Connecticut Debate Association
November 12, 2016
Crosby, Housatonic Valley and New Canaan High Schools

Resolved: The Dakota Access Pipeline should not be built.

The battle over the Dakota Access Pipeline, explained

Brad Plumer, Vox.com, Nov 2, 2016, 8:19pm EDT

For months, the Standing Rock Sioux Tribe in North Dakota has been waging a pitched battle against a proposed oil pipeline that would run near their reservation — arguing that it could endanger both their water supplies and sacred sites.

Those protests have become a huge, huge story. The fight over the Dakota Access Pipeline encompasses everything from the federal government's historically appalling treatment of Native Americans to broader debates about fracking and climate change. The cause has attracted a vast array of tribes, activists, and environmentalists from around the country, and authorities have been clashing with protestors all summer.

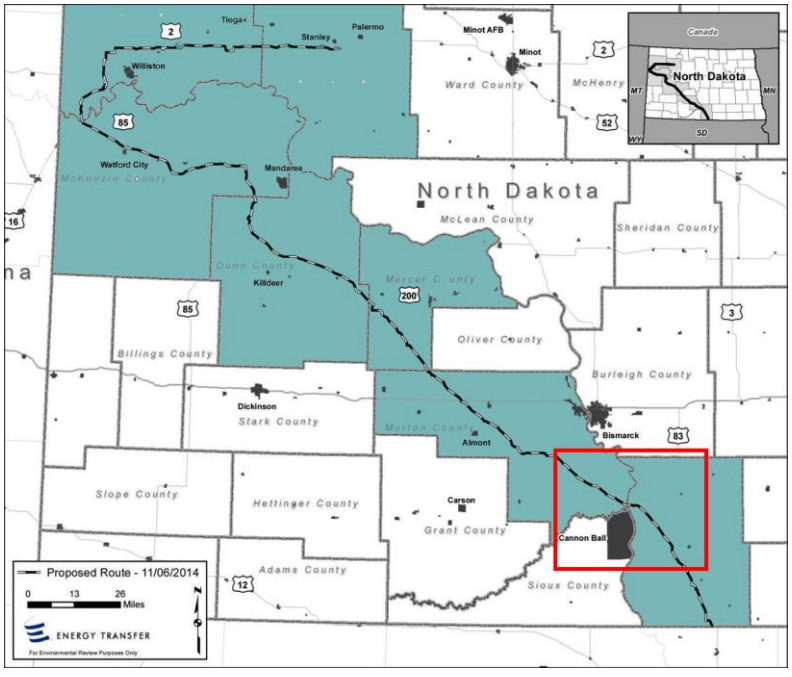
The biggest confrontation yet came last Thursday, after hundreds of activists occupied private land along the pipeline's proposed route — arguing that it actually belongs to the tribes under an 1851 treaty with the US government that hasn't been properly honored. In response, police used rubber bullets, pepper spray, and water cannons to disperse the protestors, arresting 141 people in all.

Opponents have also taken the fight to court, hoping to alter or block the project. The DC Circuit Court is currently hearing a major legal challenge to the pipeline, with the Standing Rock Sioux arguing that the Army Corps of Engineers did not properly consult them before green-lighting the section near their reservation.

The pipeline is currently about 75 percent complete, but it's running into some serious roadblocks. On September 9, the Obama administration ordered the Army Corps of Engineers to hit pause on permitting until it could revisit the controversial section nearest the reservation. Then, on November 2, President Obama suggested that federal officials are looking into possible ways to reroute the project. Meanwhile, protests continue to expand. So here's a guide to how we got this point.

What is the Dakota Access Pipeline?

The pipeline in question was first proposed in 2014 by Dakota Access, a subsidiary of Texas-based Energy Transfer Partners. If built, it would carry some 450,000 barrels of crude per day from the Bakken oil fields in North Dakota down to a terminal in Illinois, where it could be shipped to refineries and turned into usable fuel.



The whole thing would stretch 1,134 miles underground and cost some $3.8 billion:

The rationale behind this project is straightforward. Since the late 2000s, drillers have been using fracking techniques to exploit vast new deposits of oil in the shale formations of North Dakota. Crude oil output has surged, and the state has become one of the epicenters of the recent US oil boom.

But because this all happened so quickly, there weren't sufficient pipelines to carry all that new oil to market. Instead, North Dakota's drillers have been shipping thousands of barrels of crude each day by trains, which are costlier and also

sometimes get derailed and explode. Oil companies would prefer a cheaper, quieter pipeline, especially now that crude prices have dropped and profits are thinner. Hence the proposal.

Why is the Dakota Access pipeline so controversial?

Although oil pipelines are less accident-prone than trains, they've certainly been known to leak, with destructive results. So there's been scattered complaints about the proposed route ever since late 2014, starting with farmers in Iowa.

