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Michael Ekers

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Financiers in the forests on Vancouver Island, British Columbia: On fixes and colonial enclosures

Q1 Q2

Michael Ekers

Department of Human Geography, University of Toronto, Toronto, ON, Canada

Correspondence
Michael Ekers, Department of Human Geography, University of Toronto, Scarborough, Toronto, ON M1C 1A4, Canada.
Email: michael.ekers@utsc.utoronto.ca

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Abstract

Starting in the mid 2000s, a financial asset management company and institutional investors began to invest in timberlands in British Columbia, Canada's most western province. In a period of political economic crisis, investors looked to real assets—"dirt and trees" in the words of one research participant—as a means of accumulating capital through securing access to huge parcels of the most productive and valuable forestland in North America. This article analyses these investments as a socioecological fix for finance capital suggesting that investments in land represent a means for capital and the state to negotiate moments of crisis. The article complicates existing accounts of fixes by demonstrating how the survival of capital 996 in a settler context is fully dependent on an ongoing settler-colonial project of separating Indigenous people from their land base. The article focuses on the explicitly "private" nature of the land under examination and how this is central to the strategies of investors, the state's deregulation of forest policies, and the marginalization of First Nations' claims to land. The article demonstrates that in settler contexts, discussions of fixes need to be much more attentive to the historic and enduring colonial threads woven through investments in land.

KEYWORDS

enclosure, finance, settler colonialism, socioecological fix, timberlands

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1 | INTRODUCTION

In 1884, a total of 800,000 ~~ha~~ of land was given to the E&N Railway Company as payment to build a 115-km rail line on Vancouver Island between the settlements of Esquimalt and Nanaimo. The land in question represented, and still does, the territory of numerous First Nations communities and was never ceded to the Crown through treaties. Over 500,000 ha of this land is now owned by two forestry companies, Island Timberlands and TimberWest; both of which operate on private land on the British Columbia (BC) coast. Digging deeper, as of 2011, these two companies are wholly owned by three public sector plans: the BC Investment Management Corporation (bcIMC), the Alberta Investment Management Corporation (AIMco), and the federal Public Sector Pension Investment Board (PSP Investments). ~~Notably, Brookfield Asset Management created Island Timberlands because selling their stake continues to play a management role and is central to the dynamics discussed in this piece.~~ Q4 Q5

The movement of finance capital into private forestlands on the BC coast was contingent on the introduction of legislation, the *Private Managed Forest Land Act* (PMFLA; Province of British Columbia, 2003), which considerably lowers the forestry regulations pertaining to private land in the province. Island Timberland and TimberWest both manage their private land under this piece of legislation. Since the mid 2000s, Brookfield and the pension plans have faced opposition from Indigenous and settler groups concerned with the deregulation of operations on private forestland. Groups opposing the financial interests in BC's forestlands have connected the deregulation of private forestry operations to the 19th century land grants that created the fee simple lands now owned by institutional investors.

Finance capital, settler-colonial enclosures, and deregulation in the forestry sector represent the historical threads densely knotted together in the transformations on the BC coast and give rise to a range of key questions: Why are institutional investors and a financial management company involved in BC's forestlands for the first time in a long history of industrial ownership, policy, and practice? How did financial actors come to own over a half million hectares of prime forestland? What are the settler-colonial roots of this ownership? How was the movement of new actors into the sector facilitated by state policy covering private forestlands and to what degree did this policy renew forms of colonial dispossession?

Through distilling these questions, I argue that the growing investments and involvement of a financial firm and institutional investors in BC's forestlands represent a socioecological fix for finance capital and intuitional investors. Forestlands, as a "real asset," in BC were deliberately targeted by finance capital starting in the mid 2000s as a means of navigating the turbulence associated with the financialization of the North American economy from the 1970s onwards. Forestlands—"dirt and trees" in the words of one research participant—thereby functioned as a fix by absorbing pools of surplus capital.

The financial fix in the forests was made possible by the original enclosure of Indigenous land, which I argue was resecured through the purchase of the private forestlands and the introduction of legislation that deregulated forestry operations on private land, which limited consultation between forestry companies and Indigenous communities. I ~~argue~~ that the investments by financial actors, the assertion of private property rights, and the deregulation of private forestlands represented an attempt to foreclose Indigenous rights and title associated with the land discussed in this piece. The large-scale acquisition of forestlands as a socioecological fix is thus inseparable from the *continual* settler-colonial enclosure of Indigenous land set in motion by the E&N land grants. In sum, the movement of capital into forestlands is part of a broader and longer trend in which nature, broadly understood, represents the terrain on which the relations (private property and enclosure of Indigenous land) and conditions (access to resources and land) of capitalist accumulation and settler colonialism are reconstituted in the face of crises.

In making this argument, I build on recent debates on socioecological fixes that offer environmentally inflected readings of Harvey's (1981, 1982, 1985) writings on the spatial fix, which point to how processes of spatial reconfiguration and infrastructure investment may act as a means of spatially and temporally displacing crises. However, here, I build on Moore's (2010a) argument advanced in this journal that a spatial fix necessarily involves the establishment of an "ecological regime," which entails the production of new commodity frontiers. Building on this work, my

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emphasis is on the role of finance in facilitating the large-scale investments in landscapes and the settler-colonial character of ecologically oriented responses to crises. In doing so, I also build on Gunnoe's (2014, 2016; see also Gunnoe & Gellert, 2011) study of finance and timberlands in the United States, which is particularly instructive for my own analysis, specifically his attention to the institutional dynamics ("the how") that make the financialization of forestlands possible. Given that much of the literature on land grabs and finance has focused on the Global South, including contributions to this journal (see Borras & Franco, 2012; Fairbairn, 2015; Li, 2015), ~~such as~~ Gunnoe, I seek to examine how the dynamics associated with the financialization and enclosure of land are unfolding in the North American context and therefore draw on debates on settler colonialism that draw attention to the specificity of dispossession in a settler context.

This article builds on an ongoing mixed methods project started in 2016. Many of the companies and institutional investors connected with BC's private forestlands declined to be interviewed for this project partially to protect investment strategies but also because of their sensitivity to criticism, which is especially true for bcIMC as they are heavily invested in the very province in which their beneficiaries reside. The barriers to access meant that 11 semistructured interviews were completed with those responsible for the ~~quasigovernmental~~ oversight of private forestlands ~~and~~ a member of the association that represents private forest landowners. ~~Interviews were also conducted with~~ union leaders, policy analysts, and members of communities affected by the financial ownership of Island Timberlands and TimberWest, including journalists, biologists, foresters, and activists. Individuals were asked questions related to the history of ownership of private forestlands, the deregulation of the land, Indigenous claims to the areas in question, and forms of resistance to the financial ownership of forestlands.

I also conducted extensive primary analysis of policy, legal and financial documents, briefs, reports, and relevant legislation. As I discuss at more length later, Brookfield and the pension plans have faced several legal challenges to their management of private land by the Hupacasath First Nation and Kwakiutl First Nation on Vancouver Island. Additionally, the Hul'qumi'um Treaty Group has challenged the Government of Canada at the Inter-American Commission of Human Rights regarding infringements of their human rights on land held by Island Timberlands and TimberWest. The legal submissions and decisions contain a wealth of factual information about the history of private forestland and the involvement of Brookfield and Island Timberlands but also include the candid positions of these companies along with those of the Hupacasath First Nation and Hul'qumi'um Treaty Group. Finally, historical research was also conducted through primary and secondary sources, which focused on the original alienation of the land now owned by financial actors and tracked the consolidation of this land over time.

The multiple methods employed in this project offer a number of different windows into the financial acquisition, ownership, and management of BC's forestlands and together offer a much more complete and historical picture than what any single method might allow.

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2 | THEORETICAL MOORINGS: FIXES, COLONIAL ENCLOSURE, AND FINANCE

In theoretical language, the article is centred on how "nature" is increasingly targeted as part of a socioecological fix to a crisis but argues that such a fix in a settler context is definitively colonial insofar as it is tied to the further enclosure of Indigenous land. Additionally, I suggest that in the current conjuncture, it is finance capital that facilitates the fix through channelling capital into landscapes. Given these general orientations, this piece is anchored in debates on the socioecological fix, accounts of enclosures and settler colonialism, and literature focused on finance capital.

2.1 | The socioecological fix

In light of the political economic, social, and ecological crisis tendencies tied to capitalism, how do private capital and the state manage to restore the relations and conditions of production and, more generally, profitability given

enduring turbulence? Harvey's (1981, 1982, 1985, 2003) answer to these questions has centred on how overaccumulated capital may be displaced through extending the spatial reach of capital and/or through large-scale investments into the built environment that rework the geography of capitalism. Harvey describes such responses to crises as "spatial fixes." Spatial fixes contain both an intensive (sinking capital into landscapes) and extensive moments (extending the geographical reach of capital), but Harvey is quite clear that each moment is internal to one another.[1]

Largely implicit throughout Harvey's writing is the assumption that environments are transformed through spatial fixes insofar as the built environment can be understood as a produced form of nature (Harvey, 1978, 1982, 1996). A number of writers have sought to explicate this point arguing that large-scale investments into environmental landscapes and ecological processes can be understood as socioecological fixes, or, in more normative terms, as environmentally oriented responses to political economic and ecological crises (Castree & Christophers, 2015; Cohen & Bakker, 2014; Ekers & Prudham, 2015, 2017, 2018; Kear, 2007). These debates build on Moore's (2010b, p. 190) basic argument that "capitalism does not act upon nature so much as it unfolds *through* nature-society relations" and point to how fixes unfold through these same relations.

