep the price of oil low because the price is based on supply and demand. Another benefit is that transporting oil north-south is more efficient than west-east.<sup>149</sup>

More oil is produced in Canada than consumed, but more oil is consumed in the U.S. than there is supply though this might be changing with the advancement of hydraulic fracturing (fracking) technology.<sup>150</sup> This demand for oil and its close proximity makes the U.S. the ideal trading partner. The Canadian oil sector was able to benefit from the increased production because the price of oil, with some fluctuation, grew (figure 3.5). Overall, NAFTA has benefited the oil sector and oil-producing provinces by providing a stable market as shown in the increased production in figure 3.6 and exports in figure 3.8. Since then, oil exports have grown as have oil imports (figure 3.7). Since transporting north-south is more efficient than west-east, oil is imported to Canada to fulfil the demand of the eastern provinces.

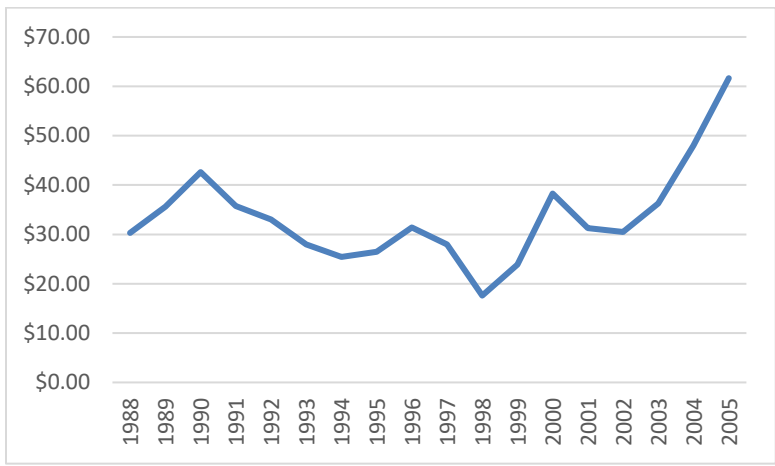
<sup>146</sup> Geoffrey E. Hale, *So Near yet so Far: the Public and Hidden Worlds of Canada-US Relations* (Vancouver: UBC Press, 2012), 54.

<sup>147</sup> Gerry Angevine and Kenneth P. Green, “Canada as an Emerging Energy Superproducer,” *The Fraser Institute Studies in Energy Policy* (2013), 11.

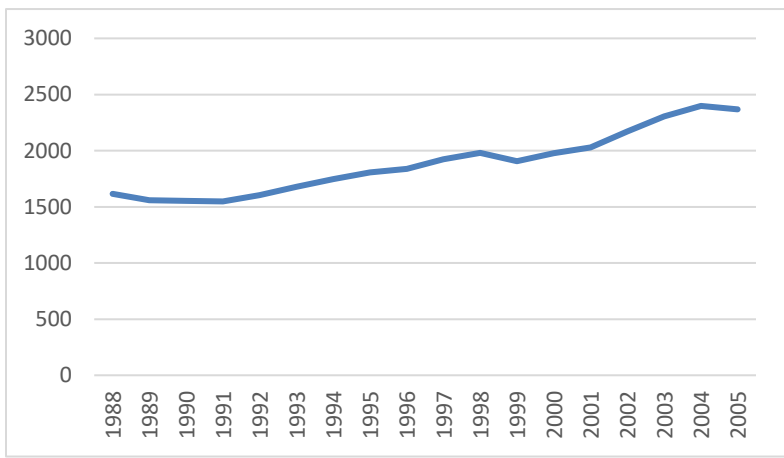
<sup>148</sup> Moens et al., “Achieving Energy Security,” 1.

<sup>149</sup> *Ibid.*, 5.

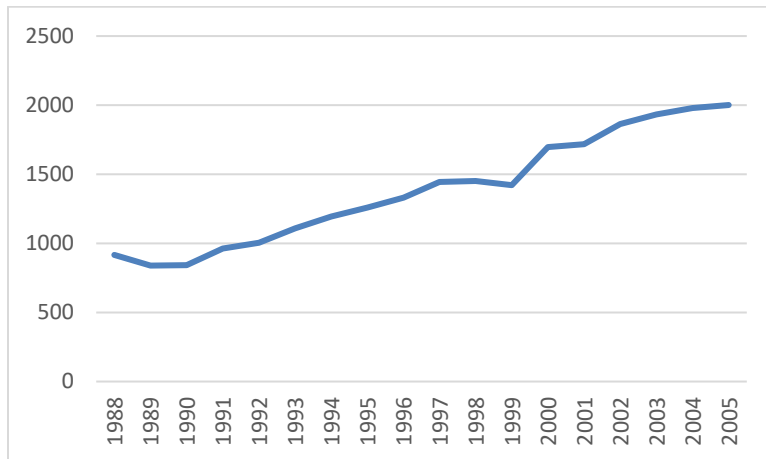
<sup>150</sup> Monica Gattinger, “Canada’s Energy Policy Relations in North America: Toward Harmonization and Supranational Approaches?” in *Borders and Bridges: Canada’s Policy Relations in North America*, ed. Monica Gattinger and G. Hale (New York: Oxford University Press, 2010), 142.



**Figure 3.5: The Price of Oil per Barrel 1988-2005 in USD (inflation adjusted)**  
 Adapted from "Historical Crude Oil Prices (Table)" *Inflationdata.com*, created: 1 May 2015, updated: n.d.  
 retrieved from [http://inflationdata.com/Inflation/Inflation\\_Rate/Historical\\_Oil\\_Prices\\_Table.asp](http://inflationdata.com/Inflation/Inflation_Rate/Historical_Oil_Prices_Table.asp)

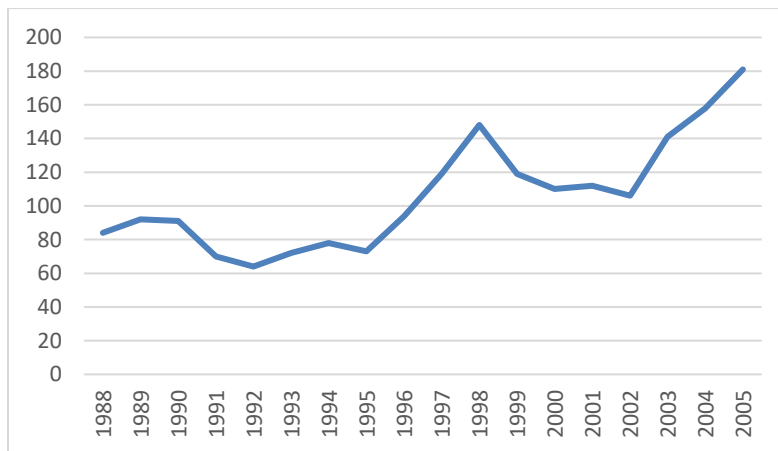


**Figure 3.6: Oil Production in Thousands of Barrels per Day 1988-2005**  
 Adapted from "U.S. Energy Information Administration," EIA, n.d. retrieved from  
<http://www.eia.gov/totalenergy/data/browser/?tbl=T11.01B#/?f=M&start=197301&end=201609&charted=0-11-12>



**Figure 3.7: Petroleum Net Imports in Thousand Barrels per Day 1988-2005**

Adapted from “U.S. Energy Information Administration,” EIA, release date, 27 September 2012. retrieved from <https://www.eia.gov/totalenergy/data/annual/showtext.php?t=ptb0507>



**Figure 3.8: Petroleum Net Exports in Thousand Barrels per Day 1988-2005**

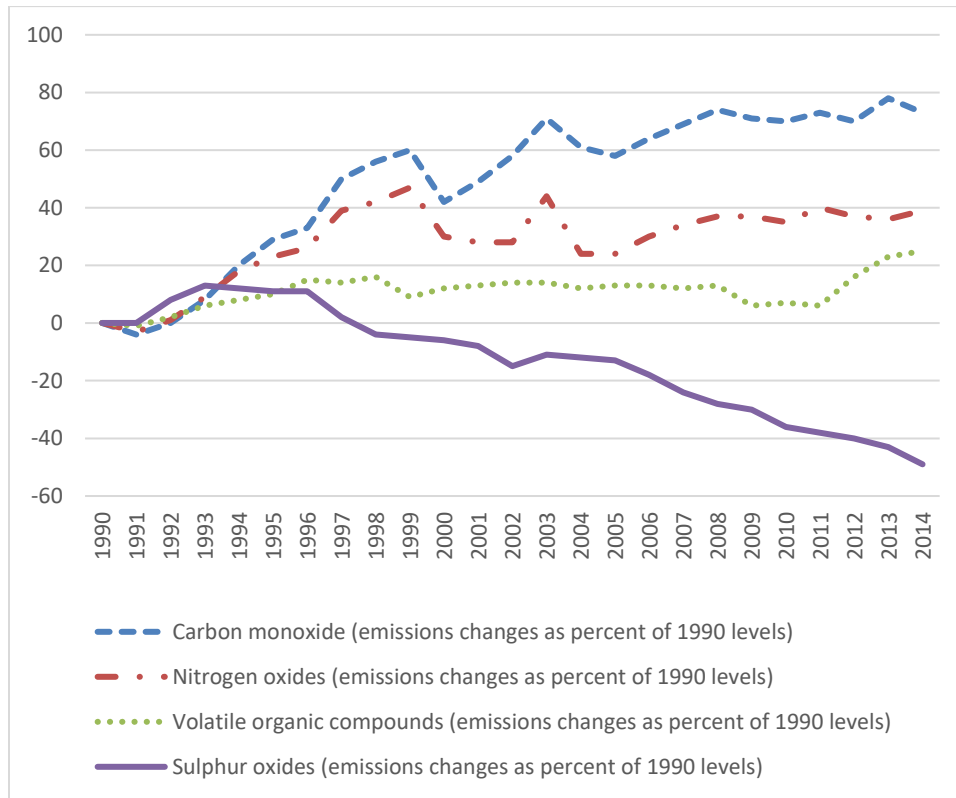
Adapted from “U.S. Energy Information Administration,” EIA, release date, 27 September 2012. retrieved from <https://www.eia.gov/totalenergy/data/annual/showtext.php?t=ptb0506>

### 3.2.3. The Acid Rain Treaty

The environmental agreements signed by Mulroney during his tenure awarded him the moniker “Canada’s Greenest Prime Minister.” The U.S.-Canada Air Quality Agreement (Acid Rain Treaty) was an agreement that was championed by Mulroney as most of the acid rain that falls in Canada originates from the U.S.<sup>151</sup> The treaty aimed to

<sup>151</sup> Harrison, *Passing the Buck*, 109.

reduce SO<sub>2</sub> emissions by 50 percent by 2000 which the western provinces and the oil and gas industry did not support.<sup>152</sup> The oil industry did reduce its SO<sub>2</sub> emissions; however, as seen in figure 3.9, other emissions have not. The reduction in SO<sub>2</sub> shows that the oil sector can reduce emissions and still be profitable.



**Figure 3.9: Percentage of 1990 Levels of Canadian Oil and Gas Sector Green House Gas Emissions 1990-2014**

Adapted from “Air Pollutant Emissions from the Oil and Gas Sector,” Environment and Climate Change Canada, release date, 25 May 2012. retrieved from <https://www.ec.gc.ca/indicateurs-indicators/default.asp?lang=en&n=117ECDEC-1>

### 3.2.4. The Kyoto Protocol

The goal of the Kyoto Protocol was to bring carbon emissions to 1990 levels. Prime Minister Chrétien’s goal when going into negotiations at Kyoto “was to outdo the

<sup>152</sup> Munton, “Acid Rain and Transboundary Air Quality;” Golich and Young, “Resolution of the United States-Canadian Conflict Over Acid Rain,” 73-74; Fenech, “Canadian Acid Rain Strategy,” 85.

United States for reasons of personal or national pride.”<sup>153</sup> Chrétien’s pride resulted in a “commitment to reduce emissions to 6 percent below 1990 levels by 2008 to 2012.”<sup>154</sup> This commitment was made without a plan on how it was going to be met, and it was also made without consulting the provinces as Mulroney did during the NAFTA negotiations.

### **3.3. The Politics Stream**

#### **3.3.1. Let Free Trade Reign**

##### ***Improving Federal-Provincial Relations***

By entering into deregulation accords such as the Western Accord, the Mulroney government showed that it respected the provinces’ jurisdiction over their resources, and thus achieved his goal of improving relations with the provinces.<sup>155</sup> The Western Accord did not shift all the power to the provinces: “the federal government maintains the authority to set prices if, after consulting with the producing provinces, it is deemed necessary.”<sup>156</sup> Unlike the NEP where the federal government acted unilaterally in its initial implementation, this responsibility did not remove the provinces from decision making. What the federal government means by “consultation,” and whether it similar to the province’s notion of consultation is unclear.

##### ***Canadians’ Opinion on Free Trade***

The free trade agreement with the U.S. was well supported by Canadians. Even when Canadians’ support for the Conservative government dropped to around 30 percent, support for free trade stayed around 55 percent.<sup>157</sup> The Prime Minister, Minister of Trade Pat Carney, and free trade chief negotiator Simon Reisman kept the provinces up-to-date with negotiations.<sup>158</sup> The premiers’ concerns were focused on sticky points of the

<sup>153</sup> Harrison, “The Struggle of Ideas and Self-Interest,” 178.

<sup>154</sup> Ibid.

<sup>155</sup> Pollard, “Canadian Energy Policy in 1985,” 167-168.

<sup>156</sup> Ibid., 169.

<sup>157</sup> Hart et al., *Decisions at Midnight*, 198.