But by far the biggest source of opposition has been in North Dakota, around the portion of pipeline that would run just north of Sioux County and the Standing Rock Indian Reservation, home to 8,250 people.

For months, members of the Standing Rock Sioux have raised two major concerns about the project:

First, the pipeline would cross right under the Missouri River at Lake Oahe, half a mile north of the reservation. A leak or spill could send oil directly into the tribe's main source of drinking water. The tribe points out that Dakota Access originally considered a route farther north, upstream of Bismarck, but the company rejected that route, in part, because of the close proximity to the state capital's drinking-water wells.

Second, the tribe argues that the pipeline would run through a stretch of land north of the reservation that contains recently discovered sacred sites and burial places. True, this land isn't part of the current reservation. But the Standing Rock Sioux argue that the land had been taken away from them unjustly over the past 150 years. And any bulldozing and construction work could damage these sites.

As such, the tribe has called on the pipeline to be rerouted or reconsidered altogether. (In response, Dakota Access has argued that it will employ "new advanced pipeline technology" to limit leaks — and that it will take care to protect any cultural sites.)

More to the point, the Standing Rock Sioux argue that under federal law, the US government should have consulted extensively with the tribe about these issues — and didn't. On July 27, the Standing Rock Sioux and the nonprofit Earthjustice sued the Army Corps of Engineers in federal court, arguing that the agency had wrongly approved the pipeline without adequate consultation.

As journalist Aura Bogado explains, at the core of this dispute is the concept of "tribal sovereignty." The US government is supposed to have a "government-to-government" relationship with native tribes — not run roughshod over them.

Since March, thousands of Native Americans from across the country have come to Cannon Ball to camp out and protest the pipeline in solidarity with the Standing Rock Sioux. The fight has attracted the interest of climate activists and environmentalists, who have been focused on blocking new fossil fuel infrastructure, particularly after their victory in stopping the Keystone XL pipeline last year. It's also pulled in politicians like Bernie Sanders and Jill Stein. (Hillary Clinton, by contrast, has avoided taking a stand.)

The last few months in particular have seen the battle intensify. This new phase began around August 24, after the Standing Rock Sioux asked the DC Circuit Court for an injunction to halt activity on the pipeline while their broader lawsuit against the project was resolved (a lawsuit that could take a year or more).

Then, on September 3, shortly after the injunction was requested, Dakota Access deployed bulldozers and began digging up the section of the pipeline route that contained possible native burial artifacts — widely viewed as an attempt to circumvent the lawsuit and make the pipeline inevitable. Protesters tried to stop the bulldozers, and there's video of private security responding with dogs and pepper spray.

Five days later, North Dakota Gov. Jack Dalrymple activated the state National Guard "in the event they are needed to support law enforcement response efforts."

In October, protestors began occupying a portion of privately owned land just north of the reservation that lay directly in the pipeline's path. They've argued that this slice of land actually belongs to Native Americans under the Fort Laramie Treaty of 1851, signed between eight tribes and the US government — a treaty that was subsequently violated after Congress unilaterally took back territory over the years. "We have never ceded this land," said Joye Braun of the Indigenous Environmental Network in a statement.

The protestors on the private land say their demonstrations have been peaceful, featuring prayers and chants and drum circles. But local authorities have cracked down hard on these intrusions: On October 27, police used pepper spray, water cannons, and bean bags to push back the activists, arresting more than 141 people in all.

What's the lawsuit over the pipeline all about?

Wiyake Eagleman of the Rosebud Sioux Tribe participates during a rally on Dakota Access Pipeline August 24, 2016, outside US District Court in Washington, DC. Photo by Alex Wong/Getty Images

While the protests rage on, there's also a court case winding through federal courts that could decide the ultimate fate of

the pipeline. The case centers around the Army Corps of Engineers, the federal agency that typically approves interstate pipelines and provides permit for water crossings.

By law, any federal agency overseeing a construction project has to consult with native nations or tribes if there are places with "religious and cultural significance" nearby. (This is true even if those places are not explicitly part of a reservation — a recognition that many tribes have been forcibly relocated by the federal government and have had their lands taken over the years.)

In their complaint, filed on July 27, the Standing Rock Sioux argued that the Army Corps of Engineers handed out water permits too hastily and only consulted with the tribe on a narrow set of potential impacts. (The tribe ended up sitting out much of the consultation process in protest.) The tribe also argued that Dakota Access used out-of-state experts to survey the lands beforehand, and so missed a whole bunch of culturally significant archaeological discoveries along the pipeline's path.

You should read Robinson Meyer in the Atlantic for much more on the legal merits of the case. He argues that the Standing Rock Sioux have a reasonable case — the law is pretty clear that native nations or tribes need to be consulted extensively, in a "government-to-government" fashion. But it's far from clear they'll actually win.

