



As Long as the Rivers Flow

Athabasca River Knowledge, Use and Change

EXECUTIVE SUMMARY

by Craig Candler, Rachel Olson, Steven DeRoy
and the Firelight Group Research Cooperative

with the Athabasca Chipewyan First Nation (ACFN)
and the Mikisew Cree First Nation (MCFN)

November 26, 2010

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Disclaimer

The information contained in this executive summary, as well as the full report, is based on limited research conducted as part of the Athabasca River Use and Traditional Ecological Knowledge Study. It reflects the understanding of the authors, and is not a complete depiction of the dynamic and living system of use and knowledge maintained by ACFN and MCFN elders and members. All mapped information is based on interviews with ACFN and MCFN elders and expert river users conducted within constraints of time, budget and scope. Base map data originate from the National Topographic System and Natural Resources Canada. The information contained herein should not be construed as to define, limit or otherwise constrain the Treaty and aboriginal rights of Athabasca Chipewyan First Nation, Mikisew Cree First Nation or other First Nations or aboriginal peoples.



PHOTO COURTESY STEVEN DEROY

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Foreword

The Lower Athabasca River system, which includes the Peace-Athabasca Delta, is absolutely critical for the ability of our members to practice their Treaty 8 rights, and to sustain their unique aboriginal livelihoods, cultures, and identities as Cree and Dene peoples.

PHOTO COURTESY BRANT OLSON

On July 13, 1899, on the northwest shore of Lake Athabasca in Fort Chipewyan, our grandfathers entered into a Sharing Agreement with the Crown. This Agreement, known as Treaty 8, guaranteed the hunting, fishing and trapping rights of our peoples in support of sustaining our traditional livelihood, in return for our peoples promising to share the land and resources with the Crown. In entering into this agreement, we were assured that our way of life would not be changed and that it would be protected. These rights are guaranteed by section 35 of the Constitution, Act, 1982 and the Supreme Court of Canada and other courts have said that the Crown must afford priority to hunting, fishing, and trapping for food, social and ceremonial purposes where there is an infringement to those rights. The United Nations Declaration on the Rights of Indigenous Peoples, to which Canada is a signatory, further affirms and upholds our treaty and aboriginal rights. The Treaty 8 rights are integral to the ability of our peoples to sustain their livelihood, culture, and well-being in a rapidly changing world. And it is the goal of our peoples to do so.

The Lower Athabasca River system, which includes the Peace-Athabasca Delta, is absolutely critical for the ability of our members to practice their Treaty 8 rights, and to sustain their unique aboriginal livelihoods, cultures, and identities as Cree and Dene peoples. Our First Nations have depended upon the bountiful ecology of the Delta to sustain our families, cultures, and livelihood for generations. The Athabasca River itself is our main travel route into the heart of our Traditional Lands. Without adequate water quality or quantity in the river system, we cannot access our important cultural, spiritual, and subsistence areas and we cannot sustain the health and well-being of our families on the traditional foods that we have always obtained from it.

As Leaders, we are relatively young. But yet, in our lifetimes, we have seen drastic changes in the quality and quantity of water in the Athabasca River. When we were children we

still drank the water from the river channel flowing out from the Delta, past our on-reserve communities and Fort Chipewyan. The abundant fish, game and waterfowl of the Delta fed our families. The rich harvests of muskrat and beaver helped to clothe, shelter, and feed us.

Today, we will not allow our loved ones to drink the water from the river. The abundance of the past is now only a memory as the water levels in the delta have dropped significantly since the WAC Bennett Dam was developed in the late 1960s. We have experienced oil spills whereby our Elders were exposed to toxic chemicals during the clean-up, and our reserves became dumping grounds for the toxic waste. As water levels continue to decline and water quality and health concerns continue to grow, we wonder what has happened to our Treaty Rights and the sharing agreement we entered into with the Crown so many years ago.

Yet, despite this, our people continue to nurture the seeds of hope for change and a brighter future than can be had for simply the price of oil. Our vision for a better future is one in which our people and communities are healthy, our Cree and Dene cultures are alive and vibrant, and our needs are met and our traditional lands are pristine. In this vision, we picture our grandchildren swimming in the river without fear of contamination and once again drinking water by merely scooping it up in a cup from the lake. We see them learning the rivers secrets and rewards, as we did as children, as they travel upon it to practice their rights of hunting, fishing and trapping.

We invite all Albertans, and Canadians everywhere, to join us in the pursuit of this vision. In the spirit of sharing our culture and knowledge with the interested public and policy-makers, we are very pleased to release this study, *As Long as the Rivers Flow: Athabasca River Knowledge, Use and Change*, prepared by the Firelight Group and published by the Parkland Institute. We also wish to extend our sincere thanks to the ACFN and MCFN Elders and Members that shared their knowledge and experience of the river with us for this study; without them this study would not have been possible. We also wish to acknowledge and thank the staff of the ACFN IRC and the MCFN GIR for their dedication to our vision and for their hard work in coordinating this study.