<sup>158</sup> Ibid., 266.

negotiation such as subsidies, and dispute settlement.<sup>159</sup> The skeptic in the group was Premier Peterson from Ontario who was quoted saying in the *Ottawa Citizen*:

I'm not sure at all it's attainable...we're not making much progress...huge decisions have to be made in the next three weeks and we're a very, very long way from a big deal...If a deal is made it won't be as big as originally contemplated. They were originally contemplating a huge deal; now a number of things have been taken off the table.<sup>160</sup>

Premier Getty of Alberta and Premier Devine of Saskatchewan, though not optimistic about an agreement being made at this time, were both labelled as "free-trade boosters."<sup>161</sup> Free trade would secure a market both provinces needed for their oil and hopefully would reverse the economic hardships suffered in the early 1980s.

Canadians generally supported free trade before the establishment of CUFTA; however, there was opposition from organised groups that aimed to target public opinion and decision-makers, and their attempts continued to stop the Canadian government from joining NAFTA.<sup>162</sup> These groups include organised labour and environmental groups. This movement was unsuccessful because the majority of Canadians wanted integration with the U.S. After the implementation of NAFTA, "66 percent of Canadians [wanted] an even closer economic relationship with the United States. From Canada's perspective, despite highly visible trade disputes, the U.S.-Canada economic relationship is working."<sup>163</sup>

### **Lobbying**

Oil producing companies and the oil industry were amongst free trade's largest supporters. Because free trade would increase oil/bitumen production, it would also

<sup>159</sup> Ibid., 258.

<sup>160</sup> Jane Taber, "Premiers Doubtful Over Trade Deal." *The Ottawa Citizen* (Ottawa, ON), 15 September 1987.

<sup>161</sup> Taber, "Premiers Doubtful Over Trade Deal."

<sup>162</sup> Jennifer Merolla, Laura B. Stephenson, Carole J. Wilson, and Elizabeth J. Zechmeister, "Globalization, Globalización, Globalisation: Public Opinion and NAFTA," in *Law and Business Review of the Americas* 11 no. 3/4 (2005), 580.

<sup>163</sup> John Herd Thompson, "Playing by the New Washington Rules: The U.S.-Canada Relationship 1994-2003," in *American Review of Canadian Studies* 33 no. 1 (2003), 19.



increase the negative impacts of production. The largest opposition that serves as a foil to this support are the environmental groups that opposed free trade. The Action Canada Network (ACN) whose members include the Canadian Environmental Law Association (CELA) is one such organisation. The ACN was successfully in allying itself with Ontario which was the strongest opponent of free trade out of all of the provinces.<sup>164</sup> CELA also conducted a study on the environmental impacts of entering into NAFTA where they found that trade agreements have “a number of specific negative consequences for the environment.”<sup>165</sup> While CELA failed in stopping the Canadian government from entering NAFTA, it was successful in spreading awareness of the environmental effects of free trade, and it was able to create direct relationships with federal decision-makers.<sup>166</sup>

### ***Free Trade and U.S.-Canada relations***

Trade increased by about \$42 billion between 1989 to 1994 for which CUFTA “was responsible for over half.”<sup>167</sup> Increased trade integration meant that Canada and U.S. did not need continue government cooperation. Even during times of tense relations, the free trade agreement ensures that trade between Canada and the U.S. is not affected.<sup>168</sup> This relationship can give the Canadian government license to try to influence the U.S. government, when Canadians influenced the Americans into entering the Acid Rain Treaty, or opt to not to be influenced by the Americans, when the Canadian government did not join the 2003 Iraq war, without fear of these decisions negatively impacting its economy. Entering NAFTA was not without its risks. The oil sector could have been negatively impacted by including Mexico into the agreement, and there was fear from oil companies that the U.S. and Mexico might expand their oil production.<sup>169</sup>

<sup>164</sup> Donald Abelson, “Environmental Lobbying and Political Posturing: The Role of Environmental Groups in Ontario’s Debate Over NAFTA,” in *Canadian Public Administration* 38 no. 3 (1995), 360.

<sup>165</sup> Abelson, “Environmental Lobbying and Political Posturing,” 365.

<sup>166</sup> *Ibid.*, 368.

<sup>167</sup> Kimberly A. Clausing, “Trade Creation and Trade Diversion in the Canada – United States Free Trade Agreement,” in *Canadian Journal of Economics* 34 no. 3 (2001), 694.

<sup>168</sup> Stéphane Roussel, “‘Honey, Are You Still Mad at Me? I’ve Change, You Know...’: Canada-U.S. Relations in a Post-Saddam/Post-Chrétien Era,” in *International Journal* 58 no. 4 (2003), 577.

<sup>169</sup> Herd Thompson, “Playing by the New Washington Rules,” 16.

The industry also feared that further integration would increase “U.S. corporate ownership of Canada’s oil sands and gas industry, which since 1980 U.S. corporate ownership has declined from more than 75 percent to less than half.”<sup>170</sup> Even though the NEP was dismantled in 1985 and Canada never became self-sufficient, the goal of Canadian ownership of the oil industry was achieved. There was no plan to move to alternative forms of fuel. When negotiating NAFTA, none of the countries wanted there to be an environmental component; however, concerns about the pollution problem in Mexico compelled Canadian and American decision-makers to believe that creating a minimum standard was necessary.<sup>171</sup> The environmental provisions were supported and “highly praised by [then] EPA Director William Reilly.”<sup>172</sup>

NAFTA gave countries the right to “adopt environmental measures to ensure that investment be ‘undertaken in a manner sensitive to environmental concerns.’”<sup>173</sup> NAFTA also provides a procedure for disputes in Articles 723 and 913.4 that put the onus “on the complainant to prove it [the environmental measure] is contrary to NAFTA obligations.”<sup>174</sup> A dispute against Canada would not be brought to GATT, but to Canada’s federal courts.<sup>175</sup> Under NAFTA, the federal government can implement environmental measures, but as already discussed, has yet to implement a successful environmental policy that includes the oil industry without either the oil-producing provinces or the U.S.

### ***Environmental Impacts of Free Trade***

In negotiating and implementing CUFTA, the environmental impacts of increased trade were not considered as shown by a comment made by then Federal Minister of International Trade John Crosbie:

the free trade agreement is a commercial accord between the world’s largest trading partners. It is not an environmental agreement. The

<sup>170</sup> Ibid., 16.

<sup>171</sup> Annette Baker Fox, “Environment and Trade: The NAFTA Case,” in *Political Science Quarterly* 110 no. 1 (1995), 56.

<sup>172</sup> Ibid.

<sup>173</sup> Ibid., 58.

<sup>174</sup> Ibid.

<sup>175</sup> Ibid., 60.

environment was not, therefore, a subject for negotiations; nor are environmental matters included in the text of the agreement.<sup>176</sup>

When negotiating NAFTA, environmental concerns were addressed, but CUFTA was only concerned with trade. Also, lack of environmental concerns addressed in CUFTA could be due to Reagan as he was not interested in negotiating an agreement to address acid rain. Negotiations between Canada and the U.S. did not begin until George H. W. Bush came into office.

CUFTA may not have addressed the environmental impacts of increased trade, but NAFTA was described at the time of its passing as being the “‘greenest ever’ trade agreement linked two hitherto unrelated issues – the environment and foreign trade.”<sup>177</sup> However, the environmental provisions in NAFTA were to address environmental impacts created in Mexico and not Canada or the U.S.<sup>178</sup> The provision was to ensure that environmental standards were not to “harmonize them at a level lower than the highest already existing.”<sup>179</sup>

### **3.3.2. The Successful Emissions Reductions Agreement**

After coming to office, Mulroney continued the initiative to influence the U.S. to enter into this acid rain treaty.<sup>180</sup> Mulroney’s work in negotiating and implementing the Acid Rain Treaty and the success of that treaty to reduce sulphur dioxide emissions is an example of emissions reductions in Canada. Though Mulroney was not able to get U.S. support for the reductions agreement during the Reagan administration, Mulroney’s patience and determination paid off when Bush came to office in 1989.

<sup>176</sup> Abelson, “Environmental Lobbying and Political Posturing,” 356.

<sup>177</sup> Baker Fox, “Environment and Trade,” 49.

<sup>178</sup> Ibid., 51.

<sup>179</sup> Ibid., 57.

<sup>180</sup> Brent S. Steel and Dennis L. Soden, “Acid Rain Policy in Canada and the United States: Attitudes of Citizens, Environmental Activist, and Legislators,” in *The Social Science Journal* 26 no. 1 (1989); Golich and Young, “Resolution of the United States-Canadian Conflict Over Acid Rain,” 73-74; Fenech, “Canadian Acid Rain Strategy.”

Though the oil industry and Alberta did not agree that sulphur dioxide emissions needed to be cut, the success of the Acid Rain Treaty was due to Canada's tireless lobbying of U.S. legislators and decision-makers.<sup>181</sup> Through CUFTA (and NAFTA), integration between Canada and the U.S. energy sectors demands coordination and cooperation. Without the U.S., the Canadian government would not be able to successfully implement this policy alone because such a policy would affect the competitiveness of Canadian oil. The coordinated effort created a level playing field on both sides of the border.

Sulphur dioxide emissions were cut below 1990 levels, but as shown in Figure 3.9 for example, while sulphur dioxide emissions decreased, carbon dioxide emissions steadily climbed. Chrétien also wanted to implement an ambitious emissions reductions treaty. The Kyoto Protocol aims to reduce GHG gases in general, but carbon dioxide emissions were identified with the most impact on ACD. The federal government did establish policies to combat emissions, but they were not effective and described as weak.<sup>182</sup>

Removing federal interventionist policies were important to the oil industry because of the investment companies make towards extracting bitumen.<sup>183</sup> The possibility of another interventionist policy like the NEP would make the bitumen sands in Alberta unattractive due to the risk to MNCs' investments. The Mulroney government was able to develop and implement a successful environmental policy that affected the bitumen sands, and this was the Acid Rain Treaty. The oil industry was able to reduce its sulphur dioxide emissions well below 1990 levels thus showing that it was possible to create an environmental policy for emissions reductions that the oil industry could achieve.

<sup>181</sup> Munton, "Acid Rain and Transboundary Air Quality," 333; Everett Cataldo, "Acid Rain Policy in the United States: An Exploration of Canadian Influence," in *The Social Science Journal* 29 no. 4 (1992).

<sup>182</sup> Bernstein, "International Institutions and the Framing of Domestic Policies," 220.

<sup>183</sup> Bengt Söderbergh, Fredrik Robelius, and Kjell Alklett, "A Crash Programme Scenario for the Canadian Oil Sands Industry," in *Energy Policy* 35 no. 3 (2007), 1935.

### 3.3.3. The Unsuccessful Emissions Reduction Agreement

#### *The Return of Unilateralism*

The Chrétien government had mixed results from entering the Kyoto Protocol. Generally, the provinces were hostile to Kyoto, but like with the NEP, the federal government worked with the provinces after its unilateral decision. Regardless, the Albertan energy sector would carry the largest burden of Kyoto.<sup>184</sup> Chrétien did not learn from Trudeau's failure of the NEP or Mulroney's success of the Acid Rain Treaty.<sup>185</sup> Unlike Mulroney's strategy to update the provinces and work with them during the decision-making process, Chrétien followed Trudeau's strategy of implementation first, then try to negotiate with the provinces. Chrétien also did not ensure that the U.S. ratify Kyoto as Mulroney did the Acid Rain Treaty. Because the U.S. did not ratify Kyoto, the oil industry would be burdened further.<sup>186</sup>

The Canadian Council of Ministers on the Environment (CCME) was approved in January 1998, and it "established to promote cooperation and coordination of interjurisdictional [environmental] issues."<sup>187</sup> Quebec opted not to approve the CCME. They also "established a National Climate Change Process to investigate possible mechanisms for implementing the protocol, which resulted in the National Climate Change

<sup>184</sup> Alastair R. Lucas, "Canada's Role in the United States' Oil and Gas Supply Security," in *Energy Law Journal* 25 no. 2 (2004), 411.

<sup>185</sup> Chrétien, like Trudeau before him seemed to strongly subscribe to the phrase "it is easier to ask forgiveness than permission." For both, this mentality comes across as hubris and at the expense of the provinces. Ultimately, Trudeau and Chrétien failed because they did not show respect towards the provinces that they demanded. I do believe that their efforts to work with the provinces after their initial unilateral decision-making was their way of asking for forgiveness; however, they both did take into account the perceptions formed from this style of decision making would out-weigh the concessions they would make after the fact.

<sup>186</sup> *Ibid.*, 410.

<sup>187</sup> Neil Hawke, "Canadian Federalism and Environmental Protection," in *Journal of Environmental Law* 14 no. 2 (2002), 186.

Business Plan in 2000.”<sup>188</sup> Any goodwill the federal government made with the provinces was lost in 2002 when it announced that it would ratify Kyoto by the end of that year.<sup>189</sup>

Regardless of federal action, criticism focuses on the inability of intergovernmental cooperation to work because of the decentralised state of Canadian federalism.<sup>190</sup> Weibust argues that the federal government is not able to create an effective environmental policy because the provinces have too much power to put a stop to it by claiming economic hardship.<sup>191</sup> This argument ignores the success that Mulroney had in implementing sulphur dioxide emission cuts. If the federal government cannot get the support of the provinces, it needs the support of the U.S. The main issue is it took over a decade for negotiations between the U.S. and Canada to begin. As studies on the impacts of ACD become direr, the time it could take for the federal government to successfully negotiate with the provinces or the U.S. will make any agreed upon mitigation measures less effective.