This case is currently being heard by US District Judge James E. Boasberg, who was appointed to the federal bench by President Obama in 2011. It could take months to reach a resolution. So, in the meantime, the Standing Rock Sioux and the nonprofit Earthjustice had asked for an injunction to halt construction until a final decision.

On September 9, Boasberg denied that request for an injunction. You can read his reasoning here. He starts by setting the scene: "Since the founding of this nation, the United States' relationship with the Indian tribes has been contentious and tragic." But he then goes on to argue that the tribe "has not shown it will suffer injury that would be prevented by any injunction the Court could issue" and that the Army Corps "gave the Tribe a reasonable and good-faith opportunity to identify sites of importance to it."

Immediately after the injunction was denied, however, the Obama administration stepped in and ordered a stop to construction around Lake Oahe until the Army Corps of Engineers could revisit the disputes over this portion of the pipeline. "Furthermore," the Department of Justice, Department of Interior, and Department of the Army said in a letter, "this case has highlighted the need for a serious discussion on whether there should be nationwide reform with respect to considering tribes' views on these types of infrastructure projects."

On November 2, as protests continued, Obama issued another statement saying that the Army Corps "is examining whether there are ways to reroute this pipeline." He then added: "So we're going to let it play out for several more weeks and determine whether or not this can be resolved in a way that I think is properly attentive to the traditions of the first Americans." (Here's a piece from E&E on whether rerouting the project is even possible — certainly it would cost developers millions of dollars.)

For now, the portion of the pipeline nearest the reservation is in limbo and the legal battles will continue. As Earthjustice explains, the broader lawsuit against the pipeline is still moving forward — and may not get resolved before the end of 2016, at least. What's more, Dakota Access still must get one last bit of approval from the Army Corps of Engineers before digging on either side of Lake Oahe.

In the meantime, protestors aren't backing down. Here's Dave Archambault II, chairman of the Standing Rock Sioux, in September: "We're going to continue to [fight this battle] as long as it takes to try and have this nation recognize the injustices that are being implemented on our nation."

Energy Transfer web site, Nov. 3, 2016

http://www.daplpipelinefacts.com/

The Dakota Access Pipeline Project is a new approximate 1,172-mile, 30-inch diameter pipeline that will connect the rapidly expanding Bakken and Three Forks production areas in North Dakota to Patoka, Illinois. The pipeline will enable domestically produced light sweet crude oil from North Dakota to reach major refining markets in a more direct, cost-effective, safer and environmentally responsible manner. The pipeline will also reduce the current use of rail and truck transportation to move Bakken crude oil to major U.S. markets to support domestic demand.

It will transport approximately 470,000 barrels per day with a capacity as high as 570,000 barrels per day or more – which could represent approximately half of Bakken current daily crude oil production. Shippers will be able to access multiple markets, including Midwest and East Coast markets as well as the Gulf Coast via the Nederland, Texas crude oil terminal facility of Sunoco Logistics Partners.

Depending upon regulatory approvals, the pipeline is projected to be ready for service by the end of 2016.

Quick Facts About Dakota Access Pipeline

Supply The Dakota Access Pipeline will connect the Bakken and Three Forks production areas in North Dakota to existing pipelines in Illinois. The pipeline will enable 100 percent domestically produced light sweet crude oil from North Dakota to reach major refining markets in a more direct, cost-effective, safer and responsible manner. The pipeline will also reduce the current use of rail and truck transportation to move Bakken crude oil to major U.S. markets to support American energy needs.

Landowners Protecting landowner interests and the local environment is a top priority of the Dakota Access Pipeline project. As an operating principle, Dakota Access Pipeline is committed to working with individual landowners to make accommodations, minimize disruptions, and achieve full restoration of impacted land. We will listen to and address questions from the community, landowners and other interested stakeholders about the project, proposed routes, landowner communications and more. It is our intent to live up to our promises of openness, honesty and responsiveness before, during and after construction and throughout operations.

Safety The Dakota Access Pipeline will employ new advanced pipeline technology to ensure safety and reliability. Pipelines are the safest mode of transporting crude oil, according to statistics from the U.S. Department of Transportation. But there are always opportunities to improve on that record. Today's crude oil pipelines are designed to exceed stringent federal safety standards. Dakota Access will be built and operated using the most advanced technology and monitoring systems to make it even safer.

National Benefits

Increased domestic crude oil production translates into greater energy independence for the United States.

Although the United States is the third-largest producer in the world, we are the number one consumer of crude oil in the world. We need to close the gap between what we produce as a country and what we consume before we can be truly independent of foreign imports. While the U.S. produced 7.5 million barrels of crude oil per day in 2013, it still imported 7.7 million barrels per day in order to meet consumer demands. We need to close the gap between what we produce as a country and what we consume before we can be truly independent of foreign imports. Every barrel of oil produced in the United States directly displaces a barrel of foreign oil.

