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To Bakken and back:
The impact of oil drilling on the Fort Berthold Reservation

By Ruth Lopez

On the way to New Town in northwestern North Dakota in late summer, there are vast fields of blooming sunflowers—a crop initially cultivated by Native Americans—and mile after mile of canola and wheat. The drive from Bismarck follows a portion of the Lewis and Clark Trail along the eastside of what was then only the Missouri River, but has since been bloated into a man-made lake. Clouds of white butterflies, attracted to the canola plants, flit up from the ditches along the road for miles. It doesn't get more bucolic than this, and it doesn't last. A few miles outside of New Town, the first of many gas flares comes into view.

U.S. 23 runs through New Town, the administrative center of the Fort Berthold Reservation—home to the Mandan, Hidatsa, and Arikara Nation, also called The Three Affiliated Tribes. The reservation sits atop the Bakken Shale Formation—a massive subterranean oil deposit that extends to Montana and Saskatchewan. It's a remote, historically impoverished community and the oil patch, as the industry quaintly calls it, could not have occurred in a more desperate place. According to a 2001 labor report by the Bureau of Indian Affairs, unemployment rate at Fort Berthold was 44 percent compared to the national average of 4.8 percent.

Back in 1951, when Bakken was first identified, there was an oil boom that quickly went bust. Extracting oil from rock was not technically or economically feasible. That changed in 2006 with the fine-tuning of hydraulic fracturing—fracking—a Halliburton invention, involving the high pressure injection of millions of gallons of water, sand and toxic and explosive chemicals into the earth.

In the summer of 2011, the Bureau of Indian Affairs (BIA) at Fort Berthold, issued a "Programmatic Environmental Assessment" stating that mineral leasing— by extension fracking—"will not result in significant impacts to the quality of the human environment; therefore, an environmental impact statement is not required." At the time of that report, there were nearly 400 wells producing oil within the reservation's boundaries. The reservation is checker-boarded, with mineral leases on adjacent lands owned by out-of-state interests, which amounts to several more hundred wells nearby. There are about 2,000 new wells in the planning stages.

The Indigenous Environmental Network, a grassroots alliance of Native Americans concerned with environmental and economic justice issues, has been calling for a comprehensive environmental study. They also want a moratorium on drilling and a halt to the illegal dumping of contaminated water. The Tribal leadership has not come out in favor of a moratorium, but everyone interviewed expressed a desire for the drilling to stop at least until regulations are in place. "This is like a a tsunami hitting us. The BIA didn't prepare us, the state didn't give us a clue," said one resident, speaking on the condition of anonymity.

Farmers and landowner associations off the reservation, concerned about land, water and air contamination, have questioned the unregulated boom but the push back has been fierce. For insight into why the industry and state lawmakers in North Dakota have been so successful at quelling dissent, flip through a recent 62-page color supplement published by the Bismarck Tribune titled "Bakken Breakout." It is filled with so many ads from oil companies, engineering services, job placement agencies and assorted petroleum support services that it's hard to distinguish the journalism from the paid content. Positive phrases jump off the pages: "Bright Future," North Dakota's unemployment rate is "3.3 percent," and "Where else can you get paid to help save the world?" For a country in an economic crisis—lack of jobs and the rising energy costs from foreign oil—these are pacifying notions. And in a conservative state like North Dakota, it's enough to make people fearful about speaking out.

In one article, a resident prefaced concern about the lack of a closed-loop disposal system for contaminated water by stating the he is not "anti-oil," adding that a semi-closed system is a "step in the right direction." Meanwhile, oil companies are not taking measured, small steps; it's full steam ahead in the wrong direction, while the taking is good and unregulated.

The BIA and state lawmakers are devoted to accelerating oil production and blocking the Environmental Protection Agency from monitoring fracking. In a letter to Secretary of State Hilary Clinton in support of the Keystone pipeline, the North Dakota governor defended the project as being in "the best interests of our country."

It's been documented that oil executives turned to military PsyOps techniques at a conference for tips on how to deal with community opposition to fracking; and, without getting too sidetracked, this fact connects to the mindset encountered while researching this story. In this economy, and in this part of the world, exploiting real fears about survival is simple; translate concern for the environment to being "anti-oil" and then equate that with being anti-American. And this is a very patriotic place. As a California company that builds disposal wells put it in a press release, they are "aiding America's efforts…to make America energy independent."
We haven't even talked about money.