### ***The Oil Patch's Response to Kyoto***

The provinces were “outraged” when the federal government made its commitment.<sup>192</sup> For the oil sector, the commitments could decrease the profits it was enjoying during this boom period. Figure 3.9 shows that since 1990, carbon emissions from the oil sector had increased by almost 80 percent 1990 levels. Ratified in 2002, businesses in the oil sector claimed that they would suffer more of a financial burden than other sectors leaving them at an unfair disadvantage.<sup>193</sup> Premier Klein of Alberta claimed

<sup>188</sup> Christopher J. Kukucha, “From Kyoto to the WTO: Evaluating the Constitution Legitimacy of the Provinces in Canadian Foreign Trade and Environmental Policy,” in *Canadian Journal of Political Science* 38 no. 1 (2005), 147.

<sup>189</sup> Ibid.

<sup>190</sup> Inger Weibust, “The Great Green North? Canada's Bad Environmental Record and How the Feds Can Fix It,” in *The Case for Centralized Federalism*, ed. Gordon DiGiacomo and Maryantonett Flumican (Ottawa: University of Ottawa Press, 2010).

<sup>191</sup> Weibust, “The Great Green North?”

<sup>192</sup> Harrison, “The Struggle of Ideas and Self-Interest,” 178.

<sup>193</sup> Lucas, “Canada's Role in the United States' Oil,” 410.

the Kyoto Protocol “would cost the provincial economy billions of dollars.”<sup>194</sup> Albertan officials claimed to be working on their own “clean air strategy” during the time of the Kyoto negotiations, but they reported that their goals were “not in alignment with the Kyoto Protocol.”<sup>195</sup> The other provinces also supported a tailor-made strategy for the provinces where they could ensure such a strategy would not negatively impact each of their economies like Klein claimed Kyoto would impact Alberta’s economy.<sup>196</sup>

### ***The New Administration’s Position on Kyoto***

The Liberal’s lacked a strategy to implement a policy that would fulfil its Kyoto commitments needed either the provinces or the U.S. cooperation. Because the Liberal government alienated the provinces by not including them in the decision-making process in making the commitments and to ratify the Protocol, it needed the U.S. government to join and ratify the agreement. Vice President Al Gore supported emissions reductions, and if he won the 2000 election he may have worked bilaterally with the federal government to ensure the targets were met. President George W. Bush was not interested in implementing Kyoto.<sup>197</sup> With no allies, the federal government could not successfully implement such a policy.

Bush was interested in increasing energy integration amongst all the NAFTA members. In 2001, “Bush, Chrétien, and Mexican President Vicente Fox established a trilateral North American Energy Working Group.”<sup>198</sup> The U.S. wanted to increase its energy security believing that the U.S. “faced an energy crisis.”<sup>199</sup> At the time the Bush administration was also working to expand oil development in Alaska which would have environmental implications on Canada and impact the way of life for Canadian indigenous

<sup>194</sup> Gregory J. Inwood, Carolyn M. Johns, and Patricia L. O’Reilly, *Intergovernmental Policy Capacity in Canada: Inside the Worlds of Finance, Environment, Trade and Health* (Montreal and Kingston: McGill-Queen’s University Press, 2011), 201.

<sup>195</sup> Inwood, et al., *Intergovernmental Policy Capacity in Canada*, 201-202.

<sup>196</sup> *Ibid.*, 202.

<sup>197</sup> Borger, “Bush Kills Global Warming Treaty.”

<sup>198</sup> Herd Thompson, “Playing by the New Washington Rules,” 16.

<sup>199</sup> *Ibid.*, 15-16.

communities.<sup>200</sup> While the Bush administration did promise to consult with its Canadian counterparts on the projects, it “pointed out that implementation of the plan would not depend on Canadian approval.”<sup>201</sup>

### **3.4. Conclusion**

Mulroney needed to appeal to the oil-producing provinces and the U.S. before entering negotiations for the free trade and acid rain agreements. This necessity ensured that Mulroney successfully navigated Kingdon’s decision-making process. While Trudeau did not successfully navigate the decision-making process because of his belief that he could redefine federalism, Mulroney’s successful navigation of the decision-making process entrenched Canadian federalism in it. Chrétien did not learn from these successes nor Trudeau’s failures.

Chrétien’s strategy for negotiating Kyoto was similar to Trudeau’s strategy for developing the NEP. Chrétien also did not fulfil the politics stream because Chrétien mistook the public’s support for a carbon reduction policy as enough for consensus. By not including the provinces in the negotiations or at least consulting them, Chrétien did not gain their support. The U.S. did initially support the Kyoto Protocol, but after Bush was voted into office, that support disappeared. Bad planning and poor timing also became Chrétien’s undoing.

Like Trudeau, Chrétien stepped down before the next election. Paul Martin was able to win a minority government in 2004; however, it did not last long, and in 2006, Stephen Harper became the new Prime Minister. Though Canada was not withdrawn from Kyoto until 2011, the Harper government made it clear that they did not support the Protocol, and they had no intention to implement it.

<sup>200</sup> Ibid., 16.

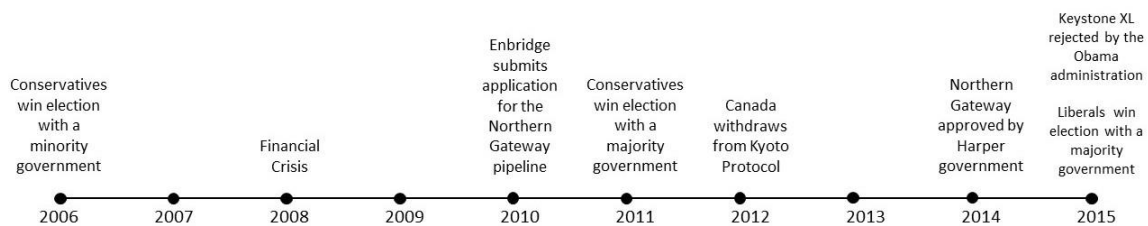
<sup>201</sup> Ibid.



## Chapter 4.

### The Harper Era: 2006-2015

Figure 4.1 shows the timeline of events during the Harper government's tenure that will be highlighted in this chapter. These events will show Harper's desire to increase oil trade at the expense of ACD. Having inherited an unfavourable policy – the Kyoto Protocol – Harper was not interested in honouring the Kyoto Protocol. He was interested in strengthening the economy from natural resources. The Harper government tried to increase oil exports by lobbying the Obama administration to approve the Keystone XL pipeline; however due to environmental concerns approval was delayed than the project was rejected. Frustrated, Harper looked for new markets to sell Canadian oil. The Northern Gateway pipeline would open the Asian markets which would make Canada less dependent on the U.S. to import Canadian oil.<sup>202</sup> Unfortunately for Harper, the project was mired in controversy. Despite the project being passed, the local indigenous populations contested the consultation process, and they brought their grievance to the Supreme Court of Canada and to the international stage. As the climate changed from a disinterest in the environment to concern, Harper did not adapt to this change, and his goal of market expansion were not fully realised.



**Figure 4.1: The Timeline of Free Trade to Kyoto**

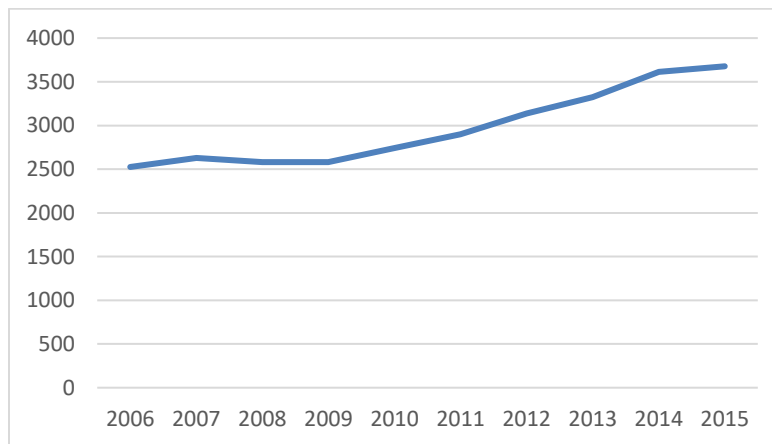
<sup>202</sup> Geoffrey E. Hale, "In the Pipeline' or 'Over the Barrel'? Assessing Canadian Efforts to Manage U.S. Canadian Energy Interdependence," *Canadian-American Public Policy* 76 (Feb 2011), 3.

## 4.1. The Problem Stream

### 4.1.1. Production Increase of the Bitumen Sands

#### *Harper's Support for Production*

Harper was the voice for Western Canada's concerns. Being from Alberta and having worked in the oil sector, Harper argued that government interference would be disastrous on Western Canada's economy. Harper's support for the bitumen sands is attributed to his personal experience with the early 1980s recession and his belief that it was caused by the implementation of the NEP.<sup>203</sup> His actions reflected a desire to limit the possibility of another recession due to regulations. During his time as prime minister, Harper sought to increase bitumen trade. The rise in production (figure 4.2) is attributed to two factors: the advancement in technology in bitumen extraction and Harper's support of the bitumen sands. Though production dipped in 2005, it steadily rose since 2006.



**Figure 4.2: Oil Production in Thousands of Barrels per Day 2006-2015**

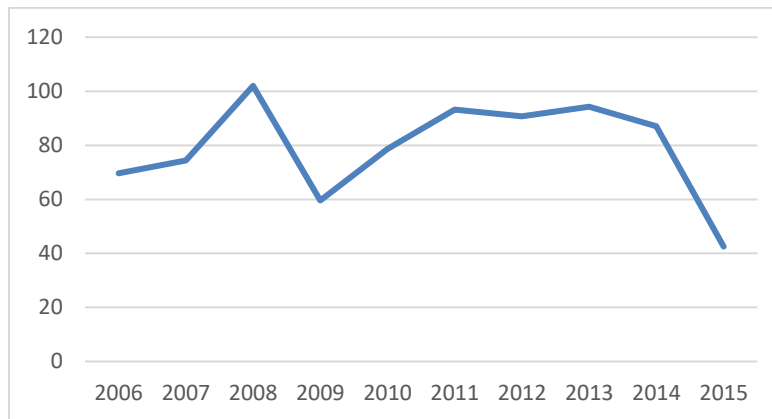
Adapted from "U.S. Energy Information Administration," EIA, n.d. retrieved from <http://www.eia.gov/totalenergy/data/browser/?tbl=T11.01B#/?f=M&start=197301&end=201609&charted=0-11-12>

Both the rise in oil prices caused by the instability in the Middle East after 9/11 and the depletion of conventional oil sources in North America made the bitumen sands economically viable.<sup>204</sup> As someone who worked for an oil company in Alberta during the

<sup>203</sup> Johnson, *Stephen Harper*, 20.

<sup>204</sup> Winfield, "Dirty Oil," 25.

recession after the NEP was implemented, Harper was likely motivated by economic growth Alberta would enjoy in this beneficial environment. Harper is known for being a “climate change denier,” and he surrounded himself with like-minded people shown through his appointment of “Dr. Mark Mullins, then executive director of the Fraser Institute, to the Natural Sciences and Engineering Research Council of Canada” in 2009, and “[i]n 2007, Mullins told *BC Business Online* he believes that climate change is ‘somewhat sensational and definitely exaggerated.’”<sup>205</sup>



**Figure 4.3: The Price of Oil per Barrel 2006-2015 in USD (inflation adjusted)**

Adapted from “Historical Crude Oil Prices (Table)” *Inflationdata.com*, created: 1 May 2015, updated: n.d. retrieved from [http://inflationdata.com/Inflation/Inflation\\_Rate/Historical\\_Oil\\_Prices\\_Table.asp](http://inflationdata.com/Inflation/Inflation_Rate/Historical_Oil_Prices_Table.asp)

Figure 4.3 shows the fluctuation in the price of oil during Harper’s tenure. It shows that the price oil was not stable during Harper’s tenure. The price of oil took a large drop (from \$102 to \$59.59) after the 2008 financial crisis. The price rose quickly afterwards to peak at \$94.25 in 2013 before the price dropped in 2014 because Saudi Arabia increased production. The economic viability of the bitumen sands was questioned afterwards. Since the drop in the price of oil, there have been approximately forty-thousand layoffs in the bitumen sands.<sup>206</sup> The economic importance put on the bitumen sands also left a blind spot on the “boom or bust” nature of oil.

<sup>205</sup> Paul Adams, “How Harper became a Global Guru for Climate Skeptics,” *iPolitics*, 10 June 2014; Andrew Nikiforuk, *Tar Sands: Dirty Oil and the Future of a Continent*, (Vancouver: Greystone Books. 2010).

<sup>206</sup> Gary Lamphier, “Gary Lamphier: Carbon Tax Would Hit Alberta, Saskatchewan Hard,” in *The Edmonton Journal*, 17 November 2015.

First announced in 2006, the Northern Gateway pipeline was to carry dilbit from Bruderheim, Alberta to Kitimat, BC, and it would open up the Asian market – specifically China – to Canadian oil. It would also “meet the long term needs of Western Canada oil production.”<sup>207</sup> The project was formally proposed in 2010 when the price of oil was still recovering from the 2008 financial crash. The environmental impact of construction was highly criticised as the proposed pipeline would cross almost 800 waterways, and “the hard-to-access terrain [is] prone to landslides.”<sup>208</sup> The question of Aboriginal Title was another challenge to the project from local indigenous groups.<sup>209</sup> Groups banded together to oppose the project.

