

Indigenous Property Rights and the Dakota Access Pipeline

By [Logan Glitterbomb](#)

Global Research, August 30, 2016
[Counterpunch](#)

Region: [USA](#)

Theme: [History](#), [Law and Justice](#), [Police State & Civil Rights](#)

As this article is being written, the Standing Rock Sioux Tribe and the Cheyenne River Sioux Tribe are preparing to challenge Dakota Access, LLC and the U.S. Army Corps in court over environmental concerns and property rights disputes.

On July 26, 2016 the Standing Rock Sioux Tribe discovered that the U.S. Army Corps of Engineers had given its approval for a massive 1,772 mile pipeline to run through the Hunkpapa Nation territory near Cannonball, just within a half-mile of their reservation. [Energy Transfer Partners](#), a Texas-based energy company, plans for the Dakota Access Pipeline to cross Lake Oahe and the Missouri River, disturbing many sacred indigenous sites and burial grounds which exist on land supposedly protected by ancestral treaties between the tribe and the United States.



Energy Transfer Partners plans build, own and operate the proposed \$3.78 billion pipeline which will [“transport up to 570,000 barrels of crude oil fracked from the Bakken oil fields across four states to a market hub in Illinois.”](#) According to Dakota Access, LLC, the pipeline will also “cross 209 rivers, creeks and tributaries” along the way. Most pressing to the tribe however is the fact that it could potentially destroy ancient burial grounds and other sacred sites as well as threaten the Missouri River which currently acts as the tribe’s main source

for irrigation and drinking water.

According to Jon Eagle, Sr., the Standing Rock Sioux's Tribal Historic Preservation Officer:

"The land between the Cannonball River and the Heart River is sacred. It's a historic place of commerce where enemy tribes camped peacefully within sight of each other because of the reverence they had for this place. In the area are sacred stones where our ancestors went to pray for good direction, strength and protection for the coming year. Those stones are still there, and our people still go there today."

The next day after the tribe was made aware of the situation, July 27th, they immediately filed for litigation federal court in the District of Columbia to challenge the U.S. Army Corps regarding their actions in approving the Dakota Access Pipeline without consulting tribal governance, something they are obliged to do according to both U.S. treaties and the United Nations' Declaration on the Rights of Indigenous Peoples. According to [Indian Country Today](#), "[t]he suit seeks to enforce the tribal nation's federally protected rights and interests." Several other tribes have since asked to join the lawsuit which seeks a preliminary injunction to undo the Army Corps' approval of the Dakota Pipeline, most notably the Cheyenne River Sioux Tribe.

In addition, Standing Rock youth ages 6-25 from the reservation vowed to run to Washington, D.C. to deliver a petition with 160,000 signatures on [change.org](#) opposing the pipeline to the President of the United States. After running for 2,200 miles, they were able to meet with Army Corps officials and hold rallies along the way; they returned home on August 10.

On August 8, Dakota Access, LLC. gave the Standing Rock Sioux Tribe a 48-hour notice that construction would begin. In response, several hundred protesters gathered including the Standing Rock tribe, their fellow tribes, and a coalition of allies ranging from farmers and ranchers to environmentalists, set up an encampment, known as the Sacred Stone Camp, right outside the construction site, just in time to greet the members of the petition crew who were returning home.

Several people were arrested during this action but construction was successfully suspended while the developers filed a lawsuit requesting payment for alleged damages and restraining orders against the notably peaceful protesters. Eventually construction continued and so did the Sacred Stone Camp. Lines of cops stood between the construction workers and the protesters, some of whom rode on horseback wearing their traditional tribal garb.

One of those arrested was Standing Rock Chairman Dave Archambault II who spoke of the situation:

"We don't want this black snake within our Treaty boundaries. We need to stop this pipeline that threatens our water. We have said repeatedly we don't want it here. We want the Army Corps of Engineers to honor the same rights and protections that were afforded to others, rights we were never afforded when it comes to our territories. We demand the pipeline be stopped and kept off our Treaty boundaries...We have a voice, and we are here using it collectively in a respectful and peaceful manner, The Standing Rock Sioux Tribe is doing everything it can legally, through advocacy and by speaking directly to the

powers that be who could have helped us before construction began. This has happened over and over, and we will not continue to be completely ignored and let the Army Corps of Engineers ride roughshod over our rights...We have a serious obligation, a core responsibility to our people and to our children, to protect our source of water. Our people will receive no benefits from this pipeline, yet we are paying the ultimate price for it with our water. We will not stop asking the federal government and Army Corps to end their attacks on our water and our people.”

Aside from those of the [Randian persuasion](#), most libertarians would be hard pressed not to question the legitimacy of the U.S. government’s claim to traditionally indigenous land and as such would most appropriately side with the Sioux tribes against the government and their subsidized cronies over at Energy Transfer Partners. In order to protect their environment, these tribes and their allies plan to challenge potential environmental destruction not through legislation but through direct action and the court system on the basis of property rights, tactics championed by many libertarian environmentalists. That is something any libertarian should be able to support.

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