The North Dakota Bakken has witnessed a significant increase in the production of crude oil, from 309,000 barrels a day in 2010 to 1 million barrels a day in 2014. This energy will need reliable transportation networks to reach U.S. markets, and pipelines are the safest, most efficient means of accomplishing this task.

Local Economic Impact

The Dakota Access Pipeline is a $3.7 billion investment that will create 8,000 to 12,000 local jobs during construction. Millions of hours of labor will be needed during the construction phase, putting welders, mechanics, electricians, pipefitters, heavy equipment operators and others within the heavy construction industry to work. There will also be increased demand for those who manufacture the steel pipes, fittings, valves, pumps and control devices necessary for a major pipeline, and local economies along the route will feel direct impact through the expanded use of hotels, motels, restaurants, and other services.

The pipeline investment translates into millions in state and local revenues during the construction phase, estimated at $156 million in sales and income taxes.

The pipeline will generate an estimated $55 million annually in property taxes – for services to support schools, roads, emergency services and more.

The project will also address transportation strains in the Upper Midwest created by the dramatic increase in crude oil production in North Dakota. A lack of rail cars to move grain out of South Dakota has magnified the problem. Tariffs on grain railcars have increased from $50 to nearly $1,400 per car. These cost increases can carve up to $1.00 from every bushel of corn shipped. The Bakken Pipeline will help ease transportation shortages for agriculture and other industries.

Dakota Access Pipeline: What's at stake?

By Holly Yan, CNN, Updated 8:17 AM ET, Fri October 28, 2016

It's a $3.7 billion project that would cross four states and change the landscape of the US crude oil supply.

And depending on who you ask, the results could be an economic boon that makes the country more self-sufficient or an environmental disaster that destroys sacred Native American sites.

Here's what you need to know about the Dakota Access Pipeline:

What is the Dakota Access Pipeline?

The 1,172-mile pipeline would stretch from the oil-rich Bakken Formation -- a vast underground deposit where Montana and North Dakota meet Canada -- southeast into South Dakota, Iowa and Illinois.

The oil potential in Bakken is massive. An estimated 7.4 billion barrels of undiscovered oil is believed to be in its US portion, according to the US Geological Survey.

The US Energy Information Administration shows the network of existing crude oil pipelines across the country.

After the pipeline is completed, it would shuttle 470,000 barrels of crude oil a day, developer Energy Access Partners said. That's enough to make 374.3 million gallons of gasoline per day.

From Illinois, the oil could go to markets and refineries across the Midwest, East Coast and Gulf Coast.

Who approved it?

The US Army Corps of Engineers approved the project and granted final permits in July.

But the Standing Rock Sioux Tribe sued the Corps, saying the pipeline "threatens the Tribe's environmental and economic well-being, and would damage and destroy sites of great historic, religious, and cultural significance to the Tribe."

The Army Corps of Engineers has declined to comment to CNN, citing pending litigation.

But an advocacy group says the tribe's claims are misleading, saying the pipeline "does not cross into the Standing Rock Sioux Tribe's reservation."

The Midwest Alliance for Infrastructure Now also said 100% of the affected landowners in North Dakota, where part of the tribe lives, voluntarily signed easements to allow for construction.

What's the argument for and against?

Pro: The pipeline wouldn't just be an economic boon, it would also significantly decrease U.S. reliance on foreign oil, the developer Energy Transfer Partners said. The pipeline would also help free up railways to transport "crops and other commodities currently constrained by crude oil cargos."

Con: Construction for the pipeline will "destroy our burial sites, prayer sites and culturally significant artifacts," the Standing Rock Sioux tribe said. Opponents also cite environmental concerns, including possible contamination due to breaches and eventual greenhouse gas emissions.

What's the environmental impact?

Depends on who you ask.

The developer says the pipeline would provide a safer, more environmentally friendly way of moving crude oil compared to other modes of transportation, such as rail or trucks.

Pipeline supporters cite the 2013 disaster in Quebec, Canada, where a train carrying crude oil derailed and destroyed downtown Lac-Megnatic.

But Standing Rock Sioux Chairman David Archambault II said he doesn't support moving more crude oil from North Dakota. He told CNN affiliate KFYR that Americans should look for alternative and renewable sources of energy.

More than 274,000 online petitioners agree.

"The Dakota Access pipeline would fuel climate change, cause untold damage to the environment, and significantly disturb sacred lands and the way of life for Native Americans in the upper Midwest," a petition on CredoAction.com states.

Opponents also say they're worried what would happen if the pipeline, which would go under the Missouri River, ruptured and contaminated the water supply.

But the Midwest Alliance for Infrastructure Now backed the developer's claim that pipelines are a safe way of moving crude oil.

"Already, 8 pipelines cross the Missouri River carrying hundreds of thousands of barrels of energy products every day," the group said in a statement.

"Once completed, the Dakota Access Pipeline will be among the safest, most technologically advanced pipelines in the world."