### ***Extraction Technology***

In order to make the extraction of bitumen economically viable, oil companies are continually developing new technologies.<sup>210</sup> There are two methods for bitumen extraction: “open pit mining and in situ (using heat or solvents).”<sup>211</sup> The most efficient of these methods is in situ.<sup>212</sup> In situ mining uses high-pressure steam, steam-assisted gravity drainage (SAGD), to extract bitumen from deep underground.<sup>213</sup> This type of mining first started in the 1980s and has since become the main form of bitumen extraction. In situ is controversial because of allegations of the negative environmental impact it has on the region such as water contamination.

<sup>207</sup> David A. Rossiter and Patricia Burke Wood, “Neoliberalism as Shape-Shifter: The Case of Aboriginal Title and the Northern Gateway Pipeline,” in *Society & Natural Resources: An International Journal* 29 no. 8 (2015), 902.

<sup>208</sup> Ibid.

<sup>209</sup> Ibid.

<sup>210</sup> Ezra Levant, *Ethical Oil: The Case for Canada’s Oil Sands* (Toronto: McClelland and Stewart, 2010), 117.

<sup>211</sup> Adam Bloomer, Kallinga Jagoda and Jeffrie Landry, “Canadian Oil Sands: How Innovation and Advanced Technologies can Support Sustainable Development,” in *The International Journal of Technology Management and Sustainable Development* 9 no. 2 (2010), 115.

<sup>212</sup> Ibid.

<sup>213</sup> Levant, *Ethical Oil*; Landry, “Canadian Oil Sands.”

In situ is credited with the economic viability of bitumen mining.<sup>214</sup> SAGD technology was conceptualised in the 1970s, first tested in 1982, and first used commercially in 1996.<sup>215</sup> The Albertan government estimates “that 70-80% of oil in the oil sands is buried too deep for open pit mining; therefore, in situ methods will likely be the future of extracting oil from oil sands.”<sup>216</sup> Since the first in situ project in 2001, this mining method makes previously difficult extracted bitumen, like carbonates, possible.<sup>217</sup> Despite the water contamination controversy mentioned above, industry experts argue that in situ mining is meant to be “an alignment of economic and environmental imperatives” by decreasing the mining site’s footprint and disrupting less earth.<sup>218</sup>

#### **4.1.2. Ignoring the Carbon in the Room**

When Kyoto was ratified by the Liberal Government, Harper was leader of the Canadian Alliance party – a conservative, right-wing, populist party based out of Western Canada. Their main critique was Kyoto was a “made in Japan” commitment that the Prime Minister “imposed” on Canada.<sup>219</sup> They also pointed out that in comparison to other countries, Canada’s contribution to carbon emissions had little impact and therefore, carbon reductions would have little impact.<sup>220</sup> The main concern was that the federal government would impose economically damaging regulations, especially for the oil sector, that would not have an equitable impact on the environment. Instead of imposing emissions reducing regulations, the Harper government wanted to promote technologies that limited negative environmental impact such as SAGD. By incentivising companies,

<sup>214</sup> Sebastian. Gault, “An In-Depth Look at How In Situ Oil Sands Development has Evolved: The Past, Present and Future of In Situ Bitumen Recover,” *Alberta Oil: The Business of Energy*, 12 February 2014.

<sup>215</sup> Ibid.

<sup>216</sup> “Oil Sands,” *Investmentopia*, n.d., <http://www.investopedia.com/terms/o/oilsand.asp>.

<sup>217</sup> CAPP, “Oil Sands History and Milestones,” *Canada’s Oil Sands*, n.d., <http://www.canadasoilsands.ca/en/what-are-the-oil-sands/oil-sands-history-and-milestones>; Andrew Topf, “Insitu: Oil Sands Mining Goes Underground,” *Mining.com*, 1 September 2010.

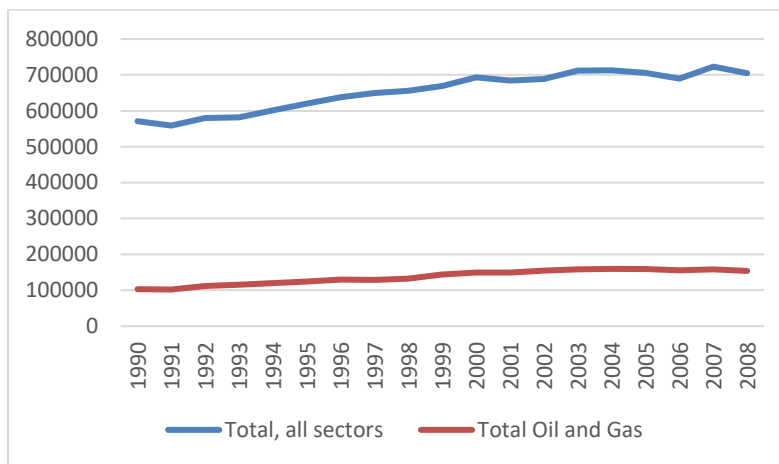
<sup>218</sup> Gault, “An In-Depth Look at How In Situ Oil Sands Development has Evolved.”

<sup>219</sup> Smith, “Political Parties,” 53.

<sup>220</sup> Ibid.

the government would influence the market to adopt practices instead of forcing practices on the market.

The Conservative government, and Harper specifically, are known for their poor environmental record as they denied the effects of the bitumen sands on ACD. The extraction site of the bitumen sands is relatively small as the “typical” project site is about three square miles.<sup>221</sup> The impact of the bitumen sands, however, is far reaching. The extraction process is carbon intensive (figure 4.4), the refinement process is energy intensive, and consumption produces more emissions.<sup>222</sup> The bitumen sands account for about eight percent of Canada’s total greenhouse gas (GHG) emissions, and between 1990 and 2008 GHG emissions from the oil sector grew about fifty per cent.<sup>223</sup>



**Figure 4.4: Total GHG Emissions vs. Oil and Gas Production Emissions in Metric Tons**

Adapted from “Greenhouse Gas Emissions by Source,” Stats OECD, last modified 2016, retrieved from <https://stats.oecd.org>

<sup>221</sup> Nikiforuk, *Tar Sands*, 182.

<sup>222</sup> Ibid.; Simpson, et al., *Hot Air*; Kathryn Harrison, “Challenges and Opportunities in Canadian Climate Policy,” in *A Globally Integrated Climate Policy for Canada*, ed. Steven Bernstein, Jutta Brunnée, David G. Duff and Andrew J. Green (Toronto: University of Toronto Press, 2008).

<sup>223</sup> OECD, Stats. 2014, “Greenhouse Gas Emissions,” *OECD.Stats*, [https://stats.oecd.org/Index.aspx?DataSetCode=AIR\\_GHG](https://stats.oecd.org/Index.aspx?DataSetCode=AIR_GHG).

### 4.1.3. Never NEP Again

The main motivation for Stephen Harper's energy and environmental policies during his tenure was to remove obstacles that he saw hindered the trade of bitumen. Because he was in Alberta when the NEP was implemented, Harper saw the interventionist policy as the cause of the recession Alberta suffered. By removing obstacles such as Kyoto, Harper goal was to create and facilitate a favourable environment for trade.

Like Mulroney, when Harper became Prime Minister, relations between the federal government and the provinces were tense. Also, Harper inherited a policy he believed was not in the best interest of Canada. Where Mulroney aimed to work multilaterally with the provinces, Harper opted for a unilateral approach like that of his former political hero, Trudeau.<sup>224</sup> Though the provinces also were unhappy that Kyoto was pushed upon them, Harper did not want to back out of Kyoto to mend relations. Harper believed that the Kyoto Protocol was a "socialist scheme." Unfortunately for him, he won the 2006 federal election with only a minority government, and though not all of the provinces liked Kyoto, it was popular with the public. Harper did not back out of Kyoto because he wanted to build support in Québec where it was popular.<sup>225</sup>

Another motivation to not implement Kyoto was to increase oil exports because according to Harper, Canada's energy policy was market driven and oil exports "served the country well."<sup>226</sup> He also boasted that Canada was "the only supplier that is secure and is increasing its production."<sup>227</sup> Referring back to figure 4.2, Canada's oil production only lagged during the 2008 financial crisis, and it has steadily grown since 2009. Though Harper's policies seemed to diverge from Chrétien's when it came to Kyoto, their policies on increasing energy production were similar.<sup>228</sup> Chrétien's commitment to emissions

<sup>224</sup> Johnson, *Stephen Harper*, 18-19.

<sup>225</sup> Heather A. Smith, "Unwilling Internationalism or Strategic Internationalism? Canadian Climate Policy Under the Conservative Government," in *Canadian Foreign Policy Journal* 15 no. 2 (2009), 61.

<sup>226</sup> Winfield, "Dirty Oil," 21.

<sup>227</sup> *Ibid.*, 22.

<sup>228</sup> *Ibid.*, 24.

reductions appeared to be mostly rhetoric.<sup>229</sup> Harper was not interested in engaging in such exercises. Kyoto was a burden the federal government had to bear until the Conservatives won a majority election in 2008.

The Harper government aimed to increase Canadian oil exports by two proposed pipelines, the Keystone XL and the Northern Gateway Pipeline. The Keystone XL Pipeline would carry dilbit from Alberta to Houston Texas. Delays made by the Obama administration caused the Harper government to search out different markets for Alberta bitumen. The Northern Gateway Pipeline would carry dilbit from Alberta to Kitimat, B.C. to be shipped to China.

## 4.2. The Policy Stream

### 4.2.1. Made in Canada

Instead of fulfilling Canada's Kyoto commitments, the federal government opted for a "Made-in-Canada" plan which it released in October 2006.<sup>230</sup> The new emissions target was to end emissions growth by 2025.<sup>231</sup> The plan also aimed to reduce emissions "to about half of 2003 levels by 2050."<sup>232</sup> The Harper government prioritised the economy over the environment because they believed that an environmental interventionist policy would hurt the economy especially during times of economic hardship.<sup>233</sup> Because bitumen is more energy intensive to extract and produce, it costs more than conventional crude, implementing an emissions reducing measure, such as a carbon tax, would affect

<sup>229</sup> Kukucha, "From Kyoto to the WTO," 24; David J. Blair, "The Framing of International Competitiveness in Canada's Climate Change Policy: Trade-off or Synergy?" in *Climate Policy* (2016), 9.

<sup>230</sup> Kathryn Harrison, "The Road Not Taken: Climate Change Policy in Canada and the United States," in *Global Environmental Politics* 7 no. 4 (2007), 57.

<sup>231</sup> Ibid.

<sup>232</sup> Lawrence Martin, *Harperland: The Politics of Control* (Toronto: Viking Canada, 2010).

<sup>233</sup> Blair, "The Framing of International Competitiveness in Canada's Climate Change Policy," 7; Aurélie Méjean and Chris Hope, "Modelling the Costs of Non-Conventional Oil: A Case Study of Canadian Bitumen," in *Energy Policy* 36 no. 11 (2008).



the competitiveness of Canadian bitumen.<sup>234</sup> The Clean Air Act was highly criticised, and the minority government was threatened to send the Act “to a special committee for review following a threat by Jack Layton to topple the government over the issue.”<sup>235</sup>

In 2008, the Harper Government implemented an emissions cap for industry to reduce “165 megatonnes from projected levels by 2020.”<sup>236</sup> However, emissions from industry only account for 50% of Canada’s total carbon emissions.<sup>237</sup> To accomplish this the Harper government encouraged the use of technology such as carbon capture and storage.<sup>238</sup> In 2012, a federal review panel sent “Harper a ‘reality check’ on the economic dangers of his global warming policies.”<sup>239</sup> Because of little coordination with the provinces and the sectors, the targets were deemed out of reach in 2014.<sup>240</sup>

#### 4.2.2. Leaving Kyoto

Despite the growing carbon problem shown in figure 4.2 and the growing evidence of the risk ACD poses, the federal government has not implemented a comprehensive policy to reduce the amount of GHG the bitumen sands emit. There is a debate surrounding whether the provinces or the federal government are/ is best suited to create effective ACD mitigation policy.<sup>241</sup> Canada was the first country whose government

<sup>234</sup> Blair, “The Framing of International Competitiveness in Canada’s Climate Change Policy;” Méjean and Hope, “Modelling the Costs of Non-Conventional Oil: A Case Study of Canadian Bitumen.”

<sup>235</sup> CBC News, “Harper Agrees to Send Clean Air Act to Committee,” *CBC News*, 01 November 2006.

<sup>236</sup> Government of Canada, *Turning the Corner: Regulatory Framework for Industrial Greenhouse Gas Emissions* (2008), 3.

<sup>237</sup> Mark Jaccard, Nic Rivers, and Jotham Peters. *Assessing Canada’s 2008 Climate Policy* 2008.

<sup>238</sup> Ibid.

<sup>239</sup> Mike De Souza, “Harper Gets ‘Reality Check’; Feds Will Pay ‘High Cost’ to Meet 2020 Emission Targets,” *The Vancouver Sun* (Vancouver, B.C.), 14 June 2012.

<sup>240</sup> Ibid., Shawn McCarthy, “Canada Won’t Meet 2020 Greenhouse Gas Emission Targets: Report,” *The Globe and Mail* (Ottawa, ON), 08 December 2014.

