

A RELIGIOUS RESPONSE TO STANDING ROCK

A CALL FOR BANKS TO DEFUND THE DAKOTA ACCESS PIPELINE BEFORE A TRAGEDY TAKES PLACE

by

Paul and Annie Rockwell
Alameda Interfaith Climate Action Network (ICAN)

As people of faith from across the country we stand with the Standing Rock tribe to protect their sacred lands, their water, and the climate that supports life on earth.

Susan Stephenson, Executive Director of
Interfaith Power and Light

The crisis at Standing Rock, North Dakota, is far from over. In defiance of Obama Administration rulings, Kelcy Warren, Executive Director of Energy Transfer Partners, stated: We “fully expect to complete construction of the pipeline without any additional rerouting.” Doug Burgum, the new Governor of North Dakota, along with the Trump Administration, are taking a hard “send-in-the cavalry” approach.

At the same time, no one doubts the determination of the Sioux and Oceti Sakowin tribes, along with a growing number of allies, to defend their water, their sovereignty, and their homeland. Joe Whittle, an

indigenous American who traveled to Standing Rock, put it: “We are steady in our promise to never give up on our cultural and spiritual relationship with the land and water to which we owe everything. Despite the continuing war against our way of life, there is love and deep spirituality.”

The escalating crisis at Standing Rock would not be possible without support from 15 lenders and financial institutions. Dallas Goldtooth, organizer for the Indigenous Environmental Network, counsels: “Beyond prayer, there is no more effective way to support Standing Rock than to get banks to defund the Dakota Access Pipeline.”

In expectation of a showdown between non-violent water-protectors and military aggression by the Trump Administration, the divestment movement is gaining momentum. Informational pickets went up last week in front of Wells Fargo, Citibank, and other banks throughout the country. In response to appeals by Sioux and Oceti Sakowin tribes at Standing Rock, the Bank of Norway—as a matter of ethics—recently cancelled its financial backing for the project.

Will other banks follow suit soon enough to prevent a tragedy from taking place?

Here are three arguments that just might convince big banks to do the right thing.

(1) the pipeline project undermines the rule of law, as expressed in the Fort Laramie Treaties and the U.N. Declaration on the Rights of Indigenous Peoples; (2) The horrendous record of oil spills by Sunoco Logistics, operator of the pipeline, cannot be ignored; (3) Violence against water protectors at Standing Rock violates religious freedom and human rights.

(1)

Support for the pipeline undermines the rule of law

On November 22, 2016, Forbes magazine published a commentary which called attention to the “combustible mix” of Native-American determination and the intransigence of Energy Transfer Partners. Forbes focused on the legal rights of indigenous tribes.

“The pipeline goes through the drinking water, traditional sites, and traditional lands of the Standing Rock Tribe, leading to an increasingly contentious conflict ...Free, prior and informed consent is required under

the U.N. Declaration of the Rights of Indigenous Peoples, to which the U.S. is a signatory.” (Italics ours.) *Forbes* reiterates its theme: The pipeline project “confronts the legitimate rights of indigenous peoples over whose land these pipelines must traverse.”

The crisis at Standing Rock will only escalate—spinning out of control—if the assurance of financial backing incites and emboldens the arrogance of Energy Transfer Partners. Make no mistake. The Sioux are defending their homeland. As *Forbes* writes: “The Standing Rock time frame is basically forever. This land has belonged to the tribe for generations. And they feel a deep economical, cultural and spiritual responsibility to the environmental consequences of pipelines.”

After mentioning the use of dogs, pepper spray, rubber bullets against the encampment, *Forbes* chastises Energy Transfer Partners for its obstinacy: “From the beginning Energy Transfer Partners disregarded the tribes’ concerns about sacred lands and water. Its behavior got so bad that even the industry newsletter, *North American Energy News*, states that instead of trying really hard not to make more enemies and use a commonsense approach to resolving conflict, the exact opposite approach was used by the company and its supporters. From the beginning, everyone on the industry side has played hardball...One would think that by now pipeline companies have learned the lesson that their social license to operate is critical.”

In short, the pipeline has never received the prior, informed consent of the Sioux Tribe and the Oceti Sakowin at Standing Rock.

The *Forbes* commentary, based on the Fort Laramie Treaties of 1851 and 1868, is morally and legally solid. Both treaties recognized the tribes of the Northern plains as sovereign nations. The treaties also commit the U.S. “to protect aforesaid Indian nations against the commission of all depredations by the people of the said United States, after the ratification of this treaty.”

So the tribes at Standing Rock are not mere stakeholders among many. They are nations. (It is true that the U.S. offered \$1 billion to convince tribes to relinquish their sovereignty. But the proud Native peoples of North and South Dakota refused the bribe.) The treaties have never been abrogated. Nor is the U.S. Constitution ambiguous: “All treaties are part of the supreme law of the land.”

We also take note of the involvement of the U.N. in the crisis at Standing Rock. On September 2, 2016, the U.N. Permanent Forum on Indigenous Issues agreed with the Standing Rock Tribe, along with 200 supporting tribes, that the pipeline was approved in violation of international principles of law. According to provisions of the U.N. Declaration on Indigenous Rights, extractive industries must not operate on indigenous lands or territories without obtaining free, prior and informed consent. This includes the right to say no to extraction or exploration.