What's the economic impact?

Energy Transfer Partners estimates the pipeline would bring an estimated $156 million in sales and income taxes to state and local governments. The developer also says it will add 8,000 to 12,000 construction jobs.

But Archambault said his tribe will settle for nothing less than stopping the pipeline's construction.

"We're not opposed to energy independence. We're not opposed to economic development," he told CNN. "The problem we have -- and this is a long history of problems that evolved over time -- is where the federal government or corporations take advantage of indigenous lands and indigenous rights."

What's going on with the protests?

Protests have been taking place in North Dakota for months. On Thursday, police said they arrested at least 141 protesters.

Law enforcement officials spent six hours pushing about 200 protesters from one area back to their main encampment. Police deployed bean bag rounds and pepper spray gas, and unleashed a high-pitched siren to disperse the crowd.

In response, protesters lit debris on fire near a bridge and threw Molotov cocktails at law enforcement, North Dakota Department of Emergency Services spokeswoman Cecily Fong said.

Around 50 cars were towed away. A handful were either burned or otherwise vandalized.

What do the landowners get?

Energy Transfer Partners said it has tried to steer the pipeline away from residential areas and has tried to reach voluntary deals with property owners "at a fair price."

But Archambault, the tribal chairman, said he thinks the Native Americans are getting short-changed once again.

"What we're opposed to is paying for all the benefits that this country receives," he said. "Whenever there's a benefit, whether it's energy independence ... whether it's economic development, tribes pay the cost. And what we see now are tribes from all over sharing the same concern that we have, saying, 'It's enough now. Stop doing this to indigenous people. Stop doing this to our indigenous lands.'"

The big fight over the Dakota Access Pipeline, explained

The Washington Post, By Nives Dolšak, Aseem Prakash and Maggie Allen September 20, 2016

Last week, the federal government temporarily blocked construction of the 1,134 miles Dakota Access Pipeline (DAPL) which was supposed to carry 570,000 barrels of crude oil per day from the Dakotas to Illinois. The Standing Rock Sioux and other tribal nations claimed, with the support of environmentalist groups, that the pipeline would damage their environment and cultural sites. This decision is the result of a new kind of environmental activism that treats energy pipelines as a chokepoint for activities that contribute to global warming, and builds alliances with other groups to stop them.

Traditional tactics don’t work like they used to

Traditionally, activists have tried to lobby government to prevent energy firms from accessing new areas for oil, gas and coal, to regulate how they refine oil, extract coal, and generate electricity. They have sought tougher fuel efficiency standards and mandates for electricity companies to use of renewables in electricity generation. Sometimes they have lobbied customers, hoping that they will sanction firms for bad policies.

All of this is aimed at stopping or slowing down global warming — but it has had mixed success. Energy companies have often blocked or weakened regulatory action. It has often been hard to mobilize consumers, who are addicted to automobiles and energy intensive lifestyles, and believe that they have little power over markets.

That’s why environmental activists are targeting pipelines

Now, activists are trying something new — disrupting how the fossil fuel industry transports its products. Their objective is to prevent the fossil fuel industry from accessing the pipelines and railroad networks they need to move their products. The logic is simple; if products cannot be moved, they cannot be sold and will not contribute to global warming.

This “pipeline politics” does not ask governments to enact new regulations. Instead, it leverages the existing regulatory framework. Environmentalists have built coalitions with actors that are more interested in local issues than in global

climate change. These actors fear that transportation of fossil fuels might contaminate their water resources, infringe on their fishing rights, or desecrate their sacred lands. Native American nations are an especially attractive ally, because they often have treaty rights over land and water use that the U.S. government is obliged to take account of.

Environmentalists are allying themselves with Native Americans

This explains the fight that is happening right now in North Dakota. It also explains why environmental groups have struck up alliances with Native American nations and tribal groups to disrupt the transportation of oil and coal elsewhere.

Take the case of the Gateway Pacific Terminal at Cherry Point, Washington. This was supposed to be the largest coal exporting facility on the West Coast, allowing the export of coal mined in the Power River Basin in Montana and Wyoming. Environmentalists collaborated with The Lummi Nation, which believed that the Cherry Point terminal would adversely impact its fishing investments (for reference, the Lummi nation owns the largest native commercial fishing fleet in the U.S.). Importantly, the Lummi Nation had leverage because it had signed a treaty with the federal government in 1855 that guaranteed its rights to fish in the Salish Sea.

In 2015, the Lummi Nation filed a petition with the Army Corps of Engineers claiming that the proposed terminal would damage its fishing and desecrate its sacred sites. This saw them opposing another Native American tribe, the Crow Nation in Eastern Montana, which partnered with Cloud Peak Energy to develop a coal mine on its land, but which did not have the advantage of a treaty. The Army Corps of Engineers ruled in favor of the Lummi Nation.

