

Standing Rock 2017 and the Dakota Access Pipeline (DAPL): The Fight is Not Over

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The fight of the Native American Indian tribes, environmentalists and the water protectors (protestors) is not over. Although the Army Corps of Engineers announced on Sunday December 4th, 2016, that it would not be granting the DAPL easement access, there is nothing to stop the oil company from disobeying that and moving forward anyway. After all, the amount they would have to pay in fines is insignificant next to the lost revenue they are experiencing from the delay of the project. The announcement offered temporary relief, but the battle is not over. Some at the camps have stated that the announcement was propaganda to lull people into a false sense of security. You can expect Standing Rock 2017 to be just as newsworthy as Standing Rock 2016. Before going further, however, it is worth revisiting the legal facts of the Standing Rock / DAPL issue, since there was so much emotion, disinformation and confusion surrounding it.

Historical Context of DAPL: Treatment of the American Indians in the Past

First we need to understand the background. In 1851, the Laramie Treaty was struck which outlined the territorial claims of 8 American Indian tribes including the Sioux. However 11 years later in 1862, after many years of broken promises by the US Government (treaty land not honored, food and supplies not delivered as promised), a war raged between members of the Dakota nation and the US military in southern Minnesota. In fact, December 26th marked the 154th anniversary of the largest mass execution in US government history, when [38 Dakota men were publicly hanged in Mankato, Minnesota](#). Around this time gold and other minerals were discovered on Treaty reservation land, so the US Government took back the land, dug for uranium and poisoned the aquifer and thus the drinking water of the people there (now incidentally the Sioux must pump the Missouri River to make their water drinkable). In 1890, a horrible massacre took place. At the Battle of the Wounded Knee (not a battle but a massacre), white men shot Lakota Sioux women and children and killed their buffalo. [History.com](#) describes it as follows:

The conflict at Wounded Knee was originally referred to as a battle, but in reality it was a tragic and avoidable massacre ... a brutal massacre ... in which it's estimated 150 Indians were killed (some historians put this number at twice as high), nearly half of them women and children. The cavalry lost 25 men.



Standing Rock 2017 will continue to be an issue. Get the facts about DAPL.
Learn how the DAPL used a fast track method to avoid doing a full EIS.

Clearly there has been a lot of mistrust, broken promises, theft, violence and murder in the past. From the American Indian point of view, the DAPL is the black snake they have prophesized about which threatens their livelihood and lives. Those supporting the DAPL have made several claims substantiating why they believe it's right, fair and legal. Let's take a closer look at their claims.

Claim: DAPL Does Not Go Through Sioux Treaty Land

This is technically true, but overall very misleading. Yes, the DAPL runs adjacent and parallel to an older 1982 pipeline in the same place. The pipeline passes by a point about 500 feet from Sioux land. Obviously, if some kind of oil spill were to occur, the probability is almost 100% that it would affect American Indian land. How could it not being that close? The Lakota Sioux on pine Ridge used to depend upon the Ogallala Aquifer for their drinking water. But since the uranium contamination, they now pump water from the Missouri River. They have had their drinking water permanently poisoned from resource extraction in the past. Clearly, it's fair for them to protest a pipeline right next to them with such a potential of disruption and danger to their lives. And if you think that pipelines are "safe", look at the next claim.



Another North Dakota spill (not DAPL) that happened near Standing Rock in December 2016. Is any oil safe? Credit: RT.

Claim: Pipelines are Safer to Transfer Oil than Trains and Other Overland Methods

Another technically true but misleading point. Pipelines may be safer than other methods, but they still break and spill. Just in case you think that a domestic American oil spill is an unlikely event, consider this: only around 4 weeks ago [another oil pipeline in North Dakota](#) (not the DAPL, but a different one around 150 miles from Standing Rock) spilled into a creek. This happened at Ash Coulee Creek in North Dakota. 176,000 gallons of oil were spilled which contaminated around 5.4 miles of the creek. Oil is a dirty fuel; these kind of accidents are bound to happen. The more a country relies on oil, the more accidents it can expect to have. Did you know the [Keystone XL pipeline leaked 12 times in its 1st year](#) of operation?

In fact, there have been thousands of documented oil spills and pipeline breaks (averaging 31,500 barrels per year according to this [source](#)) in the USA alone in the last 15 years! That is an astonishing figure and truly goes to show that there is no way "safe" way to transport oil. This doesn't even include the [100s of undocumented spills](#) that we were not told about ...

Claim: The Sioux were Given a Chance to Voice Claims but Didn't Negotiate

Both the DAPL and the Army Corps of Engineers have been claiming that the Sioux tribe didn't respond in timely way to their requests for negotiation and consultation. Clearly there was a huge communication breakdown. Whose fault was it? It's very difficult to determine. The article [Everything You Need to Know About Standing Rock](#) summarizes the situation:

When it all comes down, through, the tribe was not involved in the process. Whose fault that is . . . well, depends on how you look at the world, really. The Corps and DAPL made significant effort, but the tribe also doesn't have the

money, means or special training that the organization's have. This causes some pretty significant imbalance. One example: After several months of requests for meetings and input, the Tribe asks for clarification on the process all together – keep in mind they had already been getting notifications from DAPL prior to this. When Chairman Archambault got involved – almost a year into the process – he claims that form letters and public meetings don't meet the obligation of the Corps to consult with tribes. In the final months, there is confusion over the Army Corps of Engineers jurisdiction and their completion of necessary research and inclusion. During this time Chairman Archambault also asserted that the Army Corp of Engineers “violated its own policy” by not holding an “active and respectful dialogue before decisions are made and actions are taken.”