As I argue in another piece written with my collaborator, Scott Prudham, the concept of a socioecological fix is meant to provide analytical leverage for theorizing and analysing "the ways in which the social relations and material and symbolic conditions of capitalist accumulation are reproduced through investments in landscapes that are simultaneously and always conjoined productions of space and nature" (Ekers & Prudham, 2017, p. 2). Those working with the concept of a socioecological fix have provided analyses of both the intensive and extensive dynamics present in responses to crises. The former may involve the establishment of fixed capital in landscapes and ecological processes (Castree & Christophers, 2015; Ekers, 2015; McCarthy, 2015: Nugent, 2015), and the latter includes the enclosure of socionatures (see Castree, 2008; McCarthy, 2015; Schoenberger, 2004; Zalik, 2015). The financial investments in forestlands, I will argue, represent an intensive long-term investment in BC's landscape but also represent an extensive fix insofar as it is tied to the renewed enclosure of land. The recent pieces I have written with Prudham (2017, 2018) Q6 seek to offer a theorization of the socioecological fix, but they largely overlook how forms of enclosure are central to fixes given the importance of establishing and maintaining property rights in relation to the landscapes associated Q7 with any fix. This is perhaps a significant lacuna in our work given that in the *New Imperialism*, Harvey (2003) suggests that accumulation by dispossession is emblematic of the extensive moment of a spatial fix as demonstrated by the significant global land grabs that have occurred over the last decade (Borras & Franco, 2012; Hall, Hirsch, & Li, 2011; Li, 2012; Margulis, McKeon, & Borras, 2013; White, Borras, Hall, Scoones, & Wolford, 2012). Q8 Q9

2.2 | The fix as enclosure

For Harvey, crises may be addressed by forms of dispossession in which surplus capital takes hold of assets that are brought into circulation through enclosing previously common land, privatizing public infrastructure, the purchase and stripping of devalued assets, or through financial raids. Harvey builds on Rosa Luxemburg's work in making the case that dispossession is an ongoing rather than founding part of capitalism. This point is perhaps best developed by De Angelis (2001, 2004) in two pieces concerning the "continuous character of enclosures."

De Angelis (2004, p. 72) argues that enclosure "is a continuous process that is rooted in capital's drive to continuous expansion—accumulation proper." For De Angelis, enclosures entail processes *separating* people from the means of production and more precisely from "access to social wealth they have which is not mediated by competitive markets and money as capital" (2004, p. 75). De Angelis identifies three types of enclosure; all of which are continuing. First is the separation of people from land, which is achieved either through coercive processes or through the compulsion of competitive markets, but in both cases, private property rights are secured for capital at the expense of those finding themselves excluded from land. Second is the dismantling of protective legislation that might prevent the

[1]My comments on Harvey are extremely brief here given the thoughtful reviews of the spatial fix are already in circulation. See Jessop, 2006; Glassman, 2006; Ekers & Prudham, 2015, 2017.

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separation of people from forms of social wealth. For De Angelis, legislation that protects people from full exposure to the effects of the market may be identified as a barrier to separation and therefore represents a target for "regulatory enclosure." Third and similarly, capital may roll out a series of enclosures in response to social opposition that challenge capitalist social relations or prevent the establishment of private property rights. At stake in these types of separation is not simply access to land or a stock of assets but also a "process of *deepening* of capital's relations of production across the social body" (2004, p. 73, emphasis in original).

Although De Angelis (2004, p. 2) does not use the language of crisis in his writings on enclosures, he does suggest "both accumulation and 'primitive' accumulation pose capital as a social force that must transcend a limit." He suggests that the frontier as the uncommodified space either "outside" or "inside" the domain of capital represents the first such limit. The second limit is more squarely focused on political and social opposition that might establish serious social impediments to accumulation that protect social life, and we could add ecological life from commodification. Translating De Angelis's language to the concerns of this article, the socioecological fix should be understood as a challenge to, and dismantling of, the limits to commodification and accumulation in a moment of crisis. Insofar as De Angelis highlights ongoing enclosures as the overcoming of economic and political limits on capital in an effort to reproduce capitalism as a social relation, such enclosures and the establishment of private property rights need to be understood as a key part of a fix. More specific to this article, finance capital may invest in timberlands as a response to previous rounds of speculation and financialization, but this is done in concert with the dismantling of regulatory infrastructure and separating land from other social claims. In short, the fix entails the full assertion of private property rights against other claims.

2.3 | The settler-colonial character of enclosures and fixes

For both Harvey and De Angelis, enclosures are largely driven by the dynamics of capital accumulation. For Harvey (1981, 1982, 2003), imperialism and colonialism represent a spatial fix as a means of restoring profitability. De Angelis has far less to say on this front. Given the recent debates on settler colonialism in contexts such as North America, Australia, and New Zealand, it is important to consider the colonial character of fixes that take the form of enclosures.

Settler colonialism can be understood as the establishment of power and domination of the state and settlers over Indigenous people, land and forms of sovereignty and land-based practices, economies, and modes of governance. The control of land and resources is key, which Coulthard (2014, p. 7) suggests "contradictorily provide the material and spiritual sustenance of Indigenous societies on the one hand, and the foundation of colonial state-formation, settlement, and capitalist development on the other." Wolf (2006) stresses that settler colonialism is not an event but a structure, a perspective that brings attention to the continuing endurance and contestation of colonial relations. The key point of Wolf and others (see Braun, 1996; Pasternak, 2017; Simpson, 2014) is that colonialism is not something that happened but is enduring given continual settler-colonial thirst for land and continual Indigenous assertions to sovereignty over this same land. Part of the project of the critic then is to connect historical moments of dispossession (the E&N land grants in this case) to ongoing forms of enclosure (financial investments and deregulation) and Indigenous resistance (the legal challenges of Indigenous groups).

Coulthard argues that in the hands of Marx ([1867] Marx, 1977), primitive accumulation tends to be focused on the relations of capital and the establishment of distinct classes, specifically waged workers and capitalists. The colonial relation is acknowledged, suggests Coulthard, but plays a subordinate role in which colonialism is simply functional to accumulation. Coulthard (2014, p. 10, emphasis in original) argues that primitive accumulation needs to be rethought from an anticolonial/non-Western perspective suggesting "this can most effectively be accomplished by *contextually shifting* our investigation from an emphasis on the *capital relation* to the *colonial relation*." He argues that such a move challenges the economic determinism that animates many debates on primitive accumulation along with developmentalist assumptions. Focusing on the colonial relation shifts the analysis towards the dispossession of land and the lifting of territory as the defining feature of primitive accumulation for Indigenous people and, in his work, their relationship to the Canadian state (Coulthard, 2014; see also Manuel, 2015; Pasternak, 2017). Land, from

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an Indigenous perspective, is not simply a stock of resources, or a "supply" in Shiri Pasternak's words, but is the basis of a "mode of life" (Coulthard, 2014, p. 65) in which land informs a set of reciprocal relations between Indigenous communities and non-human life and is the basis of Indigenous modes of governance and economies (see Simpson, 2015; Todd, 2017; Yerxa, 2014). The point here is that much more than land as an asset is dispossessed through enclosures.

For Coulthard (2014), dispossession occurs through naked forms of coercion, through the compulsion of political economic processes, but also through forms of recognition politics in which Indigenous people are afforded various "cultural" and diminished political rights while settler control of land is furthered. As I will discuss, important legal decisions regarding the practices of Brookfield and Island Timberland on private land acknowledged that the company and state failed in their legal "duty to consult" with the Hupacasath First Nation but stopped short of challenging state and corporate policies and practices that eroded the Indigenous community's relationship to privately held land.

2.4 | Financialization and land

Both fixes and enclosures are deliberate projects undertaken by particular social actors. Harvey suggests that spatial fixes and enclosures are the product of particular classes, and De Angelis would concur. Coulthard complicates matters, flagging the role of the colonial state in enclosures. All three would agree that it is possible to be more historically specific about the social classes, forces, and institutions pushing for various fixes and enclosures.

One of the distinctive political economic changes since the 1970s is the growing influence and power of finance capital as a particular class faction (Arrighi, 1994). The downturn in manufacturing in North America and Europe, associated with the exhaustion of Fordism as an accumulation regime, changed the balance of forces throughout the economy and at the level of state (Duménil & Lévy, 2011). The financial sector was deregulated with capital controls being eased leading to the internationalization of capital. This tied to the Volker shock, and monetarism more broadly, increased profits for financial firms and resulted in the introduction of various "innovations" in financial products that dramatically changed the political economy of capitalism (Brenner, 2003; Harvey, 2005; Mann, 2013). These processes have amounted to a process of financialization in which an increasing proportion of profits has been generated through financial channels rather than through the production of goods and services. Financialization refers to a broader number of changes including the growing role of financial logics and motives in everyday life, monetary policy, governance, and land use policy (Epstein, 2005; Mann, 2013) and shifts in state policy (Martin & Clapp, 2015; Visser, Clapp, & Isakson, 2015). Although the rise of finance capital has functioned as a fix in relation to the downturn of the 1970s, it merely displaced crises geographically and temporally through a series of speculative booms and busts (the Thai crisis, the dot.com bubble, and the sub-prime crisis; Harvey, 2003).