A DROWNED-OUT COMMUNITY

Four miles past New Town, over a long bridge crossing the Missouri River and past the casino, is Earth Lodge Village. This reconstructed history museum is built near a bluff overlooking Lake Sakakawea—a major watershed, recreational area and nesting habitat for migratory birds. The village, surrounded by rolling hills covered with native grasses, contains a traditional earthen dome-shaped ceremonial lodge. Inside the spacious, nearly empty interior it is dim and cool. Draped on a portion of the curved wall is a fabric photo mural. The image, taken in Washington D.C., in 1948, depicts Julius Krug, the U.S. Secretary of the Interior, signing papers that forced the sale of 155,000 acres. Standing nearby is George Gillette, the tribal chairman, weeping. It's poignant image and it marks a bitter moment in recent history that has not been forgotten.

In 1951, the federal government took reservation land in order to build the Garrison Dam. The Pick-Sloan Act transferred acreage around the river to the Army Corps of Engineers for construction of reservoirs and dams as a flood control plan. In the process, it destroyed more Indian land than any public works project in U.S. history. Approximately a quarter of Fort Berthold Reservation (155,000 acres) was flooded to create Lake Sakakawea. For the Three Affiliated Tribes, who farmed the rich soil along the river for centuries, the dam annihilated their way of life.

Stepping outside of the lodge after examining that image, the view ahead takes on a dark undertone. At the bottom of the reservoir are houses, sacred sites, schools, a hospital. The Army Corps of Engineers relocated the Old Scouts Cemetery but, ignoring tribal burial traditions, placed the graves in the wrong direction. In 1995, that mistake was corrected. Fort Berthold is still waiting for a hospital. And the reservation has not had adequate drinking water since the flood. More than 1,500 residents moved to higher, unproductive ground. In 1992, Fort Berthold, after much haggling, was awarded $149.2 million by Congress for damages caused by the dam. It was an amount far below what the tribes had been promised. A casino was built the following year that provided some jobs and generated some revenue.

Considering this history, it's understandable why so many residents were reticent to speak on the record or criticize those tribal members who are benefiting from the oil boom. For the most part, the tribes have favored oil development. Sitting in on a Tribal Business Council meeting, it was clear that just about anyone with any power is involved in one way or another with the boom.

A report on ethics and reservation issues commissioned by tribal chairman Tex Hall, in February 2011 stated; "The discovery of the Bakken oil and gas reserves is one of the great events in the history of our

reservation. It can be a blessing or a curse depending on how we manage the development of this resource. It can be our once in a lifetime opportunity to have financial resources to exercise our sovereign rights and develop our tribal government to enable us to terminate our dependency on others. Or it can be an opportunity for the State to establish their authority to tax and extend their jurisdiction over the reservation."

When it comes to tax revenue generated by oil development, Fort Berthold has been shortchanged. And there are bearing the brunt of the boom. Oil trucks steadily pass through town, dripping contaminated water on Main Street and ripping up the roads and the land and tribal police have no power to make arrests. Road conditions were so bad, that a portion of US 23 had to be rebuilt, causing traffic jams of up to six hours in the height of the summer. An engineer, speaking off the record, said that the road work done on the reservation was the most unsafe and uncaring construction he had ever witnessed; there were no controlled plans or tubular markers to guide cars on temporary roads. The poorest quality cement and other materials were used to rebuild the roads. Emergency service vehicles could not pass, traffic fatalities increased markedly, and six months after construction was complete, the roads are a mess again.

NEW TOWN/OLD STORY

One of the towns at the bottom of the reservoir was Elbowoods. It was the center of the reservation and the location of the hospital. When the tribes moved to higher ground, they created New Town. Tribal members who initially relocated out in the prairie, ended up moving into town where it was possible to drill water wells. It's a small town with the largest structures being the grain elevators near the rail road tracks. Oil truck traffic on Main Street/US 23 is noisy and ceaseless.

Everyone has something to say about the traffic; even those who are uncomfortable discussing the oil boom. It's such an obvious irritant, and a safe entry into a conversation. The traffic has grown exponentially. Just a few years ago, you could drive to different communities on the reservation and be the only person on the road and now it's a constant stream of traffic.