This study captures the importance of the Lower Athabasca River system to the practice of our Treaty Rights. Because of this importance, the Governments of Alberta and Canada must clearly consider and protect our Treaty Rights in the rules governing water allocations from the Lower Athabasca River. The issue is not what is causing water levels to decline, but how we can plan for, manage, and sustain this important resource for our future generations. The thresholds and recommendations developed in this study offer a way to “translate” our treaty rights and cultural needs into a format that can be used to inform policy and decision-making on the Lower Athabasca River.

We are extremely proud to be proactive in developing methods for implementing our Treaty Rights in planning and decision-making processes. We see this as part of our responsibility in honouring our Treaty relationship with the Crown and our responsibility to our future generations.

Please assist us in ensuring that the Crown honours their Treaty obligations as well. After all, we are all in this together.

— Chief Allan Adam, Athabasca Chipewyan First Nation
— Chief Roxanne Marcel, Mikisew Cree First Nation
Fort Chipewyan, Alberta, November 30, 2010



The issue is not what is causing water levels to decline, but how we can plan for, manage, and sustain this important resource for our future generations.

PHOTO COURTESY STEVEN DEROY



Chief Allan Adam,
Athabasca Chipewyan
First Nation



Chief Roxanne Marcel,
Mikisew Cree
First Nation



PHOTO COURTESY PETER METTLER



The Athabasca River occupies a central role in the culture and economy of the aboriginal peoples of Fort Chipewyan (including the MCFN and ACFN), and is critical to the ability of these First Nations to hunt, trap, fish and otherwise practice their aboriginal and treaty rights in a preferred manner.

PHOTO COURTESY STEVEN DEROY

Athabasca River Knowledge, Use and Change

The Athabasca River runs through the centre of Alberta from the Rocky Mountains to its delta where it flows into Lake Athabasca near Wood Buffalo National Park. It is central to the livelihood of aboriginal communities, and to Alberta oil sands development. The delta area is also influenced by fluctuating water levels associated with changes in other river systems, particularly the Peace River. In recent decades, lower water levels and reduced water quality have become critical concerns for aboriginal people living along the river and near the Athabasca river delta.

This report synthesizes results of the Athabasca River Knowledge, Use and Change Study (the Study) conducted in Spring 2010 by the Athabasca Chipewyan First Nation (ACFN) and the Mikisew Cree First Nation (MCFN) with the Firelight Group Research Cooperative (Firelight). The primary goal of the Study was to provide an evidence-based, written submission to effectively inform consultation with the Crown regarding plans for managing industrial water withdrawals from the Athabasca River. The Study focused on ACFN and MCFN knowledge within 5 km of either side of the Athabasca River from Fort McMurray north to Fort Chipewyan, how the river has changed over past decades, and how community members' use has changed as a result.

Through combining evidence from aboriginal knowledge and oral history with historic river measurements, the study identifies suggested treaty rights based thresholds for managing water levels in the Athabasca, and recommends additional work and community based monitoring to understand the effects that contamination, and the fear of contamination, are having on ACFN and MCFN use of traditional lands.

Treaty 8 Rights and the Athabasca River

The Cree and Dene speaking peoples of Fort Chipewyan signed Treaty No. 8 with Canada in 1899. The Treaty confirms the rights of First Nation peoples in relation to lands covered by the Treaty and is recognized and affirmed each year. The Treaty and aboriginal rights of aboriginal peoples are recognized and affirmed under Section 35 of the Constitution Act of Canada, 1982.

Water-based access, by boat, is critical to practicing many aboriginal and Treaty rights, including hunting, trapping and fishing, along the lower Athabasca River. There are few permanent roads in ACFN and MCFN territories, and in spring, summer and fall – the primary seasons for hunting, fishing, and subsistence procurement – boat access is the only option for travel between Fort Chipewyan and seasonal camps and villages, Indian Reserves and core ACFN and MCFN territories along the Athabasca delta, the river itself and its tributaries. At good water levels, a web of interconnected waterways exists that can be used to “go anywhere” in the delta area and access large territories via adjoining waterways. Even where road access is possible, hunting and fishing by boat is often the preferred means.



“...We assured them that the treaty would not lead to any forced interference with their mode of life...”

— David Laird, J.H. Ross, J.A.J. McKenna, Report of Commissioners for Treaty No. 8, September 22, 1899

“...As long as the sun is rising here, the river flowing, the lake is here and the grass is growing, nothing will change. That’s the kind of Treaty they made.”