In response to the volatility associated with the financialization of the economy, in the 2000s, financial actors became increasingly interested in "real" assets. A belief in the "scarcity" of land, resources, and food, combined with limited investment options after the dot.com crash in 2000–2002, resulted in financial investments in huge swaths of land and infrastructure, sometimes for productive uses such as timber harvesting, but also for speculative purposes (Borras & Franco, 2012; White et al., 2012). Within the financial investment literature, land, resources, and environmental infrastructure have emerged as new asset classes viewed as increasingly appealing by virtue of the physical tangibility of the investments in question (Binkley & Bever, 2004; Maher & O'Connor, 2010). In the North American context, investments in timberland have outpaced similar investments in agricultural land as institutional investors have pursued the large holdings of what historically were vertically integrated forestry companies (see Gunnoe, 2014, 2016; Gunnoe & Gellert, 2011; Kay, 2017).

Combinations of state and multilateral organizations, institutional investors, and financial firms have been at the forefront of land acquisitions shaping access and exclusions to land, while also changing governance structures (Hall et al., 2011; Margulis et al., 2013; Martin & Clapp, 2015; Ouma, 2014; Torrance, 2008). The arrival of finance capital in the forestry sector has reworked the governance of forestland in a number of ways. As Gunnoe (2014, 2016) and

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Kay (2017) explain in different contexts, financial ownership has meant increasing "distance" (Clapp, 2014) between those owning land and those inhabiting rural spaces, and this affects access and the ability of communities to shape the management of land. In the context of the United States, the flow of value has shifted away from industrial vertically integrated forestry companies towards finance companies and investors that are able to capture economic rents through controlling the means of production (trees and land; Kay, 2017). In the BC case, the investors own not only the land under discussion but also the forestry companies operating on the land; thus, the separation of finance and industry is less clear than in the United States.

In what follows, I put these different theoretical arguments to work in understanding the financialized fix in BC's forests and the colonial character of the enclosures stemming from the changing ownership of private timberland and restructured land use regulations.

3 | HISTORICIZING THE FIX IN THE FOREST: LAND GRABBING IN BRITISH COLUMBIA

Private timber holdings in BC are managed under the *PMFLA*. The provincial legislation encourages private owners to register their land with the Managed Forest Council (MFC) (created by the aforementioned act). The MFC maintains an inventory of all the land covered by the *PMFLA* in the province and that is what I want to focus on here. The Ministry of Agriculture and Lands provides a map outlining all of the private forestland registered with the MFC on BC's coast (see Figure 1). On the map, the private land is depicted in dark green. The land stretches from just north of the city of Victoria all the way to Campbell River and includes land from the coast to the interior of Vancouver Island. Across the province, Island Timberlands and TimberWest own 585,678 ha of the 824,000 ha that the MFC oversees, and the vast majority of this land is found within the green block of land demarcated in Figure 1.

Understanding how two forest companies owned by institutional investors have come to own the largest contiguous stretch of private land in BC requires a historical perspective. In the mid to late 19th century, BC was very much on "the edge of empire" in Perry's (2001) words. Vancouver Island, the territory of Kwakwaka'wakw, Coast Salish, and Nuu-chah-nulth people, was largely unsettled by Europeans. With the exception of the Douglas Treaties mainly covering the southern tip of Vancouver Island, no treaties were signed through which Indigenous nations ceded any rights to what became E&N lands. Despite limited settlement, Vancouver Island was a colony of the British Crown and was the subject of considerable political interest to the Dominion government and to business interests attracted to the timber and mineral resources of the island. BC and especially Vancouver Island lacked the infrastructure already in place in the eastern parts of the country and for the purposes of both settlement and industrial expansion the construction of rail lines was seen as crucial for further colonial development. As Cowen's (2017) work suggests, infrastructure was and is essential to the establishment of settler-colonial rule (see also Perry, 2016).

The establishment of a rail line connecting BC and Vancouver Island to the Prairie Provinces and eastern Canada was a key provision in British Columbia's agreement to join the Canadian Confederation in 1867. In 1871 with the passing of the *Terms of Union*, the BC government alienated a massive track of land on Vancouver Island that was transferred to the Canadian government. In 1884, this same tract of land, which amounted to 800,000 ha, was given to the E&N Railway Company as part of an agreement that would see the company build a railway from Esquimalt to Nanaimo. The land was an essential payment (Morales, n.d.; Taylor, 1975). The initial land grant in 1884 was the largest and was followed by three smaller grants that were given to the E&N Railway Company in response to settler's claims to land within the initial grant, even as Indigenous claims were ignored, which is still the case. The E&N land grant, in the three ways I discuss below, established the conditions for the recent investments of finance capital in timberlands on Vancouver Island while also securing the settler-colonial control of land at the expense of Indigenous nations.

First, the area described in the original 1884 land grant and smaller subsequent grants corresponds perfectly to the private forestlands registered with the MFC (see Figure 2 outlining the E&N land grants). Given the

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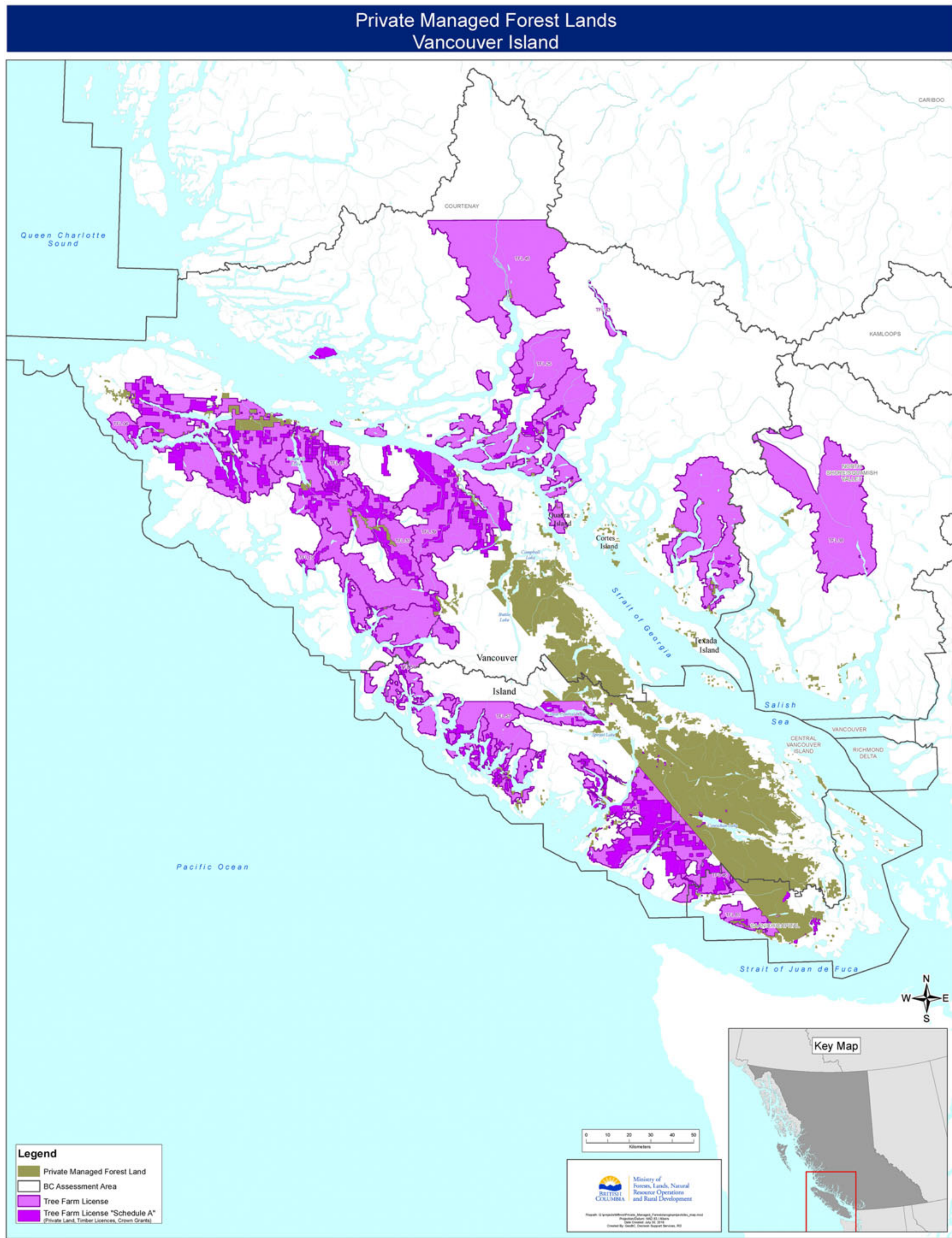

FIGURE 1 Map of Private Managed Forest Lands Vancouver Island. The land in green represents the private land predominately owned by TimberWest and Island Timberlands. Created on July 30, 2018, by the British Columbia Ministry of Forests, Lands, Natural Resource Operations, and Rural Development (GeoBC, Division Support Services, RD). Copyright (c) Province of British Columbia. All rights reserved. Reproduced with permission of the Province of British Columbia