"The trouble for many is that the tribe jumped into this with both feet, without knowing what we were doing," said one resident. Many blame the BIA for not protecting them or examining the mineral leases. "Nobody questions anything," said another, adding that the tribe is very conservative. "I'm very concerned. My landscape is never going to look the same again." The natural landscape was unspoiled barely three years ago. "Now there is an oil well, there is a flare, practically always in my line of vision every where I turn."

The Elbowoods Memorial Health Center, that opened in October, is more of an expanded clinic than a hospital. There is still no emergency room service. Meanwhile, the tribal council approved a right of way for three oil wells to be drilled nearby. Kandi Mossett, an organizer with the Indigenous Environmental Network, lives in Bismarck and grew up on Fort Berthold. On frequent visits home, she documents the devastation in reports and sends press releases to local papers, to no avail. When Mossett drove past the clinic in early January, she saw a flare stack near the property and several more in the center of town. "They weren't there a month ago," she said.

WATER

The big concern, of course, is water—where it is coming from and where it's going. It was not clear where on the reservation the injection sites were to be located. Lake Sakakawea is a feeder for the aquifiers and fracking calls for pure water. Water is hauled in to drill sites by semi-trailers and contaminated water is hauled out. But where is it going?

Spills are a major concern at Fort Berthold. As one informant said, “Oil companies are dumping pretty much wherever they want. We have isolated areas and they are able to do this with no one monitoring them.”

There are jurisdictional issues on the reservation. Tribal police are not able to arrest non-tribal members and non-Indian truck drivers know this as they speed through town leaving a trail of waste water behind. It’s not an uncommon sight to see a semi-tanker along the side of the road releasing contaminated water. “What they do is drive through the bad lands, park on a high slope where the road has a steep incline and let the hoses run over the side … or they will go out to the pasture areas. That seeps into the acquifers and into the groundwater,” said a resident, breaking off her sentence with a deep sigh. “There are a lot of things going on here.”

Something is also going on with the deer population on the reservation, another resident said. “I don’t know if this is true, but I heard they found 300 head of deer in a ravine.” The Mule Deer Foundation, a hunting and conservation group based in Utah, announced on its website in early December that it would be undertaking “a comprehensive assessment of oil and gas development on mule deer populations in western North Dakota.” There have been a number of problems in the past with disease and rough weather conditions, but the population seems lower than normal. The site also mentioned that deer-vehicle collisions were up “dramatically in the oil patch where the traffic in prime mule deer habitat has intensified over the past two years.”

In a trucker blog offering tips on working the Bakken, there was ab anecdote about an oil worker getting knocked to the ground by a blast of water when a hose split. Fortunately, it was fresh water. “But if you're hauling some of the stuff that comes up out of the wellhead, taking it from a frac tank at one location to a different frac tank at another location, look out. Some of that stuff—depending on the hole from which it came—is really nasty, hardly water at all but a chemical concoction …” He warned against leaving less than a couple of feet in the tank to avoid “all sorts of ugly running over and spilling on the ground, creating an *incident* … I've seen fired-up water in a frac tank continue to swirl and slosh violently for up to an hour before finally settling down!”

MONEY & POLITICS

In New Town, semis loaded with crude wait in line to transfer oil into rail road tank cars. The fervently pro-fracking state of North Dakota backs the Keystone XL pipeline and is reportedly willing to spend up to $1 million on a lawsuit against the EPA should the agency shrink the “Halliburton Loophole” (in brief; the rider attached to the National Energy Policy Act of 2005, by Dick Cheney, then vice president of the U.S. and former Hallibuton CEO. It exempts fracking from regulations prescribed by the Clean Water Act, the Safe Drinking Water Act and the Clean Air Act.)

With Keystone on hold, the railroad industry has jumped in “to exploit what's considered a once-in-a-lifetime opportunity in the petroleum arena,” according to an industry report. The Canadian Pacific Railway is spending $103 million in North Dakota to improve the tracks so that they can handle higher power axle trains. Daily production exceeded 300,000 barrels in 2010, “outstripping available transportation capacity.” Crude needs to go out and steel, sand and chemicals need to come in. Rail shipment volume out of North Dakota, grew from roughly 500 carloads in 2009 to more than 13,000 carloads in 2011. The same report expects an increase to 70,000 carloads annually.