The rule of law is a precondition for banking and economic stability. Out of respect for the Constitution and the Fort Laramie treaties, all banks should withdraw all funding for the Dakota Access pipeline.

(2)

Sunoco's Horrendous Oil Spill Record

“There isn't going to be any oil spill,” Kelcy Warren, Executive Director of Energy Transfer Partners, told NPR. Fears about leaks are frivolous, he contended in other interviews. British Petroleum made the same kind of claims to get the Obama Administration to issue permits to drill oil in the Gulf prior to *that* catastrophe.

In reality, as the Red Owl Legal Collective notes, Energy Transfer Partners and its affiliated entities “have a long history of violation of environmental laws including pending lawsuits in the States of New Jersey, Vermont, Pennsylvania, the Commonwealth of Puerto Rico and the City of Breau Bridge in Louisiana over MTBE (gasoline additive) contamination of groundwater, as well as citations for releases of hazardous materials from its pipelines and facilities in Ohio, Oklahoma, Louisiana, Missouri, Texas, Pennsylvania, and Hawaii.”

How bad does it get? “Sunoco tops U.S. crude oil spill charts,” reads a headline in *Reuters*, Sept. 23, 2016. Sunoco Logistics is the future operator of the Dakota Access Pipeline. Its record of environmental disaster, ongoing violations of the Clean Water Act, and broken promises regarding the safety of its operations, should give any financial institution second thoughts. Sunoco has the worst oil spill record in the pipeline business. More than 200 Sunoco crude oil spills have taken place since 2010, according to the Pipeline Hazardous Materials Safety

Administration. And according to the Associated Press, “Since 2009 the annual number of significant accidents on oil and petroleum pipelines has shot up by almost 60 percent.” In 2016, not long after Energy Transfer Partners gave public assurances that its pipelines were safe, (denigrating Standing Rock tribal concerns over potential spills) a major Sunoco spill took place in a creek in Lycoming County near the Susquehanna River in Pennsylvania. The tribes at Standing Rock, supported by 7,000 camping water protectors, were not surprised.

All banks currently providing financial support for Energy Transfer Partners and Sunoco should look closely at Sunoco’s horrendous record of oil spills.

Here is a short timeline of major Sunoco oil spills.

- In February 2000 a crack in Sunoco’s 24-inch diameter pipeline went undetected for several days. The rupture caused a massive oil spill—192,000 gallons—at the John Heinz Wildlife national Refuge in Pennsylvania. A representative of the U.S. Fish and Wildlife Service, said: “This spill damaged one of the country’s most valued resources dedicated to preserving wildlife and wildlife habitat.”
- On January 27, 2005, an Associated Press story appeared in the Kentucky press under the title: “Pipeline spills 63,000 gallons of oil into Kentucky River.” Sunoco owned the pipeline, and the crude oil, gushing into the river, created an eight-mile slick “along the tributary of the Ohio River, where Northern Kentucky residents get their water supply.”
- In October 2008 construction crews cracked a pipeline operated by Sunoco, gushing 189,000 gallons of oil near residential property. Eighty homeowners near Cincinnati were evacuated.
- In August 2009 Sunoco leaked 2446 barrels of crude oil at Barbers Hill, Texas. The EPA said that over 1800 barrels polluted miles of tributaries, and the oil moved into the “Cedar Bayou tributary that flows into Galveston Bay.”
- In February 2011, according to the EPA, a Sunoco pipeline near Crowell, Oklahoma, ruptured, discharging crude oil into nearby waterways and land belonging to two Native American tribes. The land provides habitat for endangered species.
- On March 19, 2014, an article entitled “Oil spill at nature preserve

‘absolutely terrible,’ appeared in the *Cincinnati Enquirer*. Oil from the Sunoco pipeline ran half a mile downstream into a marsh pond and the nature preserve. The park was home to endangered animals and plants. “The creek and the wetlands were black all over,” said Bob Mason of the Park district. The *Enquirer* reported that the incident was the third time “that oil has leaked in the Greater Cincinnati and Northern Kentucky region from this pipe, owned by Sunoco Logistics.” According to the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, “It’s the 40th incident since 2006 along the pipeline.” One pipeline, 40 incidents!

PUBLIC ASSURANCES COATED WITH OIL

There is a pattern in Sunoco accidents. Sunoco gives public assurances that its pipelines are safe. When a new spill takes place, Sunoco presents the damage as a freak episode in an otherwise safe and environmentally sound operation. The 2014 oil spill into the nature preserve took place only thirteen months after the pipeline was inspected. Clearly the concerns at Standing Rock about potential oil spills on the Sunoco Dakota Access Pipeline are valid.

In itself, the oil spill record of Sunoco, the worst record in the business, is sufficient cause for cancelling financial relationships with Energy Transfer Partners and the Dakota Access Pipeline. There comes a point where funding the pipeline is more than a mistaken judgment. It’s an act of reckless endangerment.