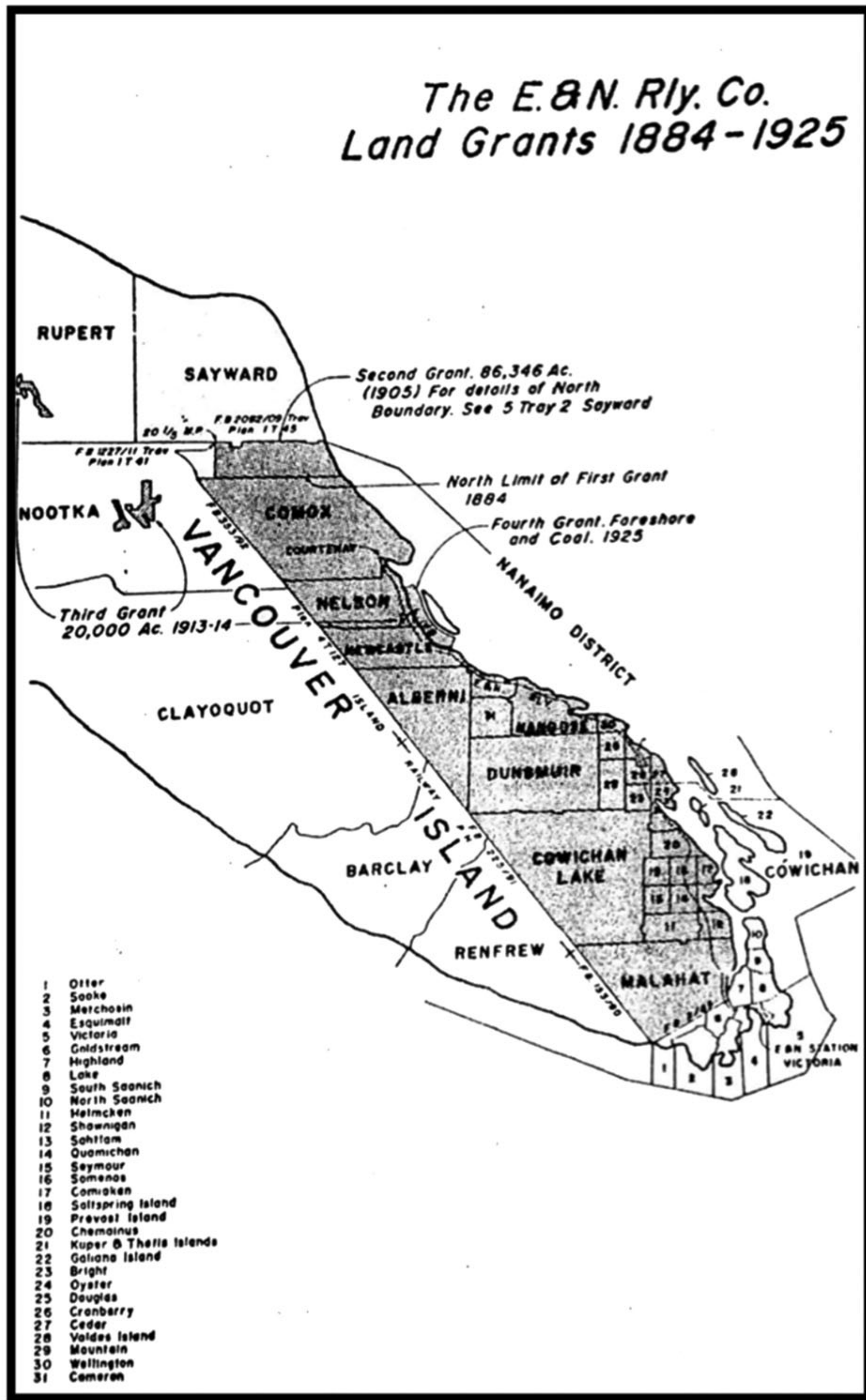

FIGURE 2 Map of Esquimalt and Nanaimo Railway Company Land Grants 1884–1924 as published by W. A. Taylor Q21 (1975) in *Crown Land Grants—A History of the Esquimalt and Nanaimo Railway Land Grants, The Railway Belt and the Peace River Block*. Copyright (c) Province of British Columbia. All rights reserved. Reproduced with permission of the Province of British Columbia

correspondence, it is not speculative to suggest that financial investments in BC's private timberlands would not have been possible without the alienation of this massive track of forestland well over 100 years ago. Grounding this more concretely, in a report, the Auditor General of British Columbia ~~(2008, p. 7)~~ noted the uniqueness of private forestlands within the broader context of BC~~C~~ writing: "While only about 5% of the province's land base overall is privately owned, the percentage on Vancouver Island has long been much higher, about 23%. This is largely the result of extensive railway land grants dating from the late 1800s. As a result, a significant amount of the forest on Vancouver Island is privately owned." The land described by the Auditor General refers to the E&N land and represents the same parcels of land now owned by Island Timberlands and TimberWest.

The land enclosed by the grant is part of the temperate rainforest and represents the most valuable and productive forestland in North America. Although Robert Dunsmuir, the initial owner of the E&N company, was focused on the coal reserves that accompanied the land grant, over time, there was a recognition of the value of the old-growth forests that covered the land and especially valuable species such as Douglas fir and yellow and red cedar. These are the specific tree species now of interest to Island Timberlands and TimberWest (see Parfitt, 2008). In the absence of the E&N land grants, it is very likely that the balance of private to Crown land on Vancouver Island would be similar to the provincial average (5% private and 95% Crown), which means there would only be 156,425 ha of private land available for purchase. As noted in the introduction, institutional investors now own 585,678 ha of land, and the vast majority of this is located on the island. These investors may have been able to acquire a portfolio of land through numerous smaller acquisitions, but the size of the holdings would be insignificant if the 800,000 ha of land associated with the E&N deal remained in "public" hands.

Second, in the absence of the land grant, the forestland would have been Crown land and thus regulated through much more restrictive legislation, which I will discuss in more detail later. Brookfield had little interest in investing in companies operating on Crown land, and the pension funds discussed in the piece have similarly focused on fee-simple land. Specific language pertaining to royalties in the original land grant set into motion intense interest in the forest resources located on the rail land. In an important review of Crown land grants in BC, Taylor (1975, p. 9) noted "under the Land Act of 1884, the timber passed with the grant and there was no royalty payable to the Crown for timber cut." The BC government tried and failed to impose royalties on timber harvested from the rail land in the 1940s, but a Supreme Court of Canada decision found that the original terms of the land grant held despite changes in the ownership of the land (Esquimalt and Nanaimo Railway Company, Alpine Timber Company Ltd., & The Attorney General of Canada v The Attorney General of British Columbia, 1948). The court found that companies operating on private land would be at a competitive disadvantage if required to purchase private land while also paying royalties on timber resources, whereas those companies operating on Crown land leased—on exceptionally good terms—the space on which they operated. These provisions and subsequent legal decisions have held until today, as there are no royalties, or specifically stumpage fees (a fee paid to the provincial government for every tree cut), paid to the Crown on private land. In their 1998 Annual Report, TimberWest (1998, p. 11) explained that "logs from private lands provide a major cost advantage because they are free from stumpage charges and the government's costly regulatory processes." The lands owned by Island Timberlands and TimberWest represent the same parcels granted to the rail company in the 19th century, and the stumpage fee exemptions specific to the E&N land endure and partially account for the profitability of the companies operating on private land.

Third, although the rail grants created the conditions for future financial investments, they also were and are a stark act of settler-colonial enclosure. In the lead up to the rail grant, Joseph Trutch, one of the architects of the deal, in a report to the Governor of the colony ideologically erased the Indigenous presence on Vancouver Island stating, "The Indians [sic] regard these extensive tracts of land as their individual property but of by far the greater portion thereof they make no use whatever and are not likely to do so; and thus the land, much of which is either rich pasture or available for cultivation and greatly desired for immediate settlement, remains in an unproductive condition" (as quoted by Hul'quimi'num Treaty Group, 2007, p. 10). Colonial discourses of *terra nullius* animate these remarks, and the supposed lack of interest in "improving" the land justified the settlement of land and in this case the setting aside of the land for a rail line (see Braun, 1997; Umeek of Ahousaht, 2002). The Hul'quimi'num Treaty Group

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describes the land grant as "The Great Land Grab" (Morales, n.d.), and legal representations have stressed that the "land has been granted by the State to private entities without the consent of the Hul'qumi'num Indigenous communities affected and without any form or pretense of prior consultation, or offer of restitution in the form of return, replacement, or payment of just compensation for these so-called 'privatized' lands" (Hul'quimi'num Treaty Group, 2007, p. 7). Morales (n.d., p. 2), the lead lawyer for the Hul'quimi'num Treaty Group, writes, "For us, the railway deal marked the beginning of gradual and unremitting decline in our economic, cultural, and social well-being." As I argue in the final section of the paper, both the Crown and Brookfield in a number of legal cases repeatedly suggest that the rail grants extinguished Indigenous title that therefore preclude any contemporary First Nations claims to the land now "owned" by Island Timberlands and TimberWest, which points to the endurance of settler-colonial relations and set in motion by the rail grants.