— Transcript of interview with ACFN elder, Rene Bruno, February 1, 2010

Methods

Data collection for the Study was primarily interview based. Interviews were conducted with individuals, included documentation of prior informed consent, and used a standardized interview guide.

Map data were recorded on acetate overlays using standard map codes on custom 1:50,000 maps incorporating satellite imagery and using standard techniques (Tobias 2010). Questions were designed to gain an understanding of perceived river change, and to collect data that was location specific (point, line or polygon) where possible, and temporally grounded (season and year was recorded where possible). Interviews for the Study were conducted in May 2010 with 14 ACFN and 13 MCFN elders and frequent river users aged 26 to 76. The study was designed to follow the same method with two distinct data sets (ACFN and MCFN) and to maintain the ability to disaggregate individual participant data. Following data collection and preliminary analysis, community review meetings were held in Fort Chipewyan in early July 2010 where preliminary results and recommendations were provided for community input.



The Study confirms that, for members of both ACFN and MCFN, the Athabasca River continues to be central to their lives, their ability to access their territories, and their conception of themselves as aboriginal peoples, despite historical change.

Study Results

The Study confirms that, for members of both ACFN and MCFN, the Athabasca River continues to be central to their lives, their ability to access their territories, and their conception of themselves as aboriginal peoples, despite historical change. Use of the river by the participants is still strong and diverse, and while use has generally declined, it has declined in some areas more than others. Use for drinking water, trapping and teaching have declined more than use for hunting, transportation, and cultural/spiritual and wellness practices.

The Study suggests that reduced quantity and quality of water in the Athabasca is having adverse effects on the ability of ACFN and MCFN members to access territories, and to practice their aboriginal and Treaty rights, including hunting, trapping, fishing and related activities. Adverse effects are particularly evident where the preferred manner, or location, of exercising rights involves access to territories by boat, or where the right relies upon confidence in the quality, or safety, of foods or other resources procured on traditional lands influenced by industrial use.

Map A combines Maps 3 (Reported Instances of Lost Use due to Water Level) and 4 (Reported Instances of Lost Use due to Water Quality) from the full report, to show where specific instances of avoidance related to low water levels, or poor environmental quality, have occurred. River-based transportation and health related to environmental contaminants are both important areas of federal jurisdiction.

Map B (Map 5 in the full report) shows, in blue, areas of the Athabasca River where First Nation members report being able to travel at normal high water levels, but that become

ACFN MAP A

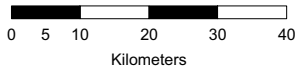
Reported Instances of Lost Use Due to Water Level and Water Quality (n=14)