<sup>241</sup> Ahmed Shafiqul Huque, and Nathan Watton, “Federalism and the Implementation of Environmental Policy: Changing Trends in Canada and the United States,” *Public Organization Review* 10 no.1(2010); Herman Bakvis, Gerald Baier, and Doug Brown, *Contested Federalism: Certainty and Ambiguity in the Canadian Federation*, (Don Mills: Oxford University Press, 2009); Harrison, *Passing the Buck*; Inwood, et al., *Intergovernmental Policy Capacity in Canada*.

withdrew it from the Kyoto Protocol in 2012. Before withdrawing from Kyoto, the Harper government was clear that they did not support Kyoto. Saying “that Kyoto was a ‘socialist scheme to suck money out of rich countries.’”<sup>242</sup>

The Harper government stayed in Kyoto because it was politically beneficial. When coming into office in 2006, the Conservatives only won a minority government. The Liberals, NDP, and Bloc Québécois supported the Kyoto, and the Conservatives were also “interested in courting Québec...[which] had expressed support for Kyoto.”<sup>243</sup> The Harper government did reject the emission cut targets in Kyoto and adopted a made-in-Canada plan that included a target of “ending emissions *growth* by 2025.”<sup>244</sup> After the 2011 election, the Harper government won a majority election allowing them to finally repeal the Kyoto Protocol Implementation Act in 2012 via Bill C-38.

In 2012, Canada became the first country withdrawn from the Kyoto Protocol, and for many showed the Harper governments’ disregard for the effects of ACD and the work of those who worked on Kyoto.<sup>245</sup> Also in 2012, the federal government introduced Bills C-38 and C-45 which “implemented sweeping measures to accelerate the pace of resources exploration in the oil sands by dramatically weakening Canada’s environmental laws.”<sup>246</sup>

Bill C-38, the Jobs, Growth and Long-term Prosperity Act, also established a new Canadian Environmental Assessment Act. This act gave the National Energy Board (NEB) one of the few agencies powers over environmental assessment; the other two are the Canadian Nuclear Safety Commission, and the Canadian Environmental Assessment Agency.<sup>247</sup> The new organisation of parties with assessment powers have two interesting

<sup>242</sup> Smith, “Political Parties and Canadian Climate Change in Policy, 57.

<sup>243</sup> *Ibid.*, 58.

<sup>244</sup> Harrison, “The Road Not Taken,” 110; Smith, “Political Parties and Canadian Climate Change in Policy, 110.

<sup>245</sup> Michael Harris, *Party of One* (Toronto: Viking, 2014), 219.

<sup>246</sup> Bruce Campbell, “The Petro-Path Not Taken: Comparing Norway with Canada and Alberta’s Management of Petroleum Wealth,” *Canadian Centre for Policy Alternatives* (2013), 58.

<sup>247</sup> Meinhard, Doelle, “CEAA 2012: The End of Federal EA As We Know It?” in *Journal of Environmental Law and Practice* 24 no. 1 (2012), 4-5.

implications. The first implication is that the majority of departments should not have the power of self-assessment. The second implication is it made a distinction between departments who should have the power of self-assessment (only the CEA agency and energy regulators), and those who should not (the rest). Bill C-45, the Jobs and Growth Act, reduced environmental protections such as the Navigable Waters Protection Act and “limited land rights on reserves.”<sup>248</sup> Reducing these two powers would have a large positive impact on the success on the Northern Gateway pipeline.

These along with Harper’s “pushing” of the bitumen sands left many to believe that the direction Canadian environmental and energy took was due to Harper and his ideological beliefs.<sup>249</sup> Harper’s control of his government’s message and reports of him silencing scientists fed into this belief.<sup>250</sup> Because of this any public opinion or attempted influence by interest groups would only succeed if it already aligned with Harper’s views. He may have waited until 2012 to withdraw from the Kyoto Protocol, but as shown above, policies were implemented that would ensure that Canadian commitments could not be made.

### **4.2.3. Trying to Build Pipelines**

The most efficient way to get bitumen to market is by pipeline. Building pipelines, especially since the 2010 oil spill in the Kalamazoo River, is controversial. Harper worked hard to get Alberta bitumen to market including lobbying efforts in the U.S. The first is the Keystone XL pipeline which the Obama administration rejected in 2015 that would carry dilbit from Alberta to Texas. The second is the Northern Gateway Pipeline which the Harper government approved in 2015 that would carry dilbit from Alberta to British Columbia. During the 2008 financial crisis, the oil sector was one of the few that was not

<sup>248</sup> John Ibbitson, *Stephen Harper* (Toronto: Signal McClelland & Stewart, 2015), 353.

<sup>249</sup> Ibid.; Martin, *Harperland*.

<sup>250</sup> Martin, *Harperland*.

impacted.<sup>251</sup> By securing more bitumen to be sent to market, Harper would be ensuring the growth of a then stable sector.

Harper said that he would not “accept [a] Keystone XL rejection,” and that passing Keystone XL was “a complete no brainer.”<sup>252</sup> Its completion should have resulted in increased bitumen production and would “provide new markets for the [oil] industry.”<sup>253</sup> Harper had “threatened to sell the oil to Asia” if Obama rejected the completion of the pipeline.<sup>254</sup> Obama’s delay in approving Keystone left an opportunity for another pipeline. Enbridge submitted the application for Northern Gateway pipeline in 2010 which was the same year of the Kalamazoo River spill. The high media profile of the spill cast an unfavourable shadow over the Northern Gateway pipeline.

Harper pushed for the approval of the Northern Gateway Pipeline. During the NEB hearing process, some environmental groups were not allowed to participate, and the Federal Court of Appeal found that indigenous communities were not adequately consulted.<sup>255</sup> The opposition the pipeline met in B.C. will be discussed further below under public opinion. The announcement for Northern Gateway was plagued by bad timing due to the large spill by another Enbridge pipeline in Michigan. Despite Enbridge’s attempts to appeal to its critics in B.C., the opposition was risk adverse especially when reports and images of the spill in the Kalamazoo River were plentiful.<sup>256</sup> Unfortunately for Harper, he was not given another mandate to see the construction of the Northern Gateway pipeline through, and even if he had been, construction for the proposed pipeline was delayed due

<sup>251</sup> Wilfrid Greaves, “Risking Rapture: Integral Accidents and In/Security in Canada’s Bitumen Sands,” in *Journal of Canadian Studies* 47 no. 3 (2013), 178.

<sup>252</sup> Bruce Champion-Smith, “Harper: Canada Won’t Accept Rejection of Keystone,” *The Toronto Star* (Ottawa, ON), 26 September 2013; Ibbitson, *Stephen Harper*, 336.

<sup>253</sup> Jeffrey, *Dismantling Canada*.

<sup>254</sup> Canada, America and Oil, “A Pipeline Runs Through It,” *The Economist* (Ottawa, ON), 8 February 2014.

<sup>255</sup> Harris, *Party of One*, 288; John Paul Tasker, “Ottawa Won’t Appeal Court Decision Blocking Northern Gateway Pipeline,” *CBC News* (Ottawa, ON), 20 September 2016.

<sup>256</sup> Philippe Le Billon and Ryan Vandecasteyen, “(Dis)connecting Alberta’s Tar Sands and British Columbia’s North Coast,” in *Studies in Political Economy* 91 (2013), 42.

to challenges from indigenous communities in Northern British Columbia. Ultimately Prime Minister Trudeau rejected Northern Gateway due to environmental concerns.

### **4.3. The Politics Stream**

#### **4.3.1. Canadians Not Clear on Kyoto**

When the Conservatives won a majority government in 2008, the environment was not a priority for Canadian voters.<sup>257</sup> With a mentality similar to that of Trudeau, he appeared to believe that the election victory awarded him a mandate to prioritise the economy over the environment. His focus on the mandate also appears to keep him from seeing the change in public opinion towards environmentalism.<sup>258</sup> A 2015 opinion poll found the majority of Canadians (79 percent) viewed the policy direction the Harper government took as harming Canada's reputation.<sup>259</sup>

#### **4.3.2. Ignoring Stakeholders**

##### ***First Nations Go International***

According to West Coast Environmental Law, the NEB did not have the expertise to make a decision on Northern Gateway because its "notable lack of experience in dealing with British Columbia's unique environmental issues, First Nations, and habitat."<sup>260</sup> The indigenous communities in northern British Columbia organised themselves in opposition of Northern Gateway. The consultation process was plagued with claims of inadequate consultation which was substantiated by the Federal Court of Appeal decision in their favour in 2016. The Gitga'at Nation explained their frustration with the consultation provided was no what they considered consultation:

<sup>257</sup> Kathryn Harrison, "A Tale of Two Taxes: The Fate of Environmental Tax Reform in Canada," in *Review of Policy Research* 29 no. 3 (2012), 397.

<sup>258</sup> It is also interesting to note that also in 2008, the price of oil rose. The public's apparent apathy towards the environment could have been due to the combination of the financial crisis and high gas prices.

<sup>259</sup> Blair, "The Framing of International Competitiveness in Canada's Climate Change Policy," 2.

<sup>260</sup> Le Billon and Vandecasteyen, "(Dis)connecting Alberta's Tar Sands," 44-45.

The consultation process that we have seen so far is completely inadequate. Enbridge and many First Nations seem to have fundamentally different definitions of what consultation is. To the First Nations, when you hear the word 'consultation' it means coming together to make sure that both sides are happy. That is what we expect out of consultation, but Enbridge so far has just—consultation to Enbridge seems more like telling the appropriate First Nations what they're going to do without looking for any input back from the First Nations. So we see that as something that is definitely lacking in this process.<sup>261</sup>

Dissatisfied with the federal government, First Nations groups took their grievance to the international courts: "For example, the Fraser River Watershed First Nations has stated that the federal approval process is in violation of indigenous laws, traditions, values, and inherent rights under Article 18 of the United Nations Declaration on the Rights of Indigenous Peoples."<sup>262</sup>

Bills C-38 and C-45 also alienated British Columbians opposed to Northern Gateway by creating an us versus them mentality. The term environmental terrorist, those who violently target energy infrastructure, became prominent in 2012.<sup>263</sup> Though they were not labelled as "terrorists" because there was not infrastructure to destroy, they were responsible for the delay and ultimate stop of the infrastructure being built. For supporters of the pipeline, it serves as a safe means of transportation in comparison of rail.<sup>264</sup> The us

<sup>261</sup> Le Billon and Vandecasteyen, "(Dis)connecting Alberta's Tar Sands," 46.

<sup>262</sup> Ibid., 47.

<sup>263</sup> Greaves, "Risking Rapture," 184.

<sup>264</sup> "Northern Gateway Pipeline Approval: Alberta Reacts," in *CBC News* (Calgary, Alberta) 17 June 2014. The rail disaster at Lac-Mégantic in July 2013 is an example of the dangers of oil transportation via rail.

versus them mentality ultimately results in a schism between both parties where they believe that the other is “damaging” Canada.<sup>265</sup>

### ***The Environmentalists Go to Washington***

Like First Nations, environmental groups were dissatisfied with the federal government’s response to their grievances. Instead, they lobbied the Obama administration to not approve the Keystone XL pipeline.<sup>266</sup> This tactic was the best use of resources since Harper would not be influenced by interest groups that did not hold the same ideological beliefs and values as he does. By focusing their efforts on Obama, instead of Harper, environmental groups could indirectly affect Canadian policy making. The opposition to Northern Gateway appeared to be enough to delay the project indefinitely. Obama delayed and ultimately rejected Keystone XL due to environmental concerns, and production in the U.S. was booming due to fracking technology.

### **4.3.3. Reactions to the Harper Method**

One criticism of Harper after Bills C-38 and C-45 were passed was that he, and his government, were “anti-science,” though he increased spending on technology development for industries including oil.<sup>267</sup> Another criticism was that Harper was not only controlling of communications from government scientists, but he controlled the debate. He was more interested in discussing ideas with like-minded people.<sup>268</sup> He showed this

<sup>265</sup> This action does not help indigenous communities who claim to be suffering poor health due to bitumen mining as this is a provincial concern; however, opponents of the tar sands argue their position goes beyond esthetics. The extraction of bitumen from this region has been blamed for damaging the climate of Northern Alberta, poisoning water, the poor health of the neighbouring First Nations communities (Frampton and B. Redlin 2008, 257). As extraction in this region developed, neighbouring First Nations communities have suffered “a plague of unusual cancers (such as liver, blood and bile duct cancer), as well as other diseases, an ever-increasing death rate, and a steadily worsening health crisis” (Ibid.). Different studies on the cancers suffered by people in Fort Chipewyan have had conflicting results. Studies backed by tar sands opponents link bitumen extraction in the area with cancer cases; however, studies backed by the Albertan government found no link between extraction and cancer (CBC News 2014).

<sup>266</sup> Harrison, “The Struggle of Ideas and Self-Interest,” 190.

<sup>267</sup> Elyse Amend and Darin Barney, “Getting It Right: Canadian Conservatives and the “War on Science,” in *Canadian Journal of Communications* 41 no. 1 (2016).

<sup>268</sup> Ibbitson, *Stephen Harper*, 352.

by delivering “the real Speech from the Throne that laid out the government’s agenda, as opposed to the one that Governor General David Johnston read out on June 3, 2011.”<sup>269</sup> After securing a majority government, the Conservative government did not compromise or back down as they did with the Clean Air Act.<sup>270</sup> Appeals to the government not to remove environmental protectionisms fell on deaf ears.<sup>271</sup> Lastly, Harper was criticised for poor federal-provincial relations. During his tenure, he only met with all the premiers twice.