Although the E&N land grant was explicitly colonial in character and enclosed a large tract of land of interest to industrial capital, some work is necessary to trace the processes through which the rail land came to be owned by three institutional investors. In 1908, Canadian Pacific Railway (CPR) purchased the E&N Railway from James Dunsmuir, a former Premier of BC and son of Robert Dunsmuir, the initial owner of the rail company. With the rail line also came the land associated with the grants, which for the most part was still entirely owned by Dunsmuir at the time of sale. CPR continued to hold the land until the 1940s, at which time, they began to sell parcels to forestry companies in the province including Crown Zellerbach, B.C. Forest, Rayonier, and MacMillan Bloedel (Chodos, 1973). By 1964, all of the so-called E&N land was sold off to BC forestry companies with Crown Zellerbach and MacMillan Bloedel (MB) owning the majority of the holdings. In the case of MB, and presumably other companies, individual buyers acting at arm's length from MB purchased smaller pieces of property across Vancouver Island and the smaller Gulf Islands. One long-time observer of the forestry industry explained the process to me in an interview: "They weren't telling people who they were buying for. MacMillan Bloedel sent them around and the agent acquired the land and then MB ended up with it."

Through a series of large- and small-scale acquisitions, the land associated with the E&N land grants and smaller parcels of land came to be owned and managed by some of the provinces largest forestry companies. These were vertically integrated corporations that operated on public land but also on their private coastal holdings purchased from CPR.

4 | NEW KIDS ON THE BLOCK: BROOKFIELD ASSET MANAGEMENT AND INSTITUTIONAL INVESTORS

In 1999, U.S. industrial forestry giant Weyerhaeuser purchased MB for $2.45 billion (CAD) and with that acquisition came all of the private forestland owned by MB including the E&N lands. Five years later, in 2004, Brascan (which was renamed Brookfield Asset Management in 2005) was in negotiations to purchase all of Weyerhaeuser's coastal holdings, including the private land, rights to timber on Crown land, and all assets. The deal, which closed in 2005, was worth $1.4 billion. Brookfield created two subsidiaries, Island Timberlands, which managed the privately held land, and Cascadia Forest Products Ltd. centred on Crown land. Cascadia was then sold off to Western Forest Products. In 2005, bcIMC purchased a 28.3% stake in Island Timberlands (bcIMC, 2008; bcIMC, 2015) and then furthered their investment in 2014 when Brookfield sold their remaining stake in Island Timberlands. AIMco also holds a 25% stake in Island Timberlands (AIMco, 2009). Brookfield continues to manage Island Timberlands based upon an agreement with the two pension plans (Brookfield Asset Management, 2015).[2] Q13

[2]Brookfield Asset Management (2015) in its *2014 Annual Information Form* notes that they "continue to manage Island Timberlands pursuant to a management agreement," but it is unclear what this entails. Research participants noted the continued involvement of Brookfield even after the company sold its stake in Island Timberlands but were unclear about the exact role of the company, and this is still the case given the lack of public information available on the "management agreement."

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TimberWest's (founded in 1987) ownership of private forestlands was accomplished through a series of corporate acquisitions much like Brookfield's. In 1987, Fletcher Challenge, Canada (a New Zealand company), purchased BC Forest Products and, in 1988, purchased Crown Forest Industries (formerly Crown Zellerbach; Blue, 2014). Both BC Forest Products and Crown Forest Industries owned large chunks of the E&N land sold off by CPR between 1940 and 1960. In 1993, TimberWest purchased assets from Fletcher Challenge, which presumably included the private land. In 2011, bcIMC and the PSP Investments took TimberWest private through buying out existing shareholders in a deal that costs the two pension plans $1.03 billion (CAD; bcIMC & PSP Investments, 2011). Late in 2005, Canada's largest national newspaper, *The Globe and Mail*, captured the magnitude of the changes, with Young's (2005) writing: Q14

> *What would B.C. forestry legend H.R. MacMillan do now that an Eastern establishment player [Brookfield Asset Management] has a bigger footprint in the province's coastal forest industry than he did? He'd probably say good luck, given the depressing state of that sector today … Mr. MacMillan was well-known in B.C. as an early 20th century forester turned industrialist and philanthropist. The fact that 100 years later bankers and fund managers are the coastal forestry industry's knights in shining armour may not sit well. But it is better than no rescue at all.*

This history of acquisitions by corporations, asset management companies, and institutional investors demonstrates the pathways through which private forestlands in BC were transferred from rail companies, to vertically integrated forestry companies and then to financial interests that were investing in BC timberlands for the first time in the history of the sector. Tracing the transfer of ownership of the E&N lands demonstrates the enduring character of the enclosures instigated by the initial rail grants. One participant made these connections explaining that "H.R. MacMillan invested in logged over [E&N] lands—he could get them for a song. It hardly cost anything in taxes to hang on to them and they could see a future with the way they looked at our timber rotation so they held on to them until another crop grew up, which is what Island Timberland and Timber West are harvesting now."

The movement described above of financial interests into the forestry sector reflected a general sea change in the balance of profits and power between the manufacturing and financial sector (Gunnoe & Gellert, 2001). Gunnoe (2014) suggests that in the United States, there was recognition that the value of private timberlands held by vertically integrated forestry companies exceeded the market valuation of the companies themselves. In part, this spurred the movement of financial capital and institutional investors into timberlands. Connected to this was the development of timber investment management organizations (Brookfield being one example) and real estate investment trusts that invested in private land separated from fixed capital assets such as saw and pulp and paper mills. Although the financialization of forestland accelerated in the United States in the 1990s, the movement of finance capital into the Canadian and BC forestry sector was much slower. In large part, this is because the majority of forestry operations take place on Crown land thereby precluding private ownership and the valuation of land at market prices. Generally, large stretches of private land simply do not exist like in the United States, with the exception of the E&N land. Q15

To what degree can the investments into private timberlands be understood as a socioecological fix for finance capital and in this case Brookfield and a number of public sector pension plans? In 2006, Carter (2006; see also Carter as quoted by Lewis, 2005), now a managing partner at Brookfield responsible for their timberlands investments, noted that there was "a global surplus of capital" adding that the "challenge is to identify positive opportunities for investment." Timberlands, he argued, represent one such opportunity because they are a "non-depreciating asset class capable of providing stable returns" but are also a hedge against inflation while being negatively correlated with other assets such as stocks and bonds. Carter's description of timber investments, albeit in different language, parallels Gunnoe and Geller's (2011, p. 274) argument that "timberlands offered one avenue for over-accumulated capital in a financialized economy and an ideal investment class for large institutional investors seeking to diversify large portfolios." Whether in Carter's or Gunnoe and Geller's language, we see the role of timberland in functioning as a fix for capital during a protracted crisis starting in the 1970s defined by an overaccumulation of capital combined with a dearth of investment opportunities.

Throughout the 1990s and 2000s, the BC forestry sector went through a long downturn. The return on capital employed in the coastal forestry sector declined from upwards of 30% in 1993 to 8% in 1999. Throughout the 1990s, the gap between processing capacity and timber input grew and net earnings in the coastal sector fell from over $1 billion in 1993 to less than $400 million in 2000 (Pearce, 2001, pp. 2–5). Pearce (2001, p. 1) described the state of the sector as follows:

> *The forest industry in the coastal region of British Columbia, historically the driving force of the region's economy, has been struggling for several years. The available supply of timber is declining, costs have risen and product markets have weakened. In consequence, profits have withered, mills have closed, employment has fallen and whole communities have lost their economic base. The present outlook is for more, if not accelerating, decline.*

The combination of devalued assets associated with the downturn and the large tract of private forestland stemming from the E&N land grant attracted the interest of Brookfield. In line with the figures noted above, Brookfield felt that the value of integrated forestry companies in BC had already declined by 65% at the time of its investment in the sector in 2005 (Carter, 2006). Brookfield was quite open about pulp and paper facilities being too capital intensive, and it held a similar view of saw mills. For this reason, Brookfield quickly separated its private and Crown land holdings. The acquisition of Weyerhauser's holdings was about the land and the high-value timber. By 2013, Island Timberlands was valued at $680 million (CAD) with the vast majority of the valuation composed of the timberland itself.[3]

The investments of financial actors in the BC forest sector were part of a broader process of financialization and a global rush for land. Much of the interest in land has stemmed from its physicality, potential for appreciation, and the possibility of commodity production. Since the early 2000s, finance has increasingly focused on "hard" assets, with timber perfectly fitting this theme. Brookfield's Carter (as quoted by Lewis, 2005) noted, "after the stock market problems of 2000 and 2001 there was a real move to solid assets." In an interview, a representative from an organization representing private landowners echoed this theme, explaining, "what drove a lot of investment behaviour was the dot.com thing. People just got disillusioned with some of these other ways to invest that ultimately drove the bubble in the US and the subprime crisis, then there was a race to real assets—dirt and trees." These remarks illustrate that the financial investments in forestlands and the pursuit of "real assets" where a result of a longer trend of financialization, which introduced a significant amount of turmoil into the global economy and spurred the interest in physical assets.