Athabasca River Use and Traditional Ecological Knowledge Study 2010



Athabasca Chipewyan First Nation

1:1,100,000



Legend

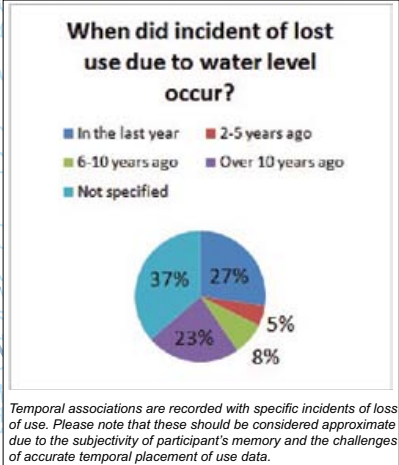
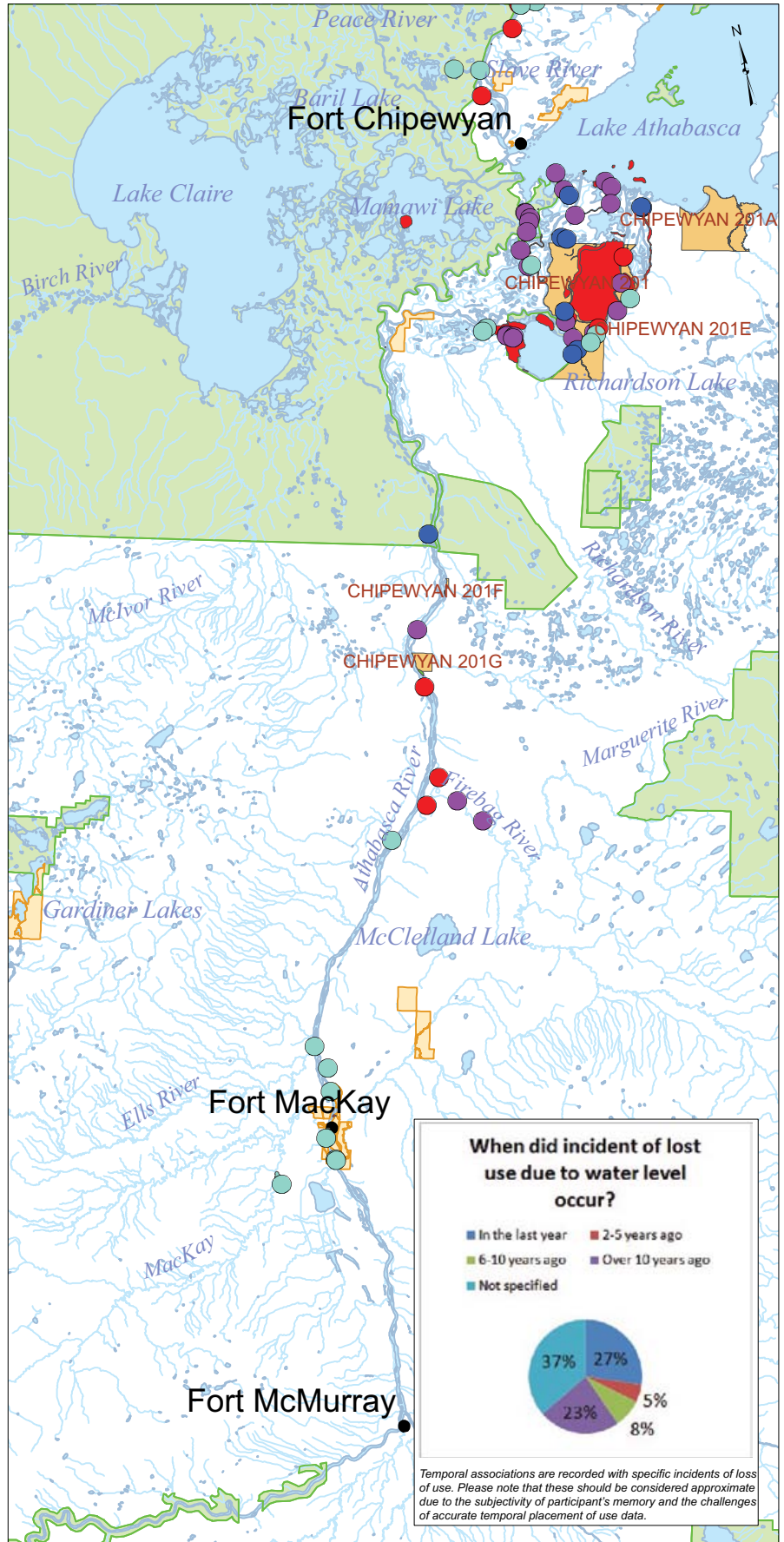
- Subsistence due to quality
- Habitation due to level
- Subsistence due to level
- Activity (not specified) due to level
- ◡ Subsistence due to quality
- ◡ Activity (not specified) due to quality
- ◡ Subsistence due to level
- ◡ Activity (not specified) due to level

Base map features:

- Populated places
- ▭ ACFN reserves
- ▭ First Nation reserve
- ▭ Parks and protected areas
- ▭ Waterbodies
- Rivers and water courses

Note: Point symbols are not to scale and are not meant to be representative of the extent of use. Symbols are for display purposes only.

Map produced by Steven DeRoy of the Firelight Group on November 26, 2010. This map is property of the Athabasca Chipewyan First Nation and may only be reproduced with written permission.



ACFN MAP B

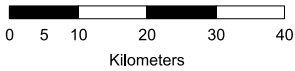
Navigable Watersheds and River Areas with No Access at Extreme Low Water, via Boat Access (n=14)

