“From Shores and Depths”

Beginning at lake Ontario, and running North East until it opens into the Atlantic Ocean, the Saint-Lawrence River flows.

For over 9,000 years, life has thrived along the river’s shorelines and in its depths. Over that time, this water has been used for many things like drinking, hunting, fishing, trading, traveling and performing ceremonies.

The Saint-Lawrence River runs deep into the continent, and was used as a direct entry point for European colonizers as they made their way through and across the land that was eventually renamed Canada and the United States. Their arrival to, and use of the waterway eventually facilitated industrialization and its resulting ecological destruction, the extraction and depletion of the land's natural resources, and violence against Indigenous peoples that still continues today.

Montreal is just one of many islands in the Saint-Lawrence River. It sits at about the halfway point between where the body of water begins and where it flows into the ocean. The river itself is 1,197 km long, and the whole system drains more than 25% of the planet’s freshwater reserves. Because of its size, and its reach, the river has an enormous influence on all of North America’s natural systems.

Over 15 million Canadians, and 30 million Americans live in the river’s basin. 80% of Québec's population lives along its shores and tributaries, it also is the main source of drinking water for 50% of people in Québec. Many cities, towns, communities…and industries rely on the Saint-Lawrence River.

In 1959, through the construction of a system of locks, canals, and channels, the Saint-Lawrence River became a seaway, expanding its import and export capacities. The project was undertaken by Canada and the United States, and contributes a massive amount to both countries' economies. The commerce resulting from cargo shipments supports 238,000 Canadian and U.S. jobs, and generates $45 billion in economic activity annually. The seaway is used to carry almost any product you can imagine, from grain for overseas markets, to iron ore for the steel industry. And with all that marine transport, comes many risks. Among them, fuel and oil spills.

Oil spills can happen anytime oil is drilled, transported or used, and they’re more common than you’d think. Between 2002 and 2012, there were 334 spills involving ships in the Saint-Lawrence River. But that number doesn’t include spills stemming from sources other than ships...like the 2010 spill from a Petro-Canada refinery in East Montreal where a ruptured pipe leaked approximately 35 barrels of diesel into the river.

The city of Montreal itself has also been responsible for putting a lot of gross things into the Saint-Lawrence. Before 1990, much of the city’s snow was dumped directly into the river, a practice stopped upon understanding the ecological damage done by the salt and gravel that comes along with the snow melt. And then there’s sewage.

You might remember the media attention that surrounded a sewage dump by the city of Montreal into the Saint-Lawrence back in 2015. The dump needed to happen because the city had to move a snowbelt collector connected to a sewer in order to do construction on the Bonaventure Expressway. To do that construction they had to drain a sewer pipe. They estimated that 8 billion liters of sewage would

enter the water, which is a lot...the equivalent of 2,600 Olympic-sized pools. The dumpage was approved by Québec's Environment Ministry under the rationale that with a flow rate of 7,000 cubic metres per second, the river was ample enough and fast enough to dilute the quantity of waste.

In the end, that sewage dump took less time than it was expected to. But still, over 89 hours, 4.9 billion litres of sewage flowed into the river from about two dozen locations. Human waste, toilet paper, diapers, used condoms and tampon applicators, discharge from hospitals and businesses, all went into a vital, life sustaining body of water. But that wasn't the first time it happened. Until the 1980s, it was common practice to dump raw sewage into the river. And Montreal's wastewater treatment facility wasn't finished until 1998, so up until then untreated sewage flowed directly into waterways. They'll still do a dump from time to time, but now it's only under exceptional circumstances.

Despite the dilution rationale, the contaminants that come along with raw sewage without a doubt have an impact on the flora and fauna that live in and along the water. So why then, if we know that projects like these damage the environment, are they allowed to go forward anyways? The answer is really complicated but often comes down to a question of what's referred to as "public good".