Given the importance of long-term investments for pensions, timberlands are ideally suited given that growing trees can take upwards of 100 years and hence provide an intensive fix for institutional investors. When PSP Investments purchased TimberWest, a spokesperson noted "trees, when you don't cut them down, they continue to grow … If you're a long-term investor, basically you can wait for the right pricing environment" (Boutet quoted by Ebner & Kildaze, 2011). PSP Investments (2012, p. 12) emphasized the physicality of the resources in their explanation of their decision to move into timber and agricultural lands:

> *Following a thorough review of the Policy Portfolio that began during fiscal year 2010, changes were made in April 2011, including a reduced allocation to World Equity and an increased allocation to Real Return assets and private asset classes. Those changes were followed by the addition of a new asset class during the fiscal year: Renewable Resources. This asset class … includes timber and farmland.*

In the case of bcIMC, timberlands and their investments in Island Timberlands and TimberWest were rolled into their "Renewable Resources Investment Funds." In their words, "investments in the Funds are global in scope and typically include physical assets that are used in the production of food for human consumption and wood based products" (bcIMC, 2015). In the case of BC forestlands, familiar discourses of potential land scarcity and population growth

[3]This figure was calculated based on Brookfield Infrastructure Partners sale of their 25% interest in Island Timberlands in 2013 for $170 million (CAD; Brookfield Asset Management, 2015).

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were at play and shaped an expectation of capital appreciation tied to a belief that timber supplies were set to dwindle thereby driving up land and commodity prices (see bcIMC, 2013).

In addition to the materiality of timber, trees also have significant ideological importance in the financial sector. Timber, despite a long history of extraction with little regard for environmental concerns (Prudham, 2007, 2008; Rajala, 1998), is seen as a renewable investment that literally grows in economic and physical terms by virtue of being a living commodity in contrast to oil and gas for example. Timberlands are commonly *framed* as a green and sustainable investment, hence acting not only materially but also ideologically as a fix for capital. Timberlands are a fix in ideological terms given increasing calls for "ethical" and "renewable" investment, and this is especially true in the case of public sector pension funds that attract considerable public scrutiny. Two fund managers capture this: "Advances in tree-growing technology and environmental methods have made timberland a sustainable, ethical, and profitable business—and the *natural alternative* for pension funds looking to improve their return on total asset-liability risk" (Binkley & Bever, 2004, emphasis added). Invocations of naturalism and sustainability do ideological work in securing investments in timberlands. However, as I discuss below, the representations of timber investments as sustainable green investments are at odds with the aggressive harvesting scheme introduced by Island Timberlands and TimberWest.

Whereas the emphasis in the literature is often on agricultural investments (see Visser et al., 2015), in the case of PSP Investments, under the umbrella descriptor of "Natural Resources", 82.8% of their holdings are in Timberland and 17.2% are in agriculture (PSP Investments, 2015). For the Public Sector Pension Investment Board, timberlands, and their "renewable resources," in 2013 generated $54 million (CAD) in investment income equalling a rate of return of 16.7%, and they noted that "portfolio returns were driven by distributions and valuation gains attributable to the investment in TimberWest" (PSP Investments, 2013, p. 27).

The sizable returns generated by the timber investments described above stem from two sources. First, by all accounts outside of Island Timberlands and TimberWest, the transfer of the land holdings to the financial actors ushered in an intensive harvesting regime. Ben Parfitt (2008) of the Canadian Centre for Policy Alternatives reported that from 2003 to the 2007, TimberWest harvested an average of 2.58 million cubic metres a year and Island Timberlands average was 2.1 million cubic metres over the same time span. Taking Parfitt's numbers, this means that both Island Timberlands and TimberWest were harvesting just over 8 m^3 of wood per hectare. This many not seem like much, but it is more than double the Ministry of Forests' (MOF)[4] annual allowable cut in the same region, which they calculated to be 3.2 m^3/ha in 2002.[5] More work is needed to examine how the harvesting volume has changed since then, but these figures provide a sense of the immensity of wood taken off the land. As I discuss below, the deregulation of private timber holdings removed limits to how much wood could be harvested from private lands, which is in stark contrast to the government mandated limits on the "annual allowable cut" on Crown land. Second, many of the coastal holdings of Island Timberlands and TimberWest have been earmarked for "higher and better uses," meaning real estate developments. TimberWest established a subsidiary named Couverdon, which is a real estate company that is developing what was E&N land and other private parcels of land around already built-up locations such as Nanaimo and Campbell River. Given skyrocketing real estate and land prices in BC, it is likely that a significant (but unknown to date) amount of the income generated stems from these developments.

BC landscapes have functioned as a sink for the financial sector searching for long-term investment opportunities but, contradictorily, at the same time, have provided sizable returns through short-term extraction. In the next section, I sharpen my analytical lens and examine the specific regulatory changes that facilitated the financial investments in the forest sector and hence the fix.

[4]The Ministry of Forests has been renamed four times since 2000. For the sake of simplicity, I refer to the ministry as the MOF throughout the paper unless I am referring to a specific publication, in which case I use the name of the ministry at the time of publication.

[5]This calculation is based on historical information offered by the Ministry of Forests, Lands and Natural Resource Operations (2016) in Arrowsmith Timber Supply Area: Timber Supply Analysis. It should be stressed that this is a crude estimation of the cubic metres per hectare harvested.

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5 | FACILITATING THE FIX: REGULATORY CHANGES AND THE PRIVATE MANAGED FOREST LAND ACT

Since the 1940s, Tree Farm Licenses (TFLs) have been the principal regulatory framework through which BC has managed forestry practices on Crown and private land. TFLs are agreements between forestry companies and the provincial government in which forestry companies are granted 25-year licenses to harvest timber on public land. Historically, private land was bundled into the TFLs to ensure consistent management practices across different tenure systems (see Office of the Auditor General of British Columbia, 2008). As one observer suggested in an interview, “the public received better management of private land by giving access to all this Crown land in the form of TFLs.” In return for access to the land, forestry companies develop and commit to a detailed management plan that includes reforesting cleared lands, paying stumpage fees for timber harvested on Crown land and agree to manage their harvesting in accordance with the annual allowable cut determined historically by the MOF. The TFLs also historically contained appurtenancy clauses requiring forestry companies to maintain saw and pulp and paper mills to ensure regional employment, and as part of this, limits on log exports were imposed. These latter features of the TFLs have been weakened over time. The 2003 Forest Revitalization Plan introduced by the Liberal government eliminated appurtenancy policies requiring license holders to process their timber in their own manufacturing facilities (Office of the Auditor General of British Columbia, 2008). Q16

As noted in the introduction, in 2003, the BC provincial government introduced the *PMFLA*. The legislation resulted in the creation of the MFC. The legislation allows landowners to submit a proposed management commitment to the MFC, which adheres to a number of regulatory requirements I detail below. Once the management commitment is approved, the landowner receives substantial tax breaks that are intended to incentivize buy-in to the legislation and “sound” management practices. The legislation allows companies working on private lands to work within a much leaner and more flexible framework than what governs Crown land. The key differences are the following: (a) On private land, operators are not required to submit a forest stewardship plan for approval, they simply put forward a much more streamlined “commitment”; (b) forest management on private land is focused narrowly on environmental and land use issues regarding soil conservation, water quality, fish habitat, critical wildlife habitat, and reforestation, all of which are vaguely defined in comparison with the standards on Crown land, which are much more expansive and directive and address both environmental concerns and broader nonresource objectives; (c) there are no limits to the volume of timber that can be harvested annually by companies or owners operating on private land, whereas those working within TFLs are constrained by the annual allowable cut determined by the MOF; (d) limits to raw log exports are considerably reduced; (e) participation in the programme managed by the MFC is entirely voluntary, whereas adherence to the *Forest and Range Practices Act*, which regulates operations on public land, is legally required; and (f) there are no policies in place that protect Indigenous rights or title, which again is in distinction to the *Forest and Range Practices Act* (Province of British Columbia, 2002). The *PMFLA*, as I argue more fully below, can be understood as a case of “regulatory enclosure” that greatly reduces the legislative barriers for forestry companies operating on private land.

Private landowners lobbied for this legislation in the late 1990s and early 2000s, but it must be highlighted that there were only three principal private landowners during this time: TimberWest, Weyerhauser, and Western Forest Products, although Brookfield would come to own all of Weyerhauser's coastal holdings and also 49% of Western Forest Products. The Private Forest Landowners Association (PFLA), which represents private timberland interests across the province, was key in this effort. The legislation went a long way towards deregulating forestry practices on private land and decreasing operating costs. A representative of the MFC described legislation covering public land as “an absolute albatross around the neck of operators on Crown land.” In contrast, they described the *PMFLA* in very different language:

> *Our legislation is very much professional reliance driven … We don't seek approvals for many things by owners other than the fact that when they join the program, they are required to meet some certain criteria under the Assessment Act [which grants the tax breaks associated with the legislation]. They*

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> *also are required to have a management commitment approved by us that talks about their objectives and how they're going to manage their land, so there is a lot of freedom provided to owners under our legislation.*

Similarly, a member of the PFLA commented on the difference in the bureaucratic costs between the MOF and the MFC: "Last time I checked, the MOF spends 16 plus dollars per cubic metre in terms of the cost of running the Ministry divided by the annual harvest. The Council spends like 13 cents per cubic metre." The MFC is funded through small fees charged to the landowners and operates at a considerable distance from the MOF, so much so that a staff member at the MFC when asked who oversees the Council at the provincial government explained that there was no oversight whatsoever.