Athabasca River Use and Traditional Ecological Knowledge Study 2010



Athabasca Chipewyan First Nation

1:1,100,000



Legend

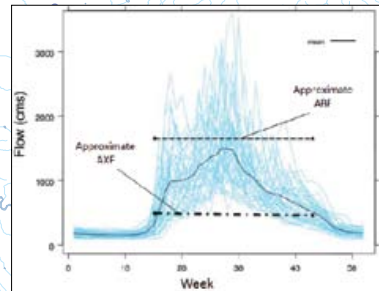
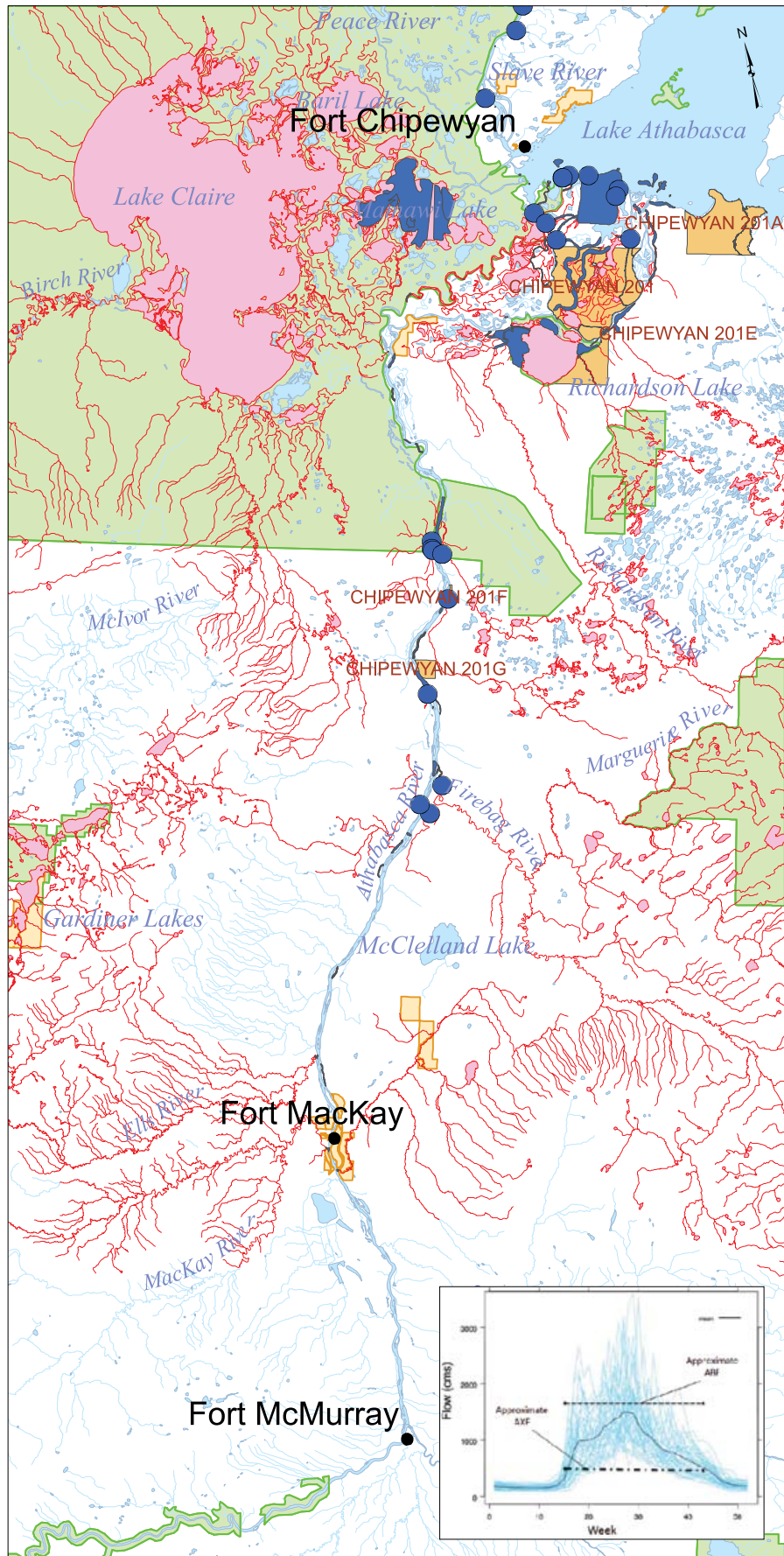
- Point of reported low water limit
- Area of reported low water limit
- No access below AXF
- No access below AXF

Base map features:

- Populated places
- ACFN reserves
- First Nation reserve
- Parks and protected areas
- Waterbodies
- Rivers and water courses

Note: Point symbols are not to scale and are not meant to be representative of the extent of use. Symbols are for display purposes only.

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MCFN MAP A

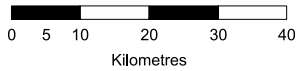
Reported Instances of Lost Use Due to Water Level and Water Quality (n=14)