#### **4.3.4. Another Unilateralist**

Like Trudeau and Chrétien before him, Harper made decisions largely unilaterally. Alberta supported the federal government’s policy to expand the export market because they stood to make the most gains; however, Harper did not prepare for the Northern Gateway pipeline opposition from B.C. Nor did he prepare for the provinces’ desire to mitigate the effects of ACD. Specifically, Quebec, Manitoba, and B.C., have taken “action on climate change.”<sup>272</sup> Instead of exporting oil, they “envision a potential role for themselves as low-carbon energy exporters.”<sup>273</sup> Some provinces have taken the initiative and “have articulated some sort of GHG reduction targets.”<sup>274</sup> These provinces have even discussed “with U.S. states that have launched regional GHG emission cap and trade systems.”<sup>275</sup> Alberta’s initial policy to reduce GHG emissions in 2007, was a result of anti-Keystone arguments; these initiatives “has been widely criticized, however, as being likely to result in continuing growth in absolute GHG emissions.”<sup>276</sup> When the price of oil fell, Harper praised the Alberta model over other provinces that implemented a carbon tax because he believed that a carbon tax would further hurt the economy.<sup>277</sup>

<sup>269</sup> Ibid.

<sup>270</sup> Jeffrey, *Dismantling Canada*, 192.

<sup>271</sup> Ibid., 192-193.

<sup>272</sup> Mark S. Winfield, “Climate Change and Canadian Energy Policy: Policy Contradiction and Policy Failure,” in *Behind the Headlines* 65 no. 1 (2008), 8.

<sup>273</sup> Ibid.

<sup>274</sup> Ibid., 10.

<sup>275</sup> Ibid., 11.

<sup>276</sup> Ibid.

<sup>277</sup> Les Whittington, “Carbon Pricing Just a Tax Grab, Stephen Harper Says,” in *The Toronto Star* (Ottawa, ON), 23 April 2015.



#### 4.3.5. Not Green? Then No Green for You

The government was very controlling of information coming from scientists and bureaucrats who work for the federal government: “the 2007 rules introduced by the Harper Conservatives [are meant] to prevent media interviews.”<sup>278</sup> Since these rules were introduced, “[m]edia coverage of climate change [and ACD] science...has been reduced by over 80%.”<sup>279</sup> This policy of “muzzling” did not go unnoticed by the media. In a three-year period, various Canadian newspapers outlets released about “forty-seven articles” about muzzling.<sup>280</sup> Despite the government’s efforts, they “proved to be unsuccessful, [and] they resorted to campaigns to discredit the source.”<sup>281</sup>

This policy direction hindered investment in ACD mitigating technology such as carbon capture and storage (CCS).<sup>282</sup> Investing in ACD mitigating technology would be another means to grow the economy. Canada’s “green business sector estimated “annual sales are more than \$26 billion, with employment at nearly a quarter of a million.”<sup>283</sup> With more investment, the competitiveness of the Canadian green sector could be increased by encouraging and funding innovation and gain a “competitive advantage in export markets.”<sup>284</sup> Growing the green sector would unlikely result in phasing out the oil sector. Critics of ACD mitigating technology and the green sector view these as “false promises” deployed to perpetuate status quo practices.”<sup>285</sup>

<sup>278</sup> Jeffrey, *Dismantling Canada*, 105.

<sup>279</sup> *Ibid.*, 106.

<sup>280</sup> *Ibid.*

<sup>281</sup> *Ibid.*

<sup>282</sup> Chris Bataille, Noel Melton, and Mark Jaccard, “Policy Uncertainty and Diffusion of Carbon Capture and Storage in an Optimal Region,” in *Climate Policy* 15 no. 5 (2015), 566.

<sup>283</sup> Blair, “The Framing of International Competitiveness in Canada’s Climate Change Policy,” 8.

<sup>284</sup> *Ibid.*

<sup>285</sup> Greaves, “Risking Rapture,” 177.

#### 4.3.6. The Failure of Keystone XL?

Bush made clear his position during the 2000 election that he was opposed to the Protocol.<sup>286</sup> Without the U.S. government ratifying Kyoto, the Canadian government had a difficult time justifying their policy to oil-producing provinces because ratifying Kyoto would create an “[un]level playing field.”<sup>287</sup> As mentioned above, the Acid Rain Treaty was successful only because the U.S. joined. The lack of implementation by the federal government is credited to the refusal of the U.S. government to ratify Kyoto. Harper and Bush’s similar views on Kyoto would ensure that neither country would be motivated to lobby the other to implement an emissions reduction policy.

Despite Harper’s views on Kyoto, the Canadian government still participated in “international efforts to combat climate change.”<sup>288</sup> Though Canadian continued to engage in multilateralism, this action does not show that Harper government was interested in mitigating ACD because its domestic practices showed differently.<sup>289</sup> Harper justified Canada’s domestic practices by pointing out that it was not the only country that would not reach its targets:

Now, our country was not alone in failing to act. Many countries including Kyoto’s signatories in Europe, like Italy, Spain, and Ireland, failed to achieve significant emissions reductions during the same period. In fact, for most part the only countries that achieved serious reductions were those that suffered industrial downturns or transformations largely unrelated to any plan for emissions reduction.<sup>290</sup>

The Harper government also correctly identified that a successful reductions plan must include the U.S.<sup>291</sup> Unlike the Mulroney Government, the Harper Government made no attempts to influence U.S. decision-makers to emissions reductions. Instead, the Harper

<sup>286</sup> Harrison, “The Road Not Taken,” 103.

<sup>287</sup> Harrison, “The Struggle of Ideas and Self-Interest,” 194-195.

<sup>288</sup> Smith, “Unwilling Internationalism or Strategic Internationalism,” 62.

<sup>289</sup> *Ibid.*, 63.

<sup>290</sup> *Ibid.*, 64.

<sup>291</sup> *Ibid.*

Government attempted to influence U.S. decision-makers to approve the controversial Keystone XL pipeline which would result in increasing emissions.

The Harper Government lobbied the Obama Administration to approve Keystone XL. In May 2013, the government reportedly “increased its advertising spending on the Alberta tar sands to \$16.5 [million] from \$9 [million]” the previous year to encourage the Obama administration to approve Keystone.<sup>292</sup> Obama’s continued reluctance to decide whether to proceed with Keystone XL’s construction was not well received by the Canadian government. Then foreign affairs minister, John Baird’s response to Obama’s indecision emphasised the Canadian federal government’s frustration with the delay.<sup>293</sup> Prime Minister Harper said that he “won’t take no for an answer’ on the Keystone pipeline.”<sup>294</sup>

Harper tried to push the Obama Administration into approving Keystone XL instead of compromising with the Obama Administration to alleviate its concerns for the environmental impact of the project. The Harper Government’s style of influence was described by former Prime Minister Joe Clark as having an “almost adolescent tone.”<sup>295</sup> Harper inflated the benefits of Keystone XL including job creation numbers in the “hundreds of thousands,” that the State department claimed would only be around “forty-two thousand for the two-year construction period.”<sup>296</sup> The Obama administration showed more interest in adopting ACD mitigating policies. In 2014, it made a joint announcement with China bilateral cooperation for carbon emissions reductions as a strategy to prepare for the 2015 United Nations Climate Conference in Paris.

<sup>292</sup> Suzanne Goldberg, “Canadian Government Doubles Advertising Spend on Tar Sands,” in *The Guardian* (London, England), 16 May 2013.

<sup>293</sup> Meagan Fitzpatrick, “Keystone XL ‘Limbo’ Needs to End Soon, Baird Tells U.S.,” *CBC News*, 16 January 2014; Les Whittington, “Keystone Pipeline Delays Symbolic of Strained Canada-U.S. Relations,” *The Toronto Star* (Ottawa, ON), 21 November 2014; John M. Broder, Clifford Krauss, and Ian Austen, “Obama Faces Risks in Pipeline Decision,” *The New York Times*, 17 February 2013; Canada, America and Oil, “A Pipeline Runs Through It.”

<sup>294</sup> Champion-Smith, “Harper: Canada Won’t Accept Rejection of Keystone.”

<sup>295</sup> Harris, *Party of One*, 221.

<sup>296</sup> *Ibid.*

## 4.4. Conclusion

The dismissal then withdrawal from the Kyoto Protocol signalled that the federal government prioritised economic growth at the expense of the climate. Harper delayed withdrawing from Kyoto until he had the electoral support, but he did not negotiate or consult with the provinces an alternative ACD mitigating strategy. Instead, the Harper government implemented an ineffective “Made-in-Canada” strategy and left ACD mitigation policies to the provinces. Like Trudeau and Chrétien before him, the decision-making process fulfilled the problem and policy streams of Kingdon’s framework, but it did not fulfil the politics stream. Withdrawing from Kyoto was not as problematic for Harper because this policy did not have the potential for economic hardship like the NEP and Kyoto did; however, Harper’s apathy towards the environment stopped the export market expansion.

Harper was able to increase production, but he was not able to secure new markets and increase transportation infrastructure to take advantage of the increased production. This infrastructure was necessary because the current pipelines did not have the transportation capacity; Canadian producers were forced to sell bitumen at a reduced rate which led to an estimated lost revenue of \$90 million per day.<sup>297</sup> Harper’s plans ultimately failed because he acted unilaterally without compromising with his allies or listening to the growing concern for the effects of ACD. Keystone XL was rejected because of environmental concerns despite Harper’s aggressive lobbying of the U.S. government. Northern Gateway was delayed because of the flawed NEB process. Stakeholders who opposed Northern Gateway were ignored by Harper and were left out of the NEB process. They were aware that Harper would not listen to their concerns, and they took their concerns to the courts and foreign actors.

Before Trudeau implemented the NEP, he was Harper’s political hero before the implementation of the NEP. Regardless, Harper still adopted a similar style of decision-making despite the lack of results it produces. The Conservatives were defeated in 2015 by the Liberals, and Justin Trudeau became Prime Minister. Trudeau did not approve of the Northern Gateway because of environmental reasons, but he did approve the

<sup>297</sup> Pete Evans, “Why Canada Just Pumps Out Cheap Oil,” *CBC News*, 20 April 2012.

TransMountain expansion project (TMX). By doing so, he implemented a new energy policy that balances economic and environmental concerns.

## **Chapter 5.**

### **Conclusion**

In this study, I set out to discover what caused the shift from an economic growth based energy policy to a balanced economic-environmental policy displayed by the approval of TransMountain Expansion pipeline (TMX) which will increase available markets for Canadian oil while rejecting Northern Gateway for environmental concerns. To do that, I analysed 35 years of energy policy in Canada to determine why decision makers have prioritised economic growth over ACD mitigation. I found that there is no consensus on how Canadian energy policy should look. There is a conflict between those who prioritised economic growth and those who want to securitise supply and/ or implement ACD mitigation policy. The majority of this conflict is between the federal government and the provinces.

I will explain that debates on neoliberalism and securitisation theory reflect the source of conflict. First, I will discuss neoliberalism. I will give an overview of the neoliberal ideology and why it prescribes economic growth is prioritised over environmental protectionism. I will explain that despite the carbon-intensive nature of bitumen, it is economically important by providing both high paying jobs and revenues. If the government implements an environmental intervening policy, it could negatively impact the economy. Second, I will discuss securitisation theory. I will give an overview of securitisation theory and explain that any policy can be securitised, and I will explicate the energy security and environmental trade-offs.

I will next explain that the majority of conflict is between the federal and provincial governments. The reason behind this conflict is due to unclear environmental powers given to either level of government by the Constitutional Act of 1867. Also, any unilateral attempt by the federal government to implement an environmental policy will be viewed by the provinces as an infringement on their right to exploit their natural resources. To resolve this conflict, the federal and provincial governments need to coordinate in order for ACD mitigation to be successful.

Finally, I will summarise Justin Trudeau's environmental policies since becoming Prime Minister. I focus on environmental policies because Trudeau not only sought provincial approval of these policies, but he also had the provincial leaders accompany him to COP21. By including the provinces and showing a desire for international cooperation, Trudeau set a new tone for Canada under the Liberal government. I will show how this new tone is a policy shift.

## 5.1. Findings

### 5.1.1. Neoliberalism

#### *Overview*

Neoliberalism is defined as "a theory of political economic practices that propose that human well-being can be best advanced by liberating individual entrepreneurial freedoms and skills within an industrial framework characterized by strong property rights, free markets, and fair trade."<sup>298</sup> According to neoliberalism, the state's role is to guarantee such freedoms as "business and corporations...to operate within this institutional framework of free markets and free trade is regarded as a fundamental good. Private enterprise and entrepreneurial initiative are seen as the keys to innovation and wealth creation."<sup>299</sup>

Neoliberalism follows a laissez-faire doctrine. Proponents of neoliberal policies argue that government should allow business/corporations to run unrestricted or without regulations. Regulations can cause inefficiencies that could negatively impact the company and the economy.<sup>300</sup> Oil companies will implement and have implemented such measures to self-regulate and mitigate ACD only if/when the market demands such

<sup>298</sup> David Harvey, *A Brief History of Neoliberalism*, (Oxford: Oxford University Press, 2005), 2; Alison Taylor, and Tracy Friedal, "Enduring Neoliberalism in Alberta's Oil Sands: The Troubling Effects of Private-Public Partnerships for First Nation and Metis Communities," in *Citizenship Studies* 15 no. 6-7 (2011), 819.

<sup>299</sup> Harvey, *A Brief History*, 64.

<sup>300</sup> Ibid.

measures.<sup>301</sup> Economic growth is dependent on reliable energy resources, and oil is the most sought energy resource.<sup>302</sup> The international and economic importance of oil demands that oil policy not limit production. The strength of this theory is: it will provide me the motivation of decision-makers to prioritise the economy over energy or the environment.