The *PMFLA* was deeply important to the owners of private forestlands as it essentially provided them with the "freedom to operate." In the words of someone from the PFLA, "For us, freedom to manage is a key value driver around operators on our land. Maintaining as much freedom to manage as possible is our goal." It was the new legislation governing private land that facilitated what I have described as the fix in the forests.

As noted already, historically private and public lands were bundled into TFLs, but the 1996 *Forest Act* (Province of British Columbia, 1996a, 1996b) included a provision that gave the Minister of Forests authority to allow companies to remove private land from the TFLs. In 2003, Weyerhaeuser formally requested that 70,000 ha of private land be withdrawn from TFL 44. All 70,000 ha was formerly part of the E&N grant, which highlights the path dependency of private land in BC that enabled the financial ownership I discuss in this piece. In 2004, the Minister of Forests formally agreed to the removal of the land from the TFL (Hupacasath First Nation v. British Columbia, 2005). Weyerhaeuser managed to remove a further 18,000 ha from TFL 39 and TimberWest in 1998, before the new legislation pertaining to private land was passed removed 60,000 ha from two TFLs (Parfitt, 2008). The Auditory General reported that "between 2005 and 2007 … TimberWest donated $164,751 and Weyerhaeuser $109,045 both to the BC Liberal Party … Brookfield Asset Management Inc. donated $50,000 to the BC Liberal Party in 2007" (~~Office of the Auditor General, 2008,~~ p. 41).

The Auditor General of BC estimated that the lands removed from the TFLs increased in value by $9.5 million in the case of TimberWest and between $15.4 million and $31.8 million in the case of Weyerhaeuser (~~Office of the Auditor General,~~ 2008, p. 71). The regulatory changes provided windfall profits for these companies. In an internal report cited in a legal decision, Weyerhaeuser stated very clearly that "the value of removing private lands from the TFLs is attributed to three areas: 1) regulatory cost reduction; 2) harvest rate benefit; and 3) log export benefit" (Weyerhaeuser as quoted in Hupacasath First Nation v. British Columbia, 2005, para. 38). Here, we see how the *PMFLA* and the removal decisions functioned as a form of enclosure. Private land was pulled from a regulatory regime that compelled forestry companies to manage the land according to the higher standards associated with Crown land, thus further separating the land from public oversight. One forestry union representative explained the issue in these terms:

> *They started out as private, the E&N companies, that's when they started, then they made billions of dollars based on getting that public tenure [TFLs] going back into the 40s, 50s and 60s. All of a sudden in 2004, these companies go well, we're going the other way and we're going to fuck the public on Vancouver Island and in this province. It's immoral, it's wrong.*

Progressive organizations such as the Canadian Centre for Policy Alternatives suggested that the removal of lands was an affront to public policy. The Hupacasath First Nation launched legal challenges against the Weyerhaeuser's removal of the land claiming that both the company and the government failed in their constitutional duty to consult with them as Indigenous people regarding the changes. The legal decision, discussed in the next section, provides remarkable insight into the intentions and logics of ~~the~~ Weyerhaeuser and Brascan/Brookfield regarding the private lands but also the colonial character of the removals. The judge in the decision, C. L. Smith, captures the importance of the removed land for the asset management company, writing

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> *Brascan has produced evidence, which was uncontradicted, that the removal of the privately owned lands from TFL 44 was a critical consideration in its decision to proceed with the transaction. Its business plan was based on the premise that it would be able to conduct two different logging operations, through two different entities, under different management regimes for the Crown land than for the private land. Unlike lands in the TFL system, private timberlands can be 'harvested to market', thus allowing private owners to harvest the species commanding the best prices in the market. A further benefit for private owners is that they are not subject to TFL restrictions on the export of logs that are surplus to the demands of domestic mills. (Hupacasath First Nation v. British Columbia, 2005, para. 59)*

The financial investments in BC forestlands, and hence the fix, as seen in these remarks, were contingent on the regulatory changes that allowed for profits to be generated through a market and export driven management scheme that attracted the interest of Brookfield and subsequently institutional investors.

6 | THE COLONIAL CHARACTER OF THE FIX: ENCLOSURES

If the investments into BC's forestlands represented a fix for finance capital and institutional investors, what made this a specifically settler-colonial project? Shifting attention to the colonial relations in ongoing forms of primitive accumulation, as Coulthard (2014) urges, highlights how the movement of financial investments into forestlands, tied to changes in provincial state policy, results in a renewal of historic enclosures. The removal of land from TFLs needs to be seen as a project of further separating Indigenous people from their territories and their suite of reciprocal relations to land.

BC established two parks in 1990 and 1995, which resulted in MacMillan Bloedel losing 8,000 ha of private forestlands and 34,000 ha of harvesting rights on Crown land. David Perry, a Victoria lawyer, was hired to conduct public consultations and issue a report on whether MacMillan Bloedel was to be compensated in cash or through the removal of private lands from TFLs 39 and 44, this being the same ~~area of~~ land later removed by Weyerhauser and now owned by Island Timberlands. After extensive legal and public consultations, which revealed a tremendous amount of opposition to the removal of private land from the TFLs (see Clogg, 1999; Perry, 1999; Western Canada Wilderness Committee, 1999), Perry (1999) recommended that the MOF should not approve the removal of private land as a form of compensation. He concluded that insofar as the land was managed as part of the company's TFL, the MOF had recourse through the *Forest Practices Code of British Columbia Act* (Province of British Columbia, 1996a, 1996b) to ensure that "aboriginal rights" were respected. He noted that the "alienation of land to a third party and the potential for the land to be fully logged … would make the exercise of aboriginal rights impossible" (Perry, 1999, p. 14). He noted that this was the "highest level of infringement" on Indigenous rights and would require a high level of consultation and accommodation. Despite this recommendation and a subsequent Ministry of Forests (2004) briefing note also warning against approving the removal of lands, in 2004, the Minister of Forests, with no consultation with Indigenous communities, approved Weyerhauser's request to remove the private land from the TFL.

Numerous Indigenous nations across Vancouver Island had significant concern about the effects of the removal of private land from not only Weyerhauser's TFL but also from a range of other licenses across the island. The First Nations Forestry Council (2008, p. 2) captured the broad opposition writing:

> *Our nations are concerned that the removals have resulted in dramatic increases in logging rates, with often little benefit to us, and a dramatic increase in sales of land for purposes of real estate development—an outcome that completely alienates such lands from their usage as forestlands and that further complicates resolution of outstanding rights and title issues.*

Removal of private land from the TFLs meant that harvesting rates would increase, land could be converted to residential property, and legislative requirements for consultation with First Nations would no longer exist as the land

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would be managed under the *PMFLA*. The removal decision meant that Indigenous rights could not be exercised because the forests might no longer exist as such and claims to title would be much harder to resolve.

Whereas the First Nations Forestry Council articulated the concern with private land removals, the Hupacasath Nation, which claims Indigenous rights and title to the land removed by Weyerhauser (now owned by Island Timberlands), raised a number of specific concerns related to the removal decision. In a document titled "Removal of Private Lands from TFL 44" they asked, "What do the Hupacasath lose?" and listed

> *… sacred sites; reduced old growth management areas; permanent alienation of land and resources; increased land values/change of use; increased treaty costs; threatened/damaged fisheries, wildlife and water resources; reduced ungulate ranges; incremental loss of traditional use studies; lower environmental regulatory standards. (Hupacasath First Nations as quoted in Ke-Kin-Is-Uqs v. British Columbia, 2008, para. 70)*

In a submission to the Auditor General of BC requesting a review of another removal decision regarding private land in a TFL near Victoria, another nation flagged the loss of land as a result of the removals: "The T'Sou-ke has serious concerns about [the removal decision]. It involves the privatization of more land in its Traditional Territory, which is becoming increasingly developed and unavailable to T'Sou-ke … As with all forestry decisions, T'Sou-ke was never consulted about the impact of this privatization on its Aboriginal title interests" (MacLean, 2007, p. 1). It should be noted that the land was already private, but here, the T'Sou-ke First Nations invokes the language of privatization to refer to the removal of land from regulations governing public and private land. Indigenous and settler activists, advocates, and journalists invoked the language of privatization as an oppositional strategy to the land removals instead of deregulation, which more accurately captures the removal process. However, the Ministry of Forests (2004, p. 4) provided some very precise language on the issue explaining: "Deletion means that private lands that have been managed 'as if' they were public lands will become managed as the private lands they have always been."

At stake in the movement of forestlands to "the private lands they have always been" is a form of colonial enclosure, as can be seen in the remarks of Indigenous groups quoted above. The removal decisions had the effect of separating Indigenous nations from their land, rights, and title. Moreover, the deregulation and reregulation of forestry practices on private land through the *PMFLA* led to unalterable changes to the land and the degradation of the broader environment—everything the Hupacasath suggested that they would lose. Aggressive industrial harvesting regimes such as what Island Timberlands and TimberWest have undertaken drastically alter the land base and affect cultural relationships to the land and exercise of Indigenous rights. Additionally, the harvesting significantly impacts what future opportunities or options are available when and if Indigenous groups regain ownership of that land. The investments of Brookfield and subsequently bcIMC, AIMco, and PSP Investments functioned as a fix in that they took hold of physical assets in a time of crisis, but the discussion above highlights how, in this case, the fix is closely tethered to a colonial project of enclosing and limiting Indigenous claims to the land.