Athabasca River Use and Traditional Ecological Knowledge Study 2010



Mikisew Cree
First Nation

1:1,100,000



Legend

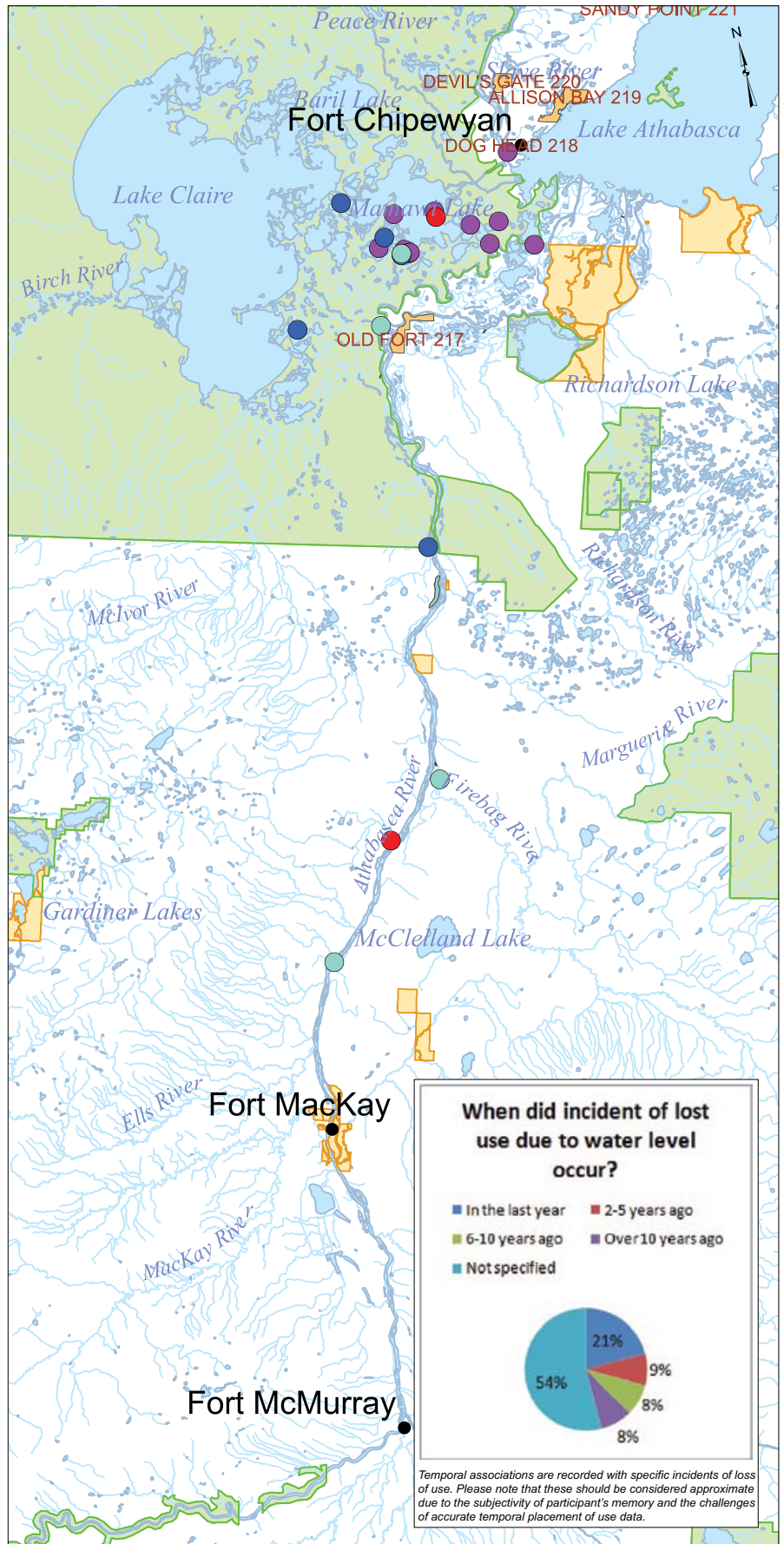
- Subsistence due to quality
- Subsistence due to level
- Habitation due to level
- Activity (not specified) due to level
- ◡ Subsistence due to quality
- ◡ Subsistence due to level
- ◡ Activity (not specified) due to level

Base map features:

- Populated places
- ▭ MCFN reserves
- ▭ First Nation reserves
- ▭ Parks and protected areas
- ▭ Waterbodies
- Rivers and water courses

Note: Point symbols are not to scale and are not meant to be representative of the extent of use. Symbols are for display purposes only.

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MCFN MAP B

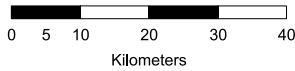
Navigable Watersheds and River Areas with No Access at Extreme Low Water, via Boat Access (n=14)