Claim: No Archeological Evidence DAPL is Going Through Burial Grounds

There are more disputes in this area too, with the DAPL claiming the pipeline doesn't go through burial grounds. Does this stand up? Unlikely. Right after the tribe submitted burial evidence to the court, the DAPL jumped 25 miles and starting ploughing a new area with bulldozers. Why? To eliminate evidence. Waterkeeper Alliance lawyer Daniel E. Estrie was [outraged at Dakota Access LLC for these actions](#):

Based upon [reports from the Standing Rock Sioux Tribe's lawyers](#), on Friday, September 2, the tribe provided to the federal court in Washington, D.C. specific locations along the planned pipeline route where evidence of sacred burial and other culturally important sites had been identified by experts. The tribe's intent was obviously to protect these irreplaceable sacred sites by requesting that the court consider them in connection with a pending motion for a preliminary injunction, on which a ruling is expected by this Friday. Shockingly, the day after the tribe notified the court of the specific locations of the sacred sites — and knowing the tribe would not be able to get into court over Labor Day weekend — Dakota Access LLC sent work crews with bulldozers and other heavy equipment out to the very locations that had been identified by the tribe and physically destroyed them. If these allegations against the pipeline company are true, in the 23 years that I have practiced and taught environmental law, I have never seen such an outrageous, unconscionable, and bad faith abuse of the legal process. It also plainly demonstrates that contrary to the pipeline company's spin, it is the company, not the tribe, that is the aggressor here.

DAPL Was Deliberately Fast-Trackd to Avoid Environmental Impact Statement

The DAPL is certainly making a lot of dubious claims, but let's turn away from its claims and onto its actions. The fact is that the DAPL broke the law in numerous ways in the lead up to this project. The main way they skirted the law was by engaging in segmentation (breaking up the project into lots of shorter projects in order to get more favorable legal treatment). They conspired to push the project through without doing an EIS (Environmental Impact Statement) as required by law. DAPL tried to do a shortform EIS, but their proposed line is 7 miles longer than another similar project which did complete an EIS. They used a fast track method ([Army Corps Permit 12](#)) to avoid an EIS:

The permits for the Dakota Access Pipeline project (DAPL) were granted using the Army Corps Nationwide Permit 12, a fast track permitting process that has allowed the oil and gas industry to build numerous fossil fuel pipelines across the country, even on private property, without any project specific environmental review or public input process.

The theme of large corporations trying to avoid the EIS is a common one. This is exactly what happened when a joint consortium including the US Navy tried to force the military SuperFerry onto the island of Kauai, Hawaii, against the wishes of the local people and without an EIS. The consortium was headed by John Lehman, a member of the neocon [PNAC](#) group that agitated for 9/11 before it happened. Due to direct action and the bravery of many surfers who jumped in the water and blocked the ship from docking, the SuperFerry was never able to make it to Kauai.

The common theme is undeniable: large corporations have a habit of avoiding the responsibility of conducting a thorough environmental impact assessment regarding their plans – obviously because they don't want scrutiny of their actions and for the public to realize just how much the corporations' activities will affect the land, air, water, etc.

Another question worth asking is this: why was the pipeline moved from going through Bismarck (where it was originally planned) to going through Native land? Is it because Bismarck residents are whiter and have more political power, and thus a government that is less likely to cross them than a more disadvantaged and less politically powerful section of society?

Water Protectors Hit with Police Brutality and Chemtrails

Even if you believe the DAPL is in the right, how can the Government justify the police brutality dished out? The police used water cannons in already freezing conditions, which was widely and sharply denounced as inhumane. The police also used [rubber bullets](#) and conducted illegal strip searches on the protectors. In one video a woman claims some water protectors were being [sprayed with chemtrails](#). There have also been unverified reports of cell phone jamming.

Standing Rock 2017 Will Continue

Standing Rock may have temporarily disappeared from the headlines, but the fight is not over. You can be sure that the oil company is either continuing anyway (and paying the relatively low fines) or considering doing so. There are 3 different camps at Standing Rock: Oceti Oyate (the main camp north of the Cannonball), and Rosebud and [Sacredstone](#) (on the south of the Cannonball). They have not always been in good communication with each other, so it has been hard to verify information. Ever since the Dec. 4th announcement, the elders (such as Chairman David Archambault in this [video](#)) have asked supporting people to go home because of the bitter cold and to make the camps more sustainable. The Standing Rock battle in 2017 will still be about access to correct information. Meanwhile, the people there are still in need of basic supplies such as firewood, propane and food. If you feel called to donate, the best way is via these 2 links – this for the [legal fund](#), and this for [food](#).

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