Similarly, in 2015, the Swinomish Indian Tribal Community sued BNSF in federal court to stop the transportation of Bakken crude oil through its lands. The Quinault Indian Nation, in collaboration with environmental groups, has successfully challenged the granting of a permit for the Grays Harbor Terminal as well as Imperium Bulk Liquid Terminal Facility in Hoquiam, both in Washington state.

The Keystone XL fight is really about Albertan tar sands

Pipeline politics also explains the enormous controversy over the Keystone XL pipeline, where environmentalists have made the running through the Department of State rather than alliance with Native Americans. This pipeline sought to transport crude oil extracted from Canadian tar sands to refineries in the U.S. Gulf Coast where it could be refined and exported overseas. Because the Keystone XL pipeline crosses international borders, it requires TransCanada, the parent company, to apply for regulatory permission from the U.S. Department of State.

There is no evidence that building a new oil pipeline would create a big new environmental problem in itself. After all, the United States already has the largest pipeline network in the world: 1.2 million miles for natural gas, and 150,000 miles for petroleum products. In comparison, the Keystone pipeline is only 1,700 miles long. Environmentalists are fighting Keystone because it will be far harder for oil companies to make use of the Alberta tar sands without the pipeline. Since these tar sands are among the largest oil reserves in the world, this could have a massive secondary impact on global warming.

This explains why environmental groups made the Keystone approval an important litmus test for the Obama administration's commitment to climate change mitigation. Environmental activism also moved Democratic Presidential candidate Hillary Clinton from apparent support for the pipeline to claiming that "I never took a position on Keystone until I took a position on Keystone." The Obama administration's rejection of TransCanada's application for the pipeline was a victory for the environmentalists because less tar sand will be mined for oil, at least in the short run.

The coal industry is facing another challenge. Given that much of the coal is transported in open railways carriages, communities in the vicinity of railways tracks are exposed to coal dust and face respiratory problems. Environmentalists are now working with local communities and public health activists to stop coal trains from using existing railway tracks that pass through densely populated areas.

Environmental activists — like other political actors — find it hard to get Congress and the executive branch to introduce new laws and regulations. Because the current system has many veto points, this has led them to think creatively about whether choke points elsewhere in the system can be exploited. The energy industry's need for railroads and pipelines is one such choke point. If activists can band together with actors whom regulators need to take account of, or exert sufficient pressure in their own right, they can be very successful in stymieing the energy industry, and forcing it to take environmentalists' concerns more seriously.

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More Than Half of U.S. Pipelines Are at Least 46 Years Old

By ALISON SIDER and NICOLE FRIEDMAN, The Wall Street Journal, Nov. 2, 2016

Building new systems has become harder amid opposition from landowners and environmental groups

More than 60% of U.S. fuel pipelines were built before 1970, according to federal figures. Recent disruptions on Colonial Pipeline Co.'s fuel artery running up the East Coast show why some energy observers worry that this is a problem.

The pipeline, which began operating fully in 1964, was partially shut down for nearly two weeks in September. Fuel prices spiked throughout the Southeast, rising more than 20 cents a gallon in places like Atlanta.

Motorists this week began to worry again after the company's main gasoline pipeline, which supplies about a third of the gas consumed on the East Coast, was shut down. It was struck by construction equipment Monday, killing one person and injuring several others.

The company has said the 5,500-mile pipeline, which runs from Houston to New Jersey and serves 13 states, could restart as soon as Saturday, though as of Wednesday afternoon the pipeline was still on fire. Gasoline futures fell 2.4%, to $1.4479 a gallon, on the New York Mercantile Exchange Wednesday after rising as much as 15% following the Colonial explosion.

Colonial isn't the only major pipeline constructed decades ago. That includes a 3,000-mile fuel pipeline that first opened in 1956 and serves California, Texas and five other states. Another system that now carries fuel more than 1,800 miles from the Gulf Coast to the Chicago area opened in 1971.

Building pipelines has become harder amid opposition from landowners and environmental groups concerned about pipeline safety and stemming fossil-fuel development. Kinder Morgan Inc. had plans to build a new fuel pipeline from South Carolina to Jacksonville, Fla., by 2017. But it shelved the project after running into opposition, including legislation in Georgia aimed at keeping it from being built.

Carl Weimer, executive director of the advocacy group Pipeline Safety Trust, said fuel pipeline systems can operate safely for decades if they are well maintained. But after 40 or 50 years, problems like corrosion increase. "Clearly, operators don't have a complete handle on how to operate these older pipelines," Mr. Weimer said, referring to maintenance issues that get harder as systems age.

Companies, industry groups and even regulators have said that with advances in pipeline monitoring and repair techniques, as well as regular maintenance and inspection, pipelines can last a long time.

Colonial's pipeline carries more than 100 million gallons of fuel a day. Its role as a critical link between refiners on the Gulf Coast and consumers up and down the Atlantic Coast means that any problem on the pipeline can have an outsize impact on fuel supplies and prices at the pump.