Athabasca River Use and Traditional Ecological Knowledge Study 2010



Mikisew Cree First Nation

1:1,100,000



Legend

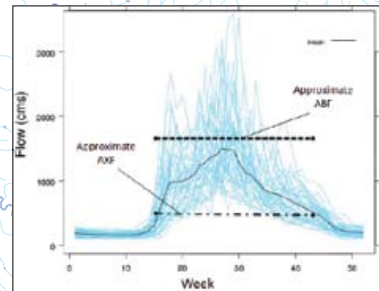
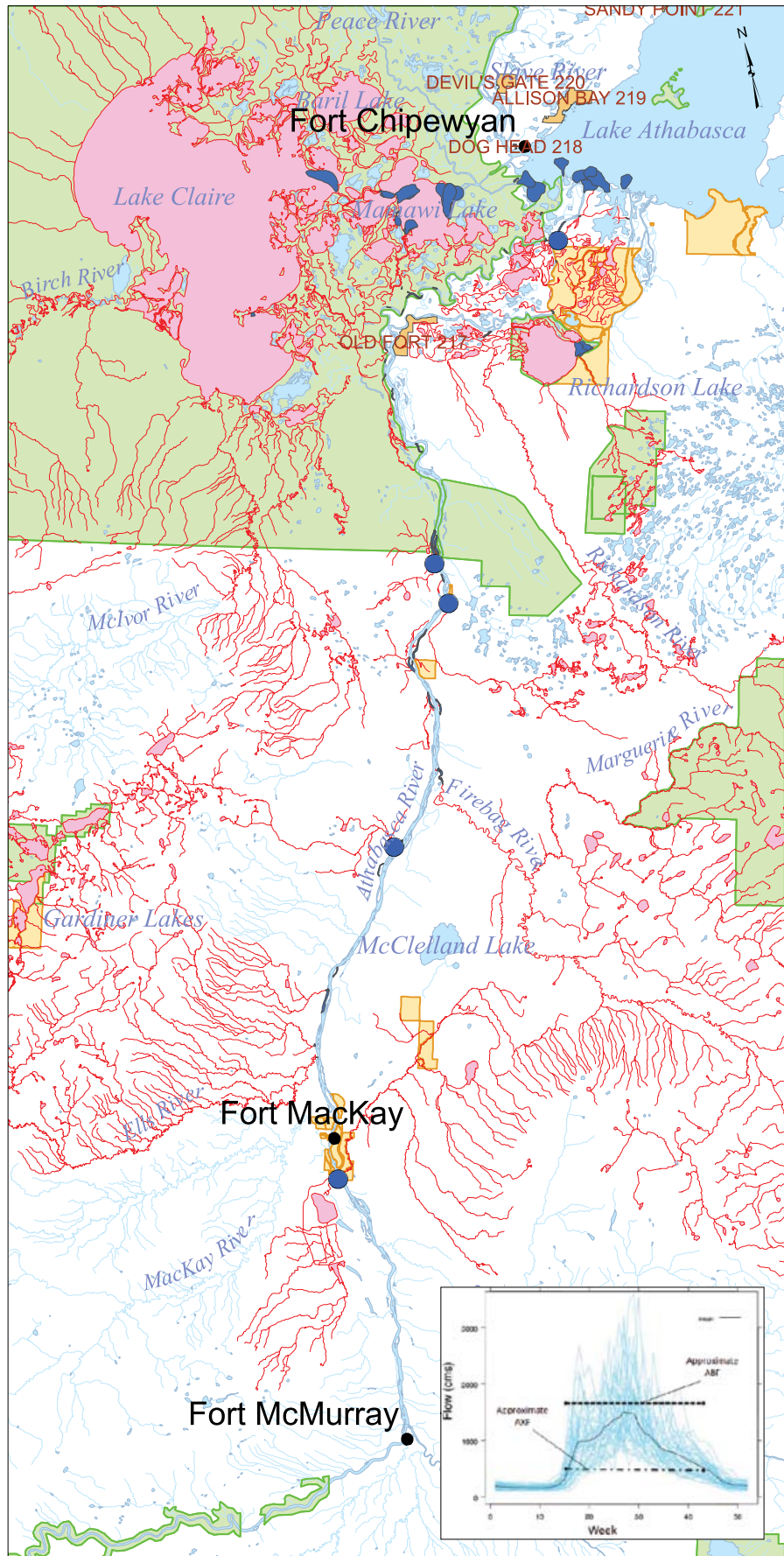
- Point of reported low water limit
- Area of reported low water limit
- No access below AXF
- No access below AXF

Base map features:

- Populated places
- MCFN reserves
- First Nation reserves
- Parks and protected areas
- Waterbodies
- Rivers and water courses

Note: Point symbols are not to scale and are not meant to be representative of the extent of use. Symbols are for display purposes only.

Map produced by Steven DeRoy of the Firelight Group on November 26, 2010. This map is property of the Mikisew Cree First Nation and may only be reproduced with written permission.



impassible at extreme low water levels. Areas in red are tributaries to the Athabasca River that are reported to be navigable at normal summer high water for at least a portion of their length, but become too shallow to navigate at extreme low water. Access to large portions of key First Nation territories, including Indian Reserves, is lost at extreme low water levels.

River-based transportation and health related to environmental contaminants are both important areas of federal jurisdiction.

Thresholds

The results of the Athabasca River Use and Traditional Ecological Knowledge Study suggest two thresholds that define the ability of First Nation members to access their traditional territories, and to practice aboriginal and treaty rights by water.