For the Tribal Business Council, the main issue seems to be the oil tax arrangement with the state. For many tribal members, another issue is the sloppy leasing of mineral rights and many accuse the BIA and the council for not looking after the people. If the oil boom was inevitable, one person said, then at least they could have gotten a better deal—instead they gave leases to oil companies without a bidding process. In 2008, the tribes voted to have the Secretary of the Interior, as trustee, deposit all trust income from the leasing, taxing and production of oil and gas on Fort Berthold into a special trust fund.

Since 2003, the tribes have been working on an oil refinery project 33 miles east of New Town. “With the

refinery, there has been nothing but confusion from the time it started," said one informant. The initial investors were Canadian—Tar Sands, but they have since pulled out. "The question remains, who is going to run i? Who is going to pay for it?"

RIDING ROUGHSHOD

Working conditions on rigs for Native Americans are overwhelmingly hostile and unsafe.
"I have heard this before and I'll be darned if my son didn't experience this first day on job. He was not provided with safety gear. He worked with Wyoming crew and a few folks from Idaho. They don't like Indians they don't like working with Indians on their rigs and they tend to run them off by putting them in the worst possible conditions," said one resident. . "There was one kid, eight years younger than him, a non-Indian and he was so disrespectful to my son; 'hey boy'… and that kid insisted on calling him boy all day." Men were smoking on deck with buckets of diesel all around—not only are they not suppose to smoke near that stuff, the oil companies were saying they weren't dumping diesel down in the well.
The non-Indian oil workers at this site complained openly about "TERO workers" and the fact that they had to work with Indians —the Tribal Employment Rights Office (TERO) oversees all contracts for oil and gas exploration, production, and ancillary services on the reservation and makes sure that members of the Three Affiliated Tribes get jobs. This particular rig had 60 violations. "And that's just one rig."

During this conversation, I mentioned the Hummer vehicle spotted in the parking lot of the lone motor court motel in New Town with an out-of-state vanity plate that read "H8TER."

"My son got into an argument with an oil rig worker up in Williston who had a big swastika tattooed on his neck," she said. "What I've heard is that a lot of Aryan Nation folks from Whitefish, Montana are coming to work and bringing those attitudes."

The level of disrespect by the oil companies towards the people and the land of Fort Berthod is galling.

In May 2011, there was a grass fire out near Mandaree caused by negligence at an oil site. It burned 70 acres and came close to destroying two homes. Then an oil truck overturned northwest of New Town spilling 212 barrels of crude. It started a small fire. There are plenty of incidents that don't make the news and compiling a comprehensive list would be a worthwhile project. On elbowoodsDOTcom, citizen journalists in Fort Berthold send in comments such as: "2,400 gallons of DIESEL FUEL spilled in Mandaree near Skunk Bay by NT Cenex. ALSO - ANOTHER salt water 'spill' in Mandaree last week by careless or negligent drivers. Up to 400 BARRELS of saltwater "dumped" by the buffalo pasture on BIA 30. By another TERO-approved company?" The subject line of another comment captured the frustration of many at Fort Berthold: "NO MONITORING, NO ENFORCEMENT, NO PENALTIES."

THREE TRIBES MUSEUM

"A lot of things are being lost," said Shannon Fox, an artist who also teaches at the community college and whose work examines Indian traditions. He is standing front of a display case that contains a few of his digital collages comprised mainly of vintage images of life on Fort Berthold. The conversation turned to the oil activity on the reservation. "I feel bad about what is happening to Mother Earth. It's draining her blood. She is going to become sickly," he said. "But again, it is also a positive for the me because my wife works for an oil company so it puts food on the table." Fox's dilemma is universal.

In the museum's permanent exhibition is a photograph of Helen Gough, the first person on the reservation to have oil royalties from a well dug in the 1950s. That well is still producing and the profits from it are what established the museum and keeps it running. Gough also established an endowment for college scholarships. But this oilwoman represents another generation, another mindset that takes responsibility and contributes to the community.

Marilyn Hudson, director of the Three Tribes Museum, participated in the first renewable energy summit on the reservation in July by presenting a talk on Gough.

“I think the big question that we need to ask ourselves is; Where are we as people of Fort Berthold? Are we just at the beginning? Will it get worse?,” said Hudson. “No one is studying the social impact.”

According to Hudson, maybe a third of the population on the reservation receives some form of revenue from oil but the tribes have yet to really benefit. North Dakota is very proud that it has a budget surplus but it doesn’t seem to be interested in the long term effects on the land.