When environmental assessments show that a project will cause damage, it becomes about whether the pros outweigh the cons. The different jurisdictions involved assess the project and if the decision makers decide that it's still in the "public good", it'll go forward anyways. They'll likely need to incorporate measures to mitigate the expected damage, like setting long term goals for environmental betterment to offset the foreseeable short term damage. But, the standards that these projects are held to, are ones that are also set by the government's laws and regulations, which creates a bit of a feedback loop. So, while environmental assessments are done and scientific markers are used to make final decisions, and of course there is a threshold of what is allowed to be pushed through ... it still often comes down to the human decision of the courts, which frequently favour industry...and pretty generously at that.

It's important we remember that even with environmental assessments, it's hard to gauge the actual long term impacts of some of these projects. A lot of decisions are made with the promise that the damage will be short term, but there's no way of guaranteeing the natural systems impacted will ever go back to the way they were before the destruction caused by that project.

Which brings me to one example that's less about the Saint-Lawrence River, and more about water, Indigneous land rights, and the history of development in Québec.

Beginning in 1944, the Québec government began buying out private electric companies and merging them into the government corporation we now know as Hydro-Québec. Québec has 40% of Canada's hydropower potential, and Hydro-Québec is one of the largest energy providers in the world. So, there's clearly a lot of possibility for profit in the waters of this province.

As Hydro-Québec expanded into more remote areas, they flooded hundreds of thousands of square kilometers of land in order to build dams. Much of that land had been the homes and ancestral territory of Indigenous peoples for thousands of years, people who lived and had lived there continuously for millennia...long before Québec was even a thought in any colonizer's mind. Despite this, many of Hydro-Québec's developments on Indigenous lands were built with no or limited consultation or consent from the lands' Indigenous owners.

In Eastern Canada, a lot of settlement happened before treaties were a common practice, and the ones that were signed were usually for the purpose of settling disputes between colonial settlements and local Indigenous communities. An example of treaties from this time are the Peace and Friendship treaties, which, like many treaty agreements from this era, were subject to unequal negotiating power and language barriers, among many other limitations. Treaties from this time are often so broadly worded that they're hard to interpret meaningfully today. All of this to say, many Indigenous people never signed or knowingly signed anything that would give their land rights away...making many parts of Canada illegitimately occupied and unceded.

Today, 36% of Hydro-Québec's total installed electrical capacity is situated on the traditional territories of the Innu, Atikamekw and Anishnabeg people, whose Aboriginal and treaty rights and traditional protocols have largely not been respected by the development of these constructions and the resultant degradation of their territories without sufficient compensation.

So, why in a democratic country of law and order, have Indigenous communities not been more successful in having their rights recognized by treaty or understood as law, affirmed and respected? Why are so many Indigenous communities limited or prevented from controlling, managing, and protecting their traditional lands according to their own laws and political aspirations without state-condoned consequence?

Well, first, Aboriginal and treaty rights are recognized and affirmed under section 35 of the Canadian Constitution which only came into force in 1982. Prior to the Constitution, the government could extinguish Aboriginal rights unilaterally by passing laws to that effect, making it shockingly easy for the Crown to push through projects on lands that it clearly knew belonged to Indigenous peoples.

Post-constitution, virtually any right and freedom guaranteed under the Constitution or Charter of Rights and Freedoms can be compromised for reasons that are justified in a "free and democractic society". This means that there's ways to get around almost any constitutional right.

A development in case law to come out of section 35 litigation, is the crown's obligation to engage in consultation with First Nations communities who are rights holders when the crown is contemplating any project or action that may infringe on the rights of those communities. Depending on the project, private industry can be included in the consultation.

In this process, the government and industry try to adapt the project to get the community's support. There's a lot of variables that determine how this plays out, including the strength and type of the right in question. Consultation works on a spectrum, one end being low where just giving the community notice of a project might be enough. Then there's the high end, where the community holds sway just shy of a veto. When there's a high duty to consult, there will be very active participation of the affected communities in shaping the project. In extreme cases, projects that don't make it through the consultation process don't survive, but that's pretty rare. Most often, the duty to consult won't necessarily reach the desired outcome for both parties. When there is a strong "public good" or purpose to the project, the government will bend its shape in order to move it forward.