(3)

Religious Freedom and Human Rights

Amid a sea of tents, teepees, yurts and rusty old pickups, spread under the rolling prairies of North Dakota, seven thousand people—including 2,000 U.S. veterans, 520 clergy, and representatives from 240 tribes—prayed, sang, told stories, laughed, hugged and camped out for over a month at Standing Rock.

And through it all, through snow and freezing temperatures, through the roar of military helicopters buzzing praying ceremonies, the water protectors demonstrated that rare kind of satyagraha practiced by Mahatma Gandhi and Martin Luther King Jr. in the greatest non-violent

movements in history. “It was one of the greatest experiences of my life,” said Rev. John Dear, a Roman Catholic priest formerly nominated for the Nobel Peace Prize. So moving was their water-is-life message, their example of resilience, that two police officers turned in their badges.

At the edge of the camp you could see a large billboard with the campsite rules: “We are protectors. We are peaceful and prayerful. We are non-violent. Isms have no place here. We respect the locals. We do not carry weapons. We keep each other accountable.”

In this context, especially for banks financing the pipeline, the militarized violence against the unarmed water protectors raises issues of religious freedom and human rights violations. The use of attack dogs, rubber bullets, concussion grenades, tasers, and pepper spray, along with the arrest of journalists, all caused an outcry in the international press, like Britain’s *The Guardian*.

One early morning after police turned high-pressure water hoses on shivering protectors, medics reported 167 injuries, including several head trauma events. Some shook with hypothermia, and a nearby town opened a gymnasium for the severely afflicted. If banks continue funding, the Bloodshed is likely to get worse.

MIA’S STORY

Mia, a Native-American daughter of Joe Little, took time off from Stanford University, where she received a doctoral scholarship, to visit Standing Rock. The heavily armed police fired at her with rubber bullets while she was kneeling on the ground praying. She texted the following story to her father back in Oregon.

My friend was shot with rubber bullets right next to me. We were bringing blankets to folks who were getting sprayed with water-chemical mixtures, because it was freezing cold and the cops were literally putting the people at risk of dying. I watched one man get carried out after getting sprayed. Water on his beard looked frozen. He needed help to lift his legs up over the guardrail to get to a van. We knelt to pray on the earth, and that’s when my friend was hit.

But my friend's auntie took care of us; she swiftly and strongly guided us back to the van where my friend was taken to the medics. She was a badass warrior.

The women are holding it down. Their importance needs to be emphasized. My friend and her auntie were treated dismissively at the ER in Bismarck, and a nurse said "that'll teach you," when they told her how she was injured."

Many of the worst attacks on the dignity of Sioux culture took place on "Turtle Hill," a low hill where gravesites of beloved Sioux grandmothers lie. The entire area, which contains many other graves, is sacred.

Rabbi Francine Roston traveled 18 hours by bus to the Sioux Reservation. When she observed the violence directed at the tribes, she wrote in Jewish Week: "There is a human rights issue here. To say these people are being treated unfairly is such an understatement. The government is not fulfilling its duty to honor its contracts with the Sioux Nation. They are destroying sacred sites on sacred land."

LaDonna Brave Bull Allard, who founded the Sacred Stone Camp at Standing Rock, spoke passionately about the bulldozing of graves: "The U.S. government is wiping out our most important cultural and spiritual areas. And as it erases our footprint from the world, it erases us as a people. Our young people have a right to know who they are. They have a right to language, to culture, to tradition. The way they learn those things is through connection and our history. If we allow an oil company to dig through and destroy our histories, our ancestors, our hearts and souls as a people, is this not genocide?"

A final comment—

We are willing to believe that, when banks first funded the pipeline, they were unaware of native treaty rights, the sacredness of ancestral lands, the spiritual significance of place and water for indigenous peoples. Or, as *Forbes* put it: "Nothing in this company's quarterly filings would have enabled investors to foresee a problem of this magnitude."

And perhaps they were unaware of the numerous environmental legal suits in which Energy Transfer Partners is embroiled. And when they heard about the dogs, the mace, the bulldozers, perhaps they doubted whether such things really happened.

But now they know, and an ethical choice over funding is unavoidable.

We do not ask bankers to agree with religious views of indigenous peoples, whose attitude to nature and life is reverential. Mother Earth is their bottom line. But we do expect banks—the very banks that received huge bailouts in 2008—to respect the religious freedom of others. After all, would Wells Fargo finance an oil pipeline—over the protest of families whose loved ones are buried in hallowed ground—through the Arlington National Cemetery?

Our perspective was captured in the celebrated Encyclical of Pope Francis, *Laudato si'* :

The imposition of a dominant lifestyle linked to a single form of production can be just as harmful as the altering of ecosystems. It is essential to show special care for indigenous communities and their cultural traditions. They are not merely one minority among others, but should be the principal dialogue partners, especially when large projects affecting their land are proposed. For them, land is not a commodity but rather a gift from God and from their ancestors who rest there, a sacred space with which they need to interact if they are to maintain their identity and values. When they remain on their land, they themselves care for it best.