The infringement of Indigenous rights and title and threats to the land base led to a number of legal challenges by First Nations groups focused on the lack of consultation undertaken by the provincial state and forestry and investment companies regarding the removal decisions. The backdrop to the legal challenges was ongoing treaty negotiations between numerous First Nations on Vancouver Island and the provincial Crown. The Hul'qumi'num Treaty Group, composed of five coastal First Nations communities, has been engaged in a long BC treaty process in order to obtain legal ownership of their territories. Similarly, the Hupacasath First Nation's treaty claim includes the land removed by Weyerhauser in 2004. The sticking point in the Hul'quimi'num negotiations has been that 85% of their land is privately owned and TimberWest and Island Timberlands "own" 60% of the territory. As Egan (2012; see also Thom, 2014) discusses, the roadblock in the negotiations has been the Crown's unwillingness to include the privately held land within the treaty process.

Private forestland owners were aware of the treaty negotiations and what this might mean for their land holdings. A representative of the PFLA commented on this:

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I know part of the decision to split the Crown and private operations was because there's so much more certainty around private land. Crown land is on the table. Private land is off the table at the moment … We have been able to get a signal from the federal and provincial government that if there is a claim, it's between the First Nation and government, not with us. Otherwise the whole system just unravels.

In this telling comment, we see how important the TFL removal decision and the private character of the land were to investors as these protected them from any potential Indigenous claims to the land. In debates in the "Committee of Supply" of the BC Legislative Assembly the Minister of Forests and Ranges, Coleman (2007, p. 6852) was unapologetic about this in response to a question from an opposition Member of Parliament explaining: "This [removal] decision was made after consultation with my staff. It's done. It was about trying to create an environment for an opportunity for a company to have stable investment in the future and to look at some of the highest and best uses of the land." Pasternak (2017) argues that assertions of Indigenous jurisdiction have structured the circuits of capital, and in this case, the ongoing claims of the Hul'qumi'num Treaty Group, the Hupacasath First Nation, and other Indigenous groups, within and beyond the British Columbia Treaty Process, contributed to the removal decision and therefore the flows of finance into forestlands.

The financial investments into the forestlands, and hence the fix, required stability in terms of title, and this entailed the assertion of private property rights by TimberWest, Brookfield, Island Timberlands, and Western Forest Products, again which was largely owned by Brookfield at the time of the removal decisions. Unsurprisingly given the history of the land in question, the state made reference to the E&N grants in their defence of the private character of the removed land in order to limit Indigenous title and rights claims. In the Hupacasath case, the Crown submitted "that aboriginal title to the Removed Lands may have been extinguished as a result of the Federal Crown grant in 1887 to the Esquimalt and Nanaimo Railway" (Hupacasath First Nation v British Columbia, 2005, para. 162). The Crown argued further that

Any aboriginal rights exercised by the HFN on the Removed Lands are at the sufferance of the private landowner, which can at any time prohibit access to its private property. [The Crown] further submitted that aboriginal rights are subject to the right of the fee simple landowners to put their lands to uses that are visibly incompatible with the exercise of aboriginal rights, such as the harvesting of commercial timber. (Hupacasath First Nation v. British Columbia, 2005, para. 165)

In its legal submissions in the Hupacasath case, Brookfield pointed "to the absence of authority for a duty to consult where the claim is for aboriginal title to privately owned land and emphasized that fee simple is the highest form of tenure in Canadian law and the most substantial estate which can exist in land." Stemming from this Brookfield argued "that it is logically impossible for both aboriginal title and fee simple title to co-exist on the same parcel of land" (Hupacasath First Nation v. British Columbia, 2005, para. 167). These various assertions of private property rights as a means of dismissing Indigenous claims to rights, title, and consultation were only possible because of the E&N grants that established the private character of the land in the first instance.

Whereas the Crown and Brookfield sought to legally separate Indigenous people from their land base, changes connected to the removal of the land also occurred on the ground and in policy frameworks that furthered the enclosure of land. Prior to Brookfield's takeover of Weyerhaeuser, the latter wrote to the Hupacasath informing them "that Weyerhaeuser no longer had an obligation to consult with them with respect to activities on the Removed Lands" (Hupacasath First Nation v. British Columbia 2005, para. 54). In another case regarding the removal of private land from a TFL, Cindy Stern of the MOF explained "… accommodation [of Indigenous rights] would be oriented on the Crown land as there is likely no jurisdiction by MOF on private land" adding that "private land before the decision is still private land after the decision" (Stern as quoted in Ke-Kin-Is-Uqs v. British Columbia, 2008, para. 63). In light of the repeated assertions of private property rights, the Hupacasath First Nation noted how the private land was in fact owned by public pension plans, including bcIMC, and therefore questioned whether the provincial state and Island Timberlands/Brookfield could separate themselves from their constitutional duties to consult with Indigenous groups

and the need to protect the exercise of rights and claims to title (Ke-Kin-Is-Uqs v. British Columbia, 2008, para. 162–176). In short, the Hupacasath tried to exploit the considerable irony that private land established through the E&N land grants was now owned by public sector pensions established by the state, which would fundamentally question the assertions of property rights that separated them from their land base.

The legal challenges undertaken by different First Nations regarding the failure of the state and various companies in their duty to consult with Indigenous groups affected by different removal decisions reveal both the rationale and justification of the changes in land use policy that further enclosed historically dispossessed land. In the legal decisions offered by two judges regarding TFL land removals, they recognized that there was indeed a duty to consult on private land but argued that it was at a low level. Therefore, declaratory relief was granted and the judges signalled that the forestry companies in question (Brookfield/Island Timberlands and Western Forest Products) had an obligation to consult (despite their assertions otherwise) with Indigenous groups moving forward. Although in some ways, this was a victory, the removal decisions continue to stand. ~~In short,~~ the importance of consultation with First Nations groups was recognized, but no meaningful action regarding their claim to the land was taken, which as Coulthard (2014) suggests, is a key colonial strategy for containing the claims of Indigenous communities in "Canada."

7 | CONCLUSION

This article has demonstrated that massive investments in forestlands act as fix for finance capital including an asset management company and a number of institutional investors. In a period of political economic crisis, investors looked to "real assets" as a means of accumulating capital through securing access to huge parcels of ~~the~~ productive and valuable forestlands while also maintaining industrial operations on the land. The fix functioned through sinking capital into the forested landscape with the trees and land being a store of value, secured through asserting private property rights to the spaces in question. The full deployment of property rights took the form of (re)securing historic rail land enclosures through removing private land from broader regulatory frameworks covering public and private land. There is thus a heavy path dependency to the financialized fix in the forests that demonstrates how closely tethered the fix is to ongoing processes of settler colonialism. The move of financial actors into the sector, combined with the state's deregulation of private land and support for the "removal decision" further separated Indigenous nations from the land given their ongoing legal and political claims to the territory in question. In settler contexts then, discussions of fixes in ecological spaces need to be much more attentive to the historic and ongoing colonial threads woven through investments in land.

This article is pitched at a very large scale connecting recent financial investments in the forest sector to land grants in the late 19th century, while also tying in a history of mergers and acquisitions, regulatory changes, legal considerations, and Indigenous perspectives on land ~~and~~ state and corporate policy. Any one of these issues is deserving of a study unto itself, but here, I have tried to hold together the various facets of what I have been describing as the fix in the forests. Each part of the narrative and analysis is important for understanding how finance capital came to invest in coastal forests and the settler-colonial character of the fix. Maintaining attention to the big picture as I have here provides an integral or relational account of the socioecological fix that cannot be reduced to the circuits of capital but rather reflects a number of colonial, state, and corporate relations and processes that become congealed together. There is clearly more fine-grained work to be done in order to highlight the more subjective and lived dimensions of the fix and specifically how various life worlds (human and non-human) have been transformed. I have written this piece from the position of a White settler that has undoubtedly benefited from the dispossession of the lands discussed in this piece. Developing a more socially textured and anticolonial account of the dynamics discussed throughout the article requires developing sustained relationships, defined by reciprocity, with Indigenous communities: This is the ongoing work associated with the research presented here.

If a number of relations become hardened together in a fix, it is also possible, if not likely for them to come undone especially through forms of opposition. One of the limitations of deploying the concept of a fix is a risk,

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despite one's critical disposition, of being too analytically and theoretically invested in the survival of capitalism and settler colonialism. There is a risk of becoming too obsessed with the capacity of capital and colonialism to be reproduced rather than analysing how they can be dismantled and challenged. Coulthard (2014) and the late Manuel (2015) have both stressed how dispossession continues to be the basis of Indigenous resistance, and De Angelis notes how primitive accumulation, as a continuous feature of capitalism, is "dependent on the inherent continuity of social conflict" (De Angelis, 2004, p. 71). Given these two points, more attention is needed on how a socioecological fix might fail and might be challenged by virtue of the "continuity of social conflict." Coastal communities and Indigenous groups have constantly challenged the provincial state and the financial companies and institutions involved in the coastal forestry sector. Understanding how different social movements and groups dismantle various fixes and to what effect is where the debates must go next. The political projects themselves are far ahead of the academics on this front.

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ORCID

Michael Ekers http://orcid.org/0000-0003-2859-873X

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