### ***Prioritising Economic Growth***

Typically, energy security, as a concept, has an economic connotation. For many states, both importers and exporters, energy security is the activity of ensuring the availability of affordable and reliable energy resources.<sup>303</sup> For importers, the main goal is the diversification of reliable supplies to reduce the risk of supply disruptions such as those experienced worldwide during the 1973 oil crisis.<sup>304</sup> Exporters on the other hand can choose between the goals of self-sufficiency or net-exporter. Since the collapse of the NEP in 1985, the federal government has chosen to be a net exporter for economic reasons.<sup>305</sup>

Since then, Canadian prime ministers have mostly avoided interventionist policies, including ACD mitigating policies, towards the bitumen sands because of its perceived economic importance.<sup>306</sup> As previously mentioned, through the implementation of free trade with the U.S. resulted in “the world’s most integrated and efficient border.”<sup>307</sup> Due to the vast resources in Northern Alberta and innovations from companies like Sun Oil, now Suncor, the bitumen sands have, until the recent drop in the price of oil, provided both royalties and high-wage jobs.<sup>308</sup>

<sup>301</sup> Alex Epstein, *The Case for Fossil Fuels* (New York: Penguin, 2014).

<sup>302</sup> Jeff Rubin, *The End of Growth* (Toronto: Vintage Canada, 2013).

<sup>303</sup> Ang, et al., “Energy Security,” 1081.

<sup>304</sup> Ibid.; Janusz Bielecki, “Energy Security: is the Wolf at the Door?” *The Quarterly Review of Economics and Finance* 42 no. 2 (2002), 237.

<sup>305</sup> Ritchie, “Oil Self-Sufficiency for Canada,” 464.

<sup>306</sup> Simpson, et al., *Hot Air*.

<sup>307</sup> Moens et al., “Achieving Energy Security.”

<sup>308</sup> Yergin, *The Quest*.



## **Bitumen Sands' Contribution to the Economy**

Canada may have vast bitumen resources in Northern Alberta that have provided both royalties and high paying jobs, but the wealth gained from the bitumen sands is not distributed equally across the country, and there are jobs only if there is demand for Canadian bitumen. Approximately seventy percent of the oil exported comes from the bitumen sands.<sup>309</sup> The royalties Alberta receive for bitumen are low. Since 1986, the oil companies operating in Northern Alberta have grossed approximately \$260 billion, and the “public share” received is approximately \$25 billion.<sup>310</sup>

There have been two recent shocks to the Canadian oil industry. First, oil prices started to drop in 2014 after Saudi Arabia decision to over produce crude oil and flood the market which led to large layoffs in the industry. Second, when President Obama announced that he rejected the proposal to build the Keystone XL pipeline due to environmental concerns. Relying on bitumen to drive the economy is unsustainable because volatility of the price of oil and the fluctuating demand. Oil companies that operate in the bitumen sands have been working to lessen the impact of bitumen extraction, but this new technology is only a means to extract the primary resource for export.

## ***Possible Impacts of ACD Mitigating Policies***

Implementing an ACD mitigation policy would result in increased costs in bitumen production. Much of my analysis focused on the role of the decision-makers and their considerations in formulating policy, but their motivations were also discussed. For example, Stephen Harper lived in Alberta when the NEP was implemented, and he witnessed the recession suffered after its implementation.<sup>311</sup> He saw first-hand how regulations negatively impact the economy. Lobbying also plays an important role in the decision-making process.<sup>312</sup> Interest groups are highly organised, and successful interest

<sup>309</sup> Greaves, “Risking Rapture.”

<sup>310</sup> Ibid., Campbell, “The Petro-Path Not Taken.”

<sup>311</sup> Johnson, *Stephen Harper*.

<sup>312</sup> Kingdon, *Agendas, Alternatives, and Public Policies*, 49-50.

groups form close relationships with policy-makers.<sup>313</sup> This relationship helps but is not crucial in influencing policy. Interest groups have more success in influencing policy because they tend to uphold the status quo instead of changing it.<sup>314</sup> Deregulation is a policy change, and it allows governments to reduce the resources needed for policy implementation.

## **5.1.2. Securitisation Theory**

### ***Securitisation for Whom?***

Securitising an object elevates that object above normal politics. Securitising the bitumen sands elevates it to a necessity. This act gives the perspective that since the bitumen sands are necessary for economic growth, the federal government needs to implement policies that at least attempt to ensure production is maximised. It also creates an “us” versus “them” mentality: those who are for the bitumen sands (thus economic growth), and those who are against it. The act of securitisation legitimises state power against those who oppose the bitumen sands.<sup>315</sup>

### ***Energy Security Trade-Off***

There are some trade-offs to securitising the bitumen sands for economic growth. As mentioned, the federal government abandoned its self-sufficiency policy after the NEP. Self-sufficiency, as a policy would help protect Canada from the risks of shocks such as those felt during the OPEC oil embargo. Self-sufficiency would not only reduce risk, and ensure country-wide access to oil, but it also would create more jobs since the bitumen would be refined in Canada.<sup>316</sup>

Support for self-sufficiency by decision-makers has, more or less, disappeared since the NEP’s collapse. With the implementation of free trade, trade became the primary objective of energy policy in Canada. This is true of both Liberal and

<sup>313</sup> Ibid.

<sup>314</sup> Ibid.

<sup>315</sup> Greaves, “Risking Rapture.”

<sup>316</sup> Ritchie, “Oil Sufficiency for Canada,” 465-466.

Conservative governments in power since the collapse of NEP. Advocates for self-sufficiency argue that if the federal government truly wanted to become an “energy superpower,” self-sufficiency would be the best policy. To become an energy superpower, Canada must “be a world leader in energy output and have substantial reserves. Energy superpowers must also demonstrate that they put their own energy interests above those of other countries.”<sup>317</sup>

### ***Environmental Security Trade-Off***

Another trade-off is the environmental impact of the bitumen sands is devalued in favour of the economic benefit. The extraction of bitumen from this region has been blamed for damaging the climate of Northern Alberta, poisoning water, and the poor health of the local First Nations communities.<sup>318</sup> Economies that are based on staples tend put a lot of strain on the environment.<sup>319</sup> For environmental security advocates “the bitumen sands depict two distinct referent objects: “local ecosystems threatened by extraction processes or the accidental release of diluted bitumen, and a macro-level referent in the form of the global biosphere affected by anthropogenic climate change.”<sup>320</sup> The risk of spills during transportation is also a large concern. After eight days, cleanup is especially difficult because the bitumen will sink as seen when an Enbridge pipeline burst and unrefined bitumen spilled into the Kalamazoo River in 2010.<sup>321</sup> As of 2015, 1.2 billion dollars was spent to try to clean to spill, but the cleanup has not been successful, and the river is still contaminated.<sup>322</sup>

<sup>317</sup> Gordon Laxer, “Superpower, Middle Power, or Satellite? Canadian Energy and Environmental Policy?” in *Canada’s Foreign and Security Policy: Soft and Hard Strategies of a Middle Power*, ed. Nik Hynek and David Bosold (Don Mills: Oxford University Press, 2010), 141.

<sup>318</sup> Caelie Frampton and Blair Redlin, “Stuck in the Muck: The Harper Tar Sands Legacy,” in *The Harper Record*, ed. Teresa Healy (Ottawa: Canadian Centre for Policy Alternatives, 2008), 257.

<sup>319</sup> Greaves, “Risking Rapture.”

<sup>320</sup> *Ibid.*, 184.

<sup>321</sup> Heather D. Dettman and Graham Irvine, “A Comparison of the Properties of Diluted Bitumen Crudes with other Oils,” POLARIS Applied Sciences, Inc. (2013), 15.

<sup>322</sup> Maria Gallucci, “Enbridge Oil Spill: Five Years Later, Michigan Residents Struggle to Move On,” in *International Business Times*, 24 July 2015.

In 2012, the federal government introduced Bills C-38 and C-45 which “implemented sweeping measures to accelerate the pace of resources exploration in the oil sands by dramatically weakening Canada’s environmental laws.”<sup>323</sup> As mentioned, with these laws brought the idea that those who violently targeted energy infrastructure was classified as a terrorist. Whether or not the act of targeting energy infrastructure with violence should be classified as “terrorist activity,” the classification itself is important. By classifying such acts as terrorism suggest those who commit them are acting against Canada and wish to harm its economy. Extraction of primary resources is an environmentally damaging process, and the physical damage bitumen extraction causes to the surrounding ecosystem is at the forefront of the debate against the bitumen sands.<sup>324</sup> The provinces are more active in implementing ACD mitigation policy. This policy is not a means to eliminate the extraction of natural resources, but a means to continue extraction.<sup>325</sup>

## 5.2. Jurisdictional Concerns

The majority of the conflict over ACD is between the federal and provincial governments. With the exception of Mulroney, all of the decision makers profiled in this study have failed to negotiate or consult with the provinces before implementing policy change. Negotiation or consultation with the provinces is important because of the powers given to them over their natural resources by the Constitution Act of 1867. The Constitution Act is unclear on which level of government has powers over implementing ACD mitigation policy.

Table 5.1 below shows that the Canadian federal system is unclear as to which level of government has what powers when it comes to the environment. This table shows two different interpretations of which powers give the federal and provincial governments responsibilities over the environment. The disagreement between these

<sup>323</sup> Campbell, “The Petro-Path Not Taken,” 58.

<sup>324</sup> Levant, *Ethical Oil*; Weibust, “The Great Green North?”; Taylor, and Friedal, “Enduring Neoliberalism;” Simpson, et al., *Hot Air*.

<sup>325</sup> Greaves, “Risking Rapture.”

interpretations shows the difficulty of achieving a goal based on jurisdictional concerns as the primary objective. The size of Canada makes it difficult to create a broad policy that is effective in Canada's wide range of ecosystems and regional environmental concerns.<sup>326</sup> Because of this difficulty, the success of a country-wide energy policy or environmental policy that impacts the energy sector is more likely if energy producing provinces cooperate. The legislative dismantling of the National Energy Program is a good example of the power the provinces have over federal policy when said policy reaches into their jurisdiction.

**Table 5.1: Environmental Powers for the Federal and Provincial Governments**

	Federal Government		Provincial Government	
<b>Interpretation A</b> <sup>327</sup>	s. 91(6)	The Census and Statistics	s. 92(2)	Direct Taxation within the Province
	s. 91(10B)	Foreign Relations	s. 92(8)	Municipal Institutions in the Province
			s. 92(10)	Local works and undertakings excluding those under federal control
			s. 92(15)	Imposition of Punishment by Fine, Penalty, or Imprisonment
<b>Interpretation B</b> <sup>328</sup>	s. 91	Peace, Order and Good Government	s. 109	Control and ownership of land, mines and minerals in the province
	s. 91(1A)	Public Debt and Property		
	s. 91(2)	Trade and Commerce		
	s. 92(10)	Federal Works and Undertakings		
	s. 108	Canals, Harbours, Rivers and Lake Improvements		
	s. 95	Agriculture		
<b>Agreement between Interpretations A &amp; B</b> <sup>329</sup>	s. 91(3)	Taxation	s. 92(13)	Property and Civil Rights in the Province
	s. 91(10)	Navigation and Shipping	s. 92(16)	Generally, all matters of a merely local or private nature in the province
	s. 91(12)	Sea Coast and Inland Fisheries	s. 92A	Control and ownership of non-renewable natural resources, forestry and electrical energy
	s. 91(27)	Criminal Law	s. 95	Agriculture
	s. 91(29)	Federal Works and Undertakings		
	s. 95	Agriculture		

<sup>326</sup> Bakvis, Baier, and Brown, *Contested Federalism*, 208.

<sup>327</sup> William MacKay, "Canadian Federalism and the Environment: The Literature," *Georgetown International Environmental Law Review* 17 no. 1 (2004), 26-27.

<sup>328</sup> Marie-Ann Bowden, "Jurisdictional Issues," in *Environmental Law and Policy* ed. Elaine L. Hughes, Alastair R. Lucas, and William A. Tileman (Toronto: Emond Montgomery Publications Limited, 2003), 41-42.

<sup>329</sup> MacKay, "Canadian Federalism and the Environment, 26-27; Bowden, "Jurisdictional Issues," 41-42.

### 5.2.1. Issues Around Federalism

Considering the neoliberal arguments that I have outlined, the lack of federal intervention in the bitumen sands is understandable because it does not take on the same risk as the provinces in the production of natural resources. As also discussed, the provinces have a better knowledge of the economic and environmental issues they face than does the federal government. Since the collapse of the NEP, the jurisdictional constraints have kept the federal government from implementing ACD mitigating policies that could harm provincial economies without provincial cooperation.

### 5.2.2. Need for Federal-Provincial Cooperation

Without political will or national standards, a competitive relationship between the federal and provincial governments could result in policy that will damage the environment: “competition is inefficient whenever governments compete to cater to unduly influential voters, whether environmentalists or industry.”<sup>330</sup> National standards could create a limit to exploitive environmental policy to ensure, in times when provincial governments take a more exploitive environmental policy during, for example, economic hardship, this exploitive policy that will be kept from causing irreparable harm to the environment.

A country-wide policy could also help eliminate or reduce any collective-action problem.<sup>331</sup> This would be rectified if the federal government defined its ACD mitigation policy and created environmental standards. This does not suggest that all of Canada’s environmental problems will be solved if the federal government were to take a more active role and standardise ACD policy. It does suggest that these standards will harmonise federal and provincial policies in a way that cannot be done through cooperation, while still allowing for competitiveness.

<sup>330</sup> Harrison, *Passing the Buck*, 22.

<sup>331</sup> Andrew J. Green, “Bringing Institutions and Individuals into a Climate Policy for Canada,” in *A Globally Integrated Climate Policy for Canada*, ed. Steven Bernstein; Jutta Brunnée; David G. Duff; Andrew J. Green (Toronto: University of Toronto Press, 2008), 250.