“I don’t see anything wrong with slowing down oil production,” said Hudson. “The oil won’t go anywhere.”

The reservation is also facing housing shortages and with that, reports of price gouging. There is no hazardous waste code in place, nor is there an investigative arm to look into reports of dumping.

“Our tribal government was ill-prepared for dealing with the oil industry,” she said, echoing the sentiments of others. “I think our tribal government needs to regroup” The court will have to gear up, she said. “Tribal government has to get in place and fast.”

MANDAREE

The drive to Mandaree, 32 miles south west of New Town, can take up to two hours during the week between road construction and traffic. This rural area, west of the reservoir, has been the hardest hit by oil drilling and, because of its isolation, is the most vulnerable. The drive west on 23 is disconcerting on many levels. The road has not been surfaced, truck traffic in both directions is heavy, and it is starting to rain. Turning on the paved road to Mandaree is a relief, despite the speeding semi-oil tankers. The road is a scenic byway, and the views are spectacular. There is nothing, absolutely nothing. Except big trucks. Then I spot the gas flares.

Theodora Bird Bear, a retired journalist who has lived in Mandaree most of her life, lives about eight miles out of town on a dirt road.

“I can’t believe the change that is occurring. The noise; it’s like a freeway,” she said. Bird Bear has always lived in the country. “It was unspoiled. Almost like a pristine environment,” she said. Since 2007, when all the development started to happen, Bird Bear has become a watchdog for her community, documenting spills, writing letters to newspapers and starting a blog. Bird Bear said another 1,000 wells are expected in the area. After the grass fire that burned 70 acres, Bird Bear became even more concerned.

“Where was the management?” Enforcement is a big concern. “It’s pretty much open season out here. It was only after the snow started melting that I could see what was happening.”

Bird Bear followed a truck with water “just pouring out of its back.” It was covered in mud and she couldn’t see the license plates or the name of the company, but she took pictures. Then she went to the BIA with the information. “There was no reporting form.”

“I think people are scared to go to meetings. I think people are afraid to say anything.”

So little gets reported, she said, unless it’s big, like the explosion from an oil truck that turned over.

“Why are we focused on fossil fuel when this is the best place for wind development,” said Bird Bear. “There is a cost to fracking.” Meanwhile, Bird Bear said she will continue to document and write for the tribe. She wants to have the information ready to help the tribes if they decide to file a lawsuit. “This is our historical land.”

On the way back to New Town, I drive into the small town of Mandaree to buy gas. In the convenience store, a man is standing by the counter talking with the woman behind the register. Some young guys have rushed in to pay and dashed out with out so much as a thank you. “Why is everyone is such a hurry?” said the man, who turns towards me as a way of inviting participation into their conversation. He tells me he moved here from Florida to work in the oil fields. And he’s upset by the young guys because they represent a problem; everyone is driving way too fast. “There have been four traffic deaths since May,” he said. “Four.”

I pay for the gas and a bag of cashews, and make a comment about wear and tear on the trucks; if they don’t care about the place and the people, you think at least they would care about their vehicles. “They don’t care. Those oil companies have so much money,” he said.

A few months later, a semi-trailer crossed the centerline south of Mandaree, hit a pickup truck head-on, and

killed four members of a family.

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Kandi Mossett, who lives in Bismarck but was raised on Fort Berthold, has been covering all the Tribal Business Council meetings and state legislative sessions as part of her work with the Indigenous Environmental Network. She sends reports to media outlets and posts information on the IEN website. Mossett was the first point of contact for this story and her partner, Loren White, accompanied me on the first day up to Fort Berthold to introduce me to a few people and help me get situated on the Pow Wow grounds where I would camp. On account of the oil boom, and the recent flooding in Minot, there wasn't a motel room to be found. They are both young, in their early thirties, and brave, committed activists. When I came upon the elbowoods website, I found one of Mosstt's informative reports, practically a transcript, of a tribal council meeting. She ended with the following:

"Personally, I will not stop fighting against the corruption in this state until we have shifted the power. I will do what I can to protect my people, the people of the Mandan, Hidatsa and Arikara Nations. Right now there are people in North Dakota living in fear. I want everyone to know that I am not afraid. I will speak the truth and make my voice heard. Please join me in this fight in whatever capacity you can, even by sending a prayer because they are very powerful and they give us strength."

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