Most other regions that rely on pipelines to deliver fuel from far-flung refiners are located near a second system that could deliver fuel as a fallback.

"If a pipeline from Los Angeles to Las Vegas goes down, there's some capability to supply Las Vegas from Salt Lake City," said David Hackett, president of consulting firm Stillwater Associates.

Colonial Pipeline has spent more than $95 million on an upgrade that has allowed the pipeline to carry more than 200,000 additional barrels a day since 2011. But the company would need to expand its capacity by another 300,000 to 500,000 barrels a day to meet demand, Chief Financial Officer Dave Doudna said in a 2015 interview. He said that would require a new pipeline, which would cost more than a billion dollars and face large regulatory hurdles.

"The permitting process takes a long time, the cost to build is expensive. And what you end up finding is that customers aren't willing, or have not been willing to commit, for a period of 10 to 15 years," he said. "I would say a lot of it is the regulatory environment we're living in today."

Finding customers to underwrite the cost of a big investment like a pipeline is a challenge for the infrastructure industry broadly, said Rob Thummel, portfolio manager for energy-focused asset manager Tortoise Capital Advisors.

In places like the Northeast, which can also take in fuel from overseas or waterborne shipments from the Gulf Coast in a pinch, customers aren't always willing to lock in long-term contracts. Some customers worry that demand will change in the coming years or imports could become more attractive.

"It's not just, 'Build it and they will come,' " he said. "You need a committed partner who is committed to pay the toll, not just for a year or two, but at least 10 years."

By contrast, more than 20,000 miles of new crude-oil pipelines have been built in the past decade, and natural-gas pipeline infrastructure has expanded as well, as production from U.S. shale formations increased rapidly, though these

projects are also facing opposition.

But the pipes that carry gasoline, diesel and other fuels haven't experienced the same growth, because fuel demand isn't rising everywhere and because some run through more populated areas than where crude is drilled and face more public resistance.

Dakota Pipeline Was Approved by Army Corps Over Objections of Three Federal Agencies

Inside Climate News, BY PHIL MCKENNA, AUG 30, 2016

The Sioux tribe objecting to the Dakota Access pipeline had their concerns echoed by several federal agencies, but those concerns were dismissed in the pipeline's approval. Credit Getty Images

BISMARCK, N.D.—Senior officials at the U.S. Environmental Protection Agency and two other federal agencies raised serious environmental and safety objections to the North Dakota section of the controversial Dakota Access oil pipeline, the same objections being voiced in a large protest by the Standing Rock Sioux tribe that has so far succeeded in halting construction.

But those concerns were dismissed by the U.S. Army Corps of Engineers, which relied on an environmental assessment prepared by the pipeline's developer, Dakota Access LLC, when it approved the project in July, according to public documents.

The 1,134-mile pipeline would carry approximately 500,000 barrels of crude per day from North Dakota to Illinois along a route that did not originally pass near the Standing Rock reservation, the documents show. After the company rerouted the pipeline to cross the Missouri River just a half-mile upstream of the reservation, the tribe complained that the Army Corps did not consider threats to its water supply and cultural heritage.

The EPA, the Department of the Interior and the Advisory Council on Historic Preservation echoed those concerns in public comments on the Army Corps' draft environmental assessment. Citing risks to water supplies, inadequate emergency preparedness, potential impacts to the Standing Rock reservation and insufficient environmental justice analysis, the agencies urged the Army Corps to issue a revised draft of their environmental assessment.

"Crossings of the Missouri River have the potential to affect the primary source of drinking water for much of North Dakota, South Dakota, and Tribal nations," Philip Strobel, National Environmental Policy Act regional compliance director for the EPA, wrote in a March 11 letter to the Army Corps.

The current route of the pipeline is 10 miles upstream of Fort Yates, the tribal headquarters of the Standing Rock Sioux tribe and the county seat. The Standing Rock Sioux rely on the Missouri River for drinking water, irrigation and fish.

The EPA shared its concerns and recommended that the Army Corps undertake a new draft environmental assessment and release it for public comment. In that process, the EPA asked the Army Corps to consider "other available routes or crossing locations that would have reduced potential to water resources, especially drinking water supplies," and to carry out a "more thorough" analysis of environmental justice concerns. The other agencies also asked for further assessments and consultation with the tribes.

The Army Corps instead published its final environmental assessment four months later, which constituted final approval of the project. In it, the Corps acknowledged the agencies' comments, but said "the anticipated environmental, economic, cultural, and social effects" of the project are "not injurious to the public interest."

The Army Corps, which has jurisdiction over domestic pipelines that cross major waterways, declined a request for comment, citing ongoing litigation. Energy Transfer, owner of Dakota Access LLC, did not respond to a request for comment. The company has previously said "we are constructing this pipeline in accordance with applicable laws, and the local, state and federal permits and approvals we have received."