One common product of medium to higher end consultations are agreements, like impact benefit agreements, which are reached between industry and the affected Indigenous communities. In these,

the parties can agree to things like revenue sharing and processes that need to be followed in case anything goes wrong such as environmental destruction. The solutions and processes for each one of those scenarios can also be outlined in these agreements, in addition to promises by the involved parties to resolve the issues outside of the courtroom through mediation, arbitration, or other remedies. It's kind of like a written agreement of accountability. Agreements of this nature rarely go public which makes it hard to give you a concrete example of one. Every community is different, with different wants and needs, which means the outcomes of the duty to consult can vary pretty widely.

There is a duty to consult Indigenous communities when Indigenous land is affected by development, but the duty to consult is a product of section 35 in the constitution, which acknowledges and affirms treaty and aboriginal rights. So, if that development was done before the constitution act of 1982, there's no constitutional obligation to consult Indigenous people retroactively about development on their land. Without all the information accessible about projects that happened pre-constitution, we're left to assume the scope of just how much state-sanctioned shady business was used to ensure that projects got finished.

Now, back to Hydro-Québec.

In 1952, Hydro-Québec began installing hydroelectric generating stations on the Betsiamites river basin, which feeds into the Saint-Lawrence River. This land is part of the traditional territory of the Pessamit Innu First Nation. Amidst colonization, Innu people were forcibly settled in communities and weren't part of any treaty negotiations. For years they weren't recognized as having aboriginal title to their lands. This only changed in March of 2004 when an Agreement-in-Principle was signed, after more than thirty years of negotiations. But by that time, so much damage by industry was already done.

Between 1956, and 1978, a total of 13 hydroelectric power stations and 11 reservoirs were installed by Hydro-Quebec on the Pessamit First Nation's traditional land. This was largely done illegitimately and without the consent of the Pessamit community. Those developments have caused a lot of damage to their traditional culture, way of life, quality of life, and to the land itself.

Land was flooded to build dams, making waterways that have been used for transportation by Indigenous peoples for centuries difficult or even impossible to navigate. Dams and infrastructure have also made food harder to secure because of the shifting migratory patterns of game animals. Animals also tend to avoid the areas near these developments because of the loud hum transmission lines make. Riverbeds are being eroded including the ones where salmon spawn, a species that is under special concern due to reasons that include commercial overfishing, the waters that they live in warming as a result of climate change, and habitat loss caused by things like development. And it's not only Hydro-Québec that has taken advantage of the resources of the ancestral land of Pessamit, they've also been impacted by many other industries like logging and mining.

The people of Pessamit have been in the process of suing Hydro-Québec since 1998. In 2020 the Innu First Nation of Pessamit and the Atikamekw First Nation of Wemotaci joined forces to continue their fight, with the goal of obtaining compensation for production facilities, reservoirs and transmission lines that were set up without their consent.

Hydroelectricity is one of the lowest carbon footprint renewable energy sources, even lower than solar or wind. With the increasing concern around our current climate crisis, the shift toward renewable

energy is becoming exponentially more pressing. Hydro-Québec's surplus energy is already exported to other provinces and countries, and they still intend to grow. They recently negotiated a $10 billion contract to sell surplus hydro power to Massachusetts and Maine, and they're in the process of negotiating another $10 billion agreement with New York. Hydro-Québec makes billions in profits from its exports, and many of the Indigenous groups whose territory the power is generated on, don't see any of those profits.

Renewable energy is great, but under our current system, pretty much everything comes at the cost of something else.

Water sustains life in so many ways, from drinking water, to ecosystems, and to generating electricity. As damage to the environment worsens and the climate crisis intensifies, water scarcity will become more and more of an issue. We're often told that Canada has 20% of the world's freshwater resources, but it's only about 7% that's renewable. We need to care for and protect the waters that we do have, but there's obviously a lot of profit to be made off of them and despite the balance that public good sets out to create, Canada's idea of water protection is always going to prioritize that profit. But you simply can't know the multi-generational effects development, pollution and other environmental destruction can have on communities and the planet's natural systems. We need to look at all of the ways our actions impact each other, because after all, all of these systems are deeply interconnected.