The first threshold, an Aboriginal Base Flow (ABF), reflects a level on the Athabasca River and adjacent streams where ACFN members are able to practice their rights, and access their territories fully. A conservative estimate of this level, based on a normal high spring-summer level as shown on a hydrograph for the Lower Athabasca River provided in Ohlson et al. (2010), would be approximately 1,600 m³/s. ACFN participants report that until recent decades, the ABF level was reached frequently and would last for much of the summer.

The second threshold, an Aboriginal Extreme Flow (AXF), reflects a level at which widespread and extreme disruption of Treaty and aboriginal rights occurs along the Athabasca river, delta and tributaries due to a loss of access related to low waters. A conservative estimate for the AXF, arrived at by comparing the timing of the “extreme low water” event reported at the time of interviews (mid-May 2010) with flow measurements at that time, would be approximately 400 m³/s. This is a conservative estimate because, at this flow level, key waterways (including Lake Mamawi and Richardson Lake) were already inaccessible.



An Aboriginal Base Flow (ABF), threshold reflects a level on the Athabasca River and adjacent streams where ACFN members are able to practice their rights, and access their territories fully.

About the maps

Maps in this report were produced by Steven DeRoy of the Firelight Group on November 26, 2010. Base map data originate from the National Topographic System and Natural Resources Canada.

Map information is based on interviews with ACFN/MCFN Elders and expert river users, conducted by Dr. Craig Candler, Rachel Olson (PhD candidate), Matthew Whitehead (Mikisew Cree First Nation – Government and Industry Relations) and Nicole Nicholls (Athabasca Chipewyan First Nation – Industry Relations Corporation).

Maps are preliminary, based on available information and constraints of time, budget and scope. These maps are living documents and are intended to be amended and refined over time. They are not an expression of the extent of Mikisew Cree First Nation's and Athabasca Chipewyan First Nation's Aboriginal or treaty rights and interests. Data used to produce the maps originate from multiple sources and are presented without prejudice.

The maps are property of the Mikisew Cree First Nation and the Athabasca Chipewyan First Nation and may be reproduced only with written permission.



The Study suggests that reduced quantity of water in the Athabasca is having adverse effects on the ability of ACFN and MCFN members to access territories, and to practice their aboriginal and Treaty rights.

Recommendations

To improve management of the Athabasca River, the Study recommends that the Crown, working jointly and collaboratively with the ACFN and MCFN:

- Determine Aboriginal Baseline Flow (ABF) and Aboriginal Extreme Flow (AXF) thresholds to guide management of oil sands related water withdrawals from the Athabasca River – an initial ABF of approximately 1600 m³/s, and AXF of 400 m³/s, subject to monitoring and refinement, is recommended;
- Create an Athabasca River Consultation and Accommodation Framework to provide reliable mechanisms for addressing and accommodating for water withdrawals below the ABF, with decisions that may result in exceedance of the AXF requiring permission of the Crown and authorized representatives of the ACFN and MCFN;
- Establish a goal for how frequently the river and delta should be allowed to achieve spring flood levels, recognizing that ice dams are often critical components of this flooding; and
- Undertake additional work and action to further understand and address effects that contamination, and the fear of contamination, are having on ACFN and MCFN use of traditional lands.





“As long as the sun is rising here, the river flowing, the lake is here and the grass is growing, nothing will change. That’s the kind of Treaty they made.”

PHOTO COURTESY MARK ELLIOT



The Firelight Group Research Cooperative provides clients and communities, in Canada and beyond, with high quality research, analysis, and technical tools. Our work supports respect, partnership, and reconciliation between indigenous and non-indigenous interests, and meaningful inclusion of local perspectives in policy and decision-making processes.



The Parkland Institute is an Alberta research network situated within the Faculty of Arts at the University of Alberta. It operates within the established and distinctive tradition of Canadian political economy and is non-partisan.



Athabasca Chipewyan First Nation

Athabasca Chipewyan First Nation is a Denésuline nation whose lands and rights depend on the Athabasca River and surrounding waters. The Athabasca Chipewyan signed Treaty 8 in 1899 at Fort Chipewyan on Lake Athabasca. Today, ACFN members reside in Fort Chipewyan as well as Fort McMurray, Edmonton, Fort Smith, NWT and elsewhere.



MIKISEW CREE FIRST NATION

Mikisew Cree First Nation is a Cree nation whose lands and rights depend on the Athabasca River and surrounding waters. The Mikisew Cree signed Treaty 8 in 1899 at Fort Chipewyan on Lake Athabasca. Today, MCFN members reside in Fort Chipewyan as well as Fort McMurray, Edmonton, Fort Smith, NWT and elsewhere.