Tribe Takes their Complaints Public

The tribe's growing protest has gathered in a camp near Cannon Ball, N.D., and has drawn support from Native Americans from around the country as well as environmental activists. An estimated 1,200 people are camping there and Sioux leaders say 90 tribes are represented among the protesters.

The protest blocked construction equipment two weeks ago and Energy Transfer halted construction on the section of pipeline closest to the Standing Rock reservation. A federal judge said last week he will rule by September 9 on whether to grant the Standing Rock Sioux a temporary injunction. That would bar construction on sections of the pipeline where the ground hasn't yet been disturbed until a suit calling for the Army Corps to redo its permitting process can be heard.

Demographics of the Standing Rock Sioux

The Standing Rock reservation spans 3,600 square miles across North and South Dakota, where 41 percent of its 8,217 residents live below the poverty level, more than triple the national average, according to a 2012 economic development

report prepared for the tribe. Nearly a quarter of its population is unemployed.

In its comments calling for a re-do, the EPA said the environmental justice analysis in the Army Corps' draft environmental assessment used county-by-county or state-by-state data when the preferred level of analysis is "census block groups or census tracts."

"A screening level analysis for EJ [environmental justice] indicates there are several census block groups with substantial minority and/or low income demographics that could be potentially impacted by the project," the EPA wrote. "In addition to analyzing potential EJ impacts, Executive Order 12898 on Environmental Justice (February 16, 1994) also requires public outreach to potentially affected EJ communities."

In its final environmental assessment , the Army Corps said its analysis "contains an Environmental Justice analysis that conforms with recognized practice."

The agency also said the pipeline does not cross tribal land. "In fact, tribal land was specifically avoided as a routing mitigation measure," it said. "The Project does not anticipate any impact to water supplies along its route, and to the extent a response action is required, federal regulation will be complied with."

Route Became a Moving Target

The original route for the proposed pipeline crossed the Missouri River further north, 10 miles upstream of Bismarck, the state capital. North Dakota Public Service Commission documents show the route upstream of Bismarck in a May 29, 2014 map by Energy Transfer.

The company later rejected this route, citing a number of factors, including more road and wetland crossings, a longer pipeline, and higher costs. Also listed as a concern was the close proximity to wellheads providing Bismarck's drinking water supply.

"They moved it down to Standing Rock, which is a very remote area, but people live at Standing Rock too. There is an environmental justice component here," said Jan Hasselman, an attorney with environmental advocacy organization EarthJustice, which filed the lawsuit on behalf of the Standing Rock Tribe against the Army Corps of Engineers.

In its public comments, the Department of the Interior, the government agency responsible for the administration and management of Native American lands, called for the Army Corps to conduct an Environmental Impact Statement, a more comprehensive analysis of the potential impact of the proposed pipeline.

"We believe the Corps did not adequately justify or otherwise support its conclusion that there would be no significant impacts upon the surrounding environment and community," Lawrence Roberts, acting assistant secretary of Indian affairs at the Department of the Interior, wrote in a letter to the Army Corps in March.

The Advisory Council on Historic Preservation (ACHP), a federal agency that promotes the preservation, enhancement, and productive use of the nation's historic resources, also expressed concern over the Army Corps' assessment.

Federal law requires federal agencies to take into account the effect a proposed project will have on historic property. The Army Corps' assessment, however lacked adequate consultation with the Standing Rock Sioux tribe and focused on a limited number of water crossings rather than on the pipeline's entire expanse, according to letters ACHP officials wrote to the Army Corps.

"Based on the inadequacies of the tribal consultation and the limited scope for identification of historic properties that may be affected, the ACHP questions the sufficiency of the Corps' identification effort, its determinations of eligibility, and assessments of effect," Reid Nelson, director of the office of federal agency programs for ACHP, wrote in a May 19 letter to the Army Corps.

In its final assessment, the Corps stated there is "no new significant information on environmental effects" as a result of comments from the EPA and others. "As such, neither a supplemental or revised EA [Environmental Assessment] for further public review nor additional NEPA [National Environmental Policy Act] compliance actions was required."

"We're talking about a broad overarching and fundamental failure which is the decision to look very narrowly at environmental impacts at a few specific locations rather than the pipeline as a whole," Hasselman said of the Army Corps' assessment.

Having their concerns dismissed by the Corps, the tribe turned next to the courts. Their lawsuit calls for a halt to construction and full consideration of the pipeline's impact on tribal lands and water.

To obtain a preliminary or "emergency" injunction, however, attorneys representing the Standing Rock tribe will have to demonstrate imminent harm to historic sites if construction proceeds.

"To the extent that people are concerned about harm from oil spills, that is still a ways off," Hasselman said. "We can't really seek emergency relief on that front. That is something that we will be seeking in the course of the lawsuit."