Creating such a policy will not be easy. Since the provinces have jurisdiction over private property, the federal government will find it difficult to implement an ACD mitigation policy that the provinces will not challenge. Even after the federal government signed and ratified the Kyoto Protocol, the federal government did not make implementation mandatory because the provinces have jurisdiction over the management of their natural resources.<sup>332</sup> In order to make the policies mandatory without infringing on the provincial power over their natural resources, the federal government would need the provinces to agree to such policy which, especially for Alberta, is unlikely.<sup>333</sup> Until recently, the oil-producing provinces would unlikely agree to such policies because their economies rely on oil production.<sup>334</sup> The provinces B.C., Ontario, Quebec and Manitoba have implemented ACD mitigating policies, and in 2016, Alberta implemented a carbon tax. Canada's environmental record was an important issue during the 2015 election, and Trudeau's promises to implement policies to mitigate ACD while still growing the economy.

## **5.3. Trudeau: The Next Generation**

### **5.3.1. The Problem Stream**

During the 2015 campaign, the Liberals, under Trudeau, promised to utilise more green technology to minimise ACD. Though he did not go as far as the NDP, whose candidates called for leaving bitumen "in the ground," the Liberals' policy promises showed they would take a more balanced approach shown by its rejection of the Northern Gateway pipeline and the approval of TMX. The political, social, and economic environment in Canada currently favours this approach. Alberta elected the NDP, and that government passed a carbon tax in 2016 despite the crash in the price of oil.

<sup>332</sup> Bernstein, "International Institutions and the Framing of Domestic Policies."

<sup>333</sup> Ibid.

<sup>334</sup> Nicolas Choquette-Levy, Heather L. MacLean, and Joule A. Bergerson "Should Alberta Upgrade Oil Sands Bitumen? An Integrated Life Cycle Framework to Evaluate Energy Systems Investment Tradeoffs," in *Energy Policy* 61 (2013); Winfield, "Dirty Oil."

## ***COP21 and the Pan-Canada Strategy***

The COP21 Climate Change Summit in Paris was Trudeau's first opportunity to show Canada's new stance on environmentalism and ACD mitigation. Without a plan, Trudeau "placed himself comprehensive 'on message,' realigning Canada firmly within global CO<sub>2</sub> mitigation efforts."<sup>335</sup> Trudeau's "Canada is back" speech promised a new commitment that included the provinces, and he was accompanied by provincial and territorial leaders as a show of pan-Canada solidarity.<sup>336</sup> The federal government ratified COP21 October 2016 with the agreement to keep this century's global warming below two degrees Celsius.<sup>337</sup> COP21 was ratified before the environment ministers met in Montreal to discuss how to implement the agreement.<sup>338</sup>

### **5.3.2. The Policy Stream**

#### ***National Energy Plan 2.0?***

Trudeau also negotiated with the provinces to develop a pan-Canada strategy for combating ACD and to meet the commitments made in the COP21 agreement. With the exception of Saskatchewan, all of the provinces have made agreed to implement ACD mitigating policies to ensure that Canadian commitments are met. Trudeau clarified that provinces can choose their own path to carbon reductions; however, "Trudeau said the proposed price on carbon dioxide pollution should start at a minimum of \$10 a tonne in 2018, rising by \$10 each year to \$50 a tonne by 2022."<sup>339</sup>

His proposal for the federal government to set a minimum price was not received well by the provinces. Saskatchewan, Nova Scotia, and Newfoundland walked out of

<sup>335</sup> Amelia Hadfield, "Maple Leaf Zeitgeist? Assessing Canadian Prime Minister Justin Trudeau's Policy Changes," in *The Commonwealth Journal of International Affairs* 106 no. 1 (2017), 29.

<sup>336</sup> James Fitz-Morris, "Justin Trudeau Tells Paris Climate Summit Canada Ready to Do More," *CBC News*, 30 November 2015.

<sup>337</sup> *Ibid.*

<sup>338</sup> Brent Rathgeber, "Has Trudeau's Carbon Plan Poisoned the Well?" *iPolitics*, 05 October 2016.

<sup>339</sup> Kathleen Harris, "Justin Trudeau Gives Provinces Until 2015 to Adopt Carbon Price Plan," *CBC News*, 03 October 2016.



climate talks, and Trudeau's plan was called the National Energy Plan 2.0.<sup>340</sup> Regardless, the federal and provincial governments continued negotiating, and in December, the Pan-Canadian Framework was signed with the exception of Saskatchewan and Manitoba.<sup>341</sup> The framework aims to meet Canada's 2030 emissions targets.<sup>342</sup> Saskatchewan and Manitoba did not sign due to economic concerns.<sup>343</sup> The framework was developed after working "Indigenous Peoples; [consulting] with the public, businesses and civil society; and presented options to act on climate change and enable clean growth."<sup>344</sup> Unlike Harper's plan, the Pan-Canadian framework aimed to cut emissions from all sectors by pricing carbon.<sup>345</sup> There is no implicit plan on how these cuts will occur is not clear; however, Trudeau's muddled policy is likely due to negotiations with the provinces.

### ***Finding Balance***

In March, Trudeau attended CERAWeek, an annual energy conference, where he spoke about environmentally sustainable resource development, promoted Canadian oil to investors, and received "an award for his stance in favour of sustainable development."<sup>346</sup> In November, Trudeau approved the TransMountain Expansion (TMX). As with all pipeline construction, there was opposition from environmental groups about the environmental impact of the project. One of the largest concerns was the increased tanker traffic along B.C.'s coast. Trudeau responded that "if [he] thought this project was unsafe for the B.C. coast, [he] would reject it. This is a decision based on rigorous debate on science and evidence. [The cabinet has] not been, and will not be swayed by political arguments."<sup>347</sup> The Northern Gateway pipeline was rejected due to environmental

<sup>340</sup> Bruce Cheadle, "Sask., N.S. and N.L. Ministers Walk Out of Climate Talks After Trudeau Announce Carbon Price," *CBC News*, 03 October 2016.

<sup>341</sup> John Paul Tasker, "Trudeau Announces 'Pan-Canadian Framework' on Climate – but Sask., Manitoba Hold Off," *CBC News*, 09 December 2016.

<sup>342</sup> *Ibid.*

<sup>343</sup> *Ibid.*

<sup>344</sup> Government of Canada, *Pan-Canada Framework on Clean Growth and Climate Change* (2016) 2.

<sup>345</sup> *Ibid.*, 8.

<sup>346</sup> Joanna Smith, "Trudeau to Talk Balancing Oil with the Environment at Energy Summit in Houston," *The Toronto Star* 09 March 2017.

<sup>347</sup> John Paul Tasker, "Trudeau Cabinet Approves Trans Mountain, Line 3 Pipelines, Rejects Northern Gateway," *CBC News* 29 November 2016.

concerns. He stated that “[t]he Great Bear Rainforest is no place for a pipeline and the Douglas Channel is no place for oil tanker traffic.”<sup>348</sup> By deeming one project too risky for the environment and the other not, Trudeau created an environmental impact threshold for projects.

### **5.3.3. The Politics Stream**

#### ***Reviving Keystone?***

When he first came to office, Trudeau found an ally in Barack Obama. Both were committed to economic-environmental balanced energy policies. Obama found balance through expanding fracking projects to satisfy domestic needs and rejecting pipeline projects like the Keystone XL pipeline and the Dakota Access Pipeline (DAPL).<sup>349</sup> After his victory in 2015, Donald Trump has signed executive orders to construct both Keystone and DAPL. Now that the political obstacle has been removed, economic obstacles remain. The price of oil has not rebounded despite OPEC reducing production, and Canada’s policy to tax/ put a price on carbon may stop Keystone XL’s construction.<sup>350</sup> Considering this and his denial of ACD, Trump’s energy policy on oil is economic-based, and he will unlikely be an ally for Trudeau.

Despite the U.S.’s policy change under the Trump administration, Trudeau did not change his policy in kind. With the majority of the provinces signing the Framework, Trudeau stated that “Canadian climate policy will be set by Canadians, not by whomever happens to be the president of the United States.”<sup>351</sup> This statement was in response to Premier Brad Wall’s criticism that because of Trump’s policies, it is the wrong time for ACD mitigation implemented in Canada.<sup>352</sup>

<sup>348</sup> Ibid.

<sup>349</sup> Camille Fertel, Oliver Bahn, Kathleen Vaillancourt and Jean-Philippe Waaub, “Canadian Energy and Climate Policies: A SWOT Analysis in Search of Federal/Provincial Coherence,” *Energy Policy* 63 (Dec 2013): 1144.

<sup>350</sup> Bill Arnold, “Biggest Challenge to Keystone XL Not Political but Economic,” *The Hill*, 26 March 2017.

<sup>351</sup> Tasker, “Trudeau Announces ‘Pan-Canadian Framework.’”

<sup>352</sup> Ibid.

## 5.4. The Lucky Decision Maker

Kingdon argues that for policy change to occur, the problem stream, the policy stream, and the politics stream need to “couple” when a policy window opens. The decision maker must not only recognise a policy window, but they also must fulfil the three streams. The decision maker cannot rely on their skill for policy development. There is also an element of luck – or timing – involved.

For Pierre Trudeau, the 1973 oil crisis presented an opportunity for policy change. He and Lalonde developed a policy to secure supply through the NEP. Trudeau failed to secure stakeholders as allies, and he suffered from bad timing. Instead of courting oil-producing provinces or oil companies, Trudeau appealed to the rest of Canada. He was able to gain their support; however, they held no risk in policy implementation. Those that did hold risk were the oil companies, the oil-producing provinces, and the U.S. Trudeau did not appeal to the first two, and he assumed he had the support of the third; however, instead of waiting for the results of the U.S. election before implementing the NEP, the Trudeau government passed it a month before the election.

Jean Chrétien and Stephen Harper also failed to secure stakeholders and suffered from bad timing. Chrétien did not secure Canadian stakeholders before negotiating Canada’s commitment to carbon emission reductions in Kyoto, but the Clinton administration also made reduction commitments. Unfortunately for Chrétien, Al Gore lost the 2000 election to George W. Bush who opposed the commitments in the Kyoto Protocol. While trying to secure markets, Harper suffered from bad timing after Obama won the 2008 election. Unlike Bush, Obama was concerned with the negative impact of ACD, and he rejected the Keystone XL. Harper failed to recognise indigenous communities and environmental groups as stakeholders when he approved the construction of Northern Gateway pipeline. Though his policies increased bitumen production, without increased transportation infrastructure, the economic benefits were not fully realised.

Of the Prime Ministers discussed in this study, Brian Mulroney was the only one to successfully have navigate the decision-making process and have implemented a policy aimed at ACD mitigation until Trudeau. By securing a market for oil-producing provinces

and securing supply for the U.S., Mulroney facilitated a favourable environment for ACD mitigation. He was also aided by good timing. Though Reagan was not interested in entering into the Acid Rain Treaty, George H. W. Bush did voice interest during the 1988 campaign. His support of the Acid Rain Treaty meant that Mulroney did not need to court the oil-producing provinces, who did not support an ACD mitigation agreement. By having the U.S. agree, Mulroney ensured that Canadian oil would stay competitive because its market – the U.S. – implemented the same policy.

Justin Trudeau has recently suffered some bad timing since ratifying the COP21 agreement. The first was the victory of Donald Trump in the 2016 election is one instance of bad timing. Since coming to office, Trump has signed a number of executive orders to pass the construction of the Keystone XL pipeline and reverse Obama’s environmental legacy. Typically, oil-producing provinces would be concerned that Canadian oil is no longer competitive because Trudeau has not changed his environmental policy accordingly.<sup>353</sup> Luckily for Trudeau, Alberta has not reversed its carbon tax, but Rachel Notley still supports Albertan economic growth through exporting oil. Approving TMX shows Alberta that the federal government will secure a market for Alberta’s bitumen.

Rejecting the Northern Gateway pipeline seems to contradict the federal government’s support; however, the NEB’s flawed consultation process and the indigenous reaction makes its construction unlikely. Also, Trudeau would likely lose the support of indigenous and environmental stakeholders.<sup>354</sup> Trudeau shows that he is interested in courting as many stakeholders as possible. Going forward Trudeau might have trouble successfully compromising with all of these parties. To meet Canada’s COP21 commitments, Trudeau will need to determine which stakeholders are appropriate allies to reach consensus. Despite Trudeau fulfilling the politics stream, the lack of an implicit plan leaves Trudeau short in fulfilling the policy stream of Kingdon’s framework.

<sup>353</sup> That is not to say that Trudeau will not change his government’s policy. This policy shift is still fragile due the political change in the U.S. and the current economic climate, and it could change depending if the Albertan government’s policy changes.

<sup>354</sup> Trudeau’s decision TMX was also controversial. In 2016, the Ministerial Panel traveled to communities located along the TMX route to engage with those who would be effected by the expansion and write a report on their findings. This process gives Trudeau another more justification than the NEB process alone.

## **5.5. MSF's Lessons**

In this study, I used MSF to explain the nature of Canadian energy policy and why ACD mitigation policy has not successfully been implemented with the exception of the Acid Rain Treaty. I find that federalism imposes a restraint on decision makers to fulfil all of Kingdon's streams. Mulroney was successful in implementing the Acid Rain Treaty because he negotiated it with the U.S. instead of the provinces. By only needing to negotiate with one party, there are less expansive compromises. For a national policy to be successful, the federal government either needs the U.S. or the provinces' consensus. The autonomy given to the provinces via federalism means that the federal government needs to negotiate with the provinces to implement a national policy that will impact their jurisdictional control. Because Trudeau must have the provinces in agreement to the federal ACD mitigation plan, the policy will be more muddled than if there were bilateral negotiations between Canada and the U.S.

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