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THE FINANCING PROBLEM OF COLONIALISM

HOW INDIGENOUS JURISDICTION IS VALUED IN PIPELINE POLITICS

Shiri Pasternak, Katie Mazer, and D. T. Cochrane

What is the financial power of Indigenous jurisdiction?

The political-economic impact of NoDAPL is enduring and expansive. In recent years, as industry and governments have scrambled to expand North American oil pipeline networks, project-by-project community-based opposition has also intensified. Repeatedly, communities have courageously resisted proposed pipelines, forcing companies to reconfigure their plans, find new routes, or cancel projects altogether. Governments are stymied in their efforts to sell access to lands they have conquered only on paper. This has resulted in instructive encounters between governments and companies that are pushing these infrastructure projects and the communities and movements working to protect lands, waters, and the world from climate change.

Importantly, this dynamic is continental in character. By attending to these struggles from a continental perspective, this chapter draws attention to the *interconnectedness* of North American infrastructure projects in both physical and financial dimensions. These connections are manifest not only through industry's constant effort to skirt resistance through the geographic reconfiguration and capital reorganization of infrastructure networks, but also through the transnational tactics and geographies of resistance to the Dakota Access Pipeline (DAPL) and other extractive projects across North America.

In this chapter, we think about DAPL from a broad perspective, both in terms of its enduring financial implications and in terms of its implications for other places and struggles. We span our analysis out from Standing Rock and the powerful opposition of the Oceti Sakowin (the Great Sioux Nation) to the pipeline to consider the broader implications for North American pipeline expansion and resistance, focusing on Secwepemc (Shushwap) resistance to the Kinder Morgan Pipeline Expansion Project as another instantiation of this struggle.

Our contribution to this collection is framed by our shared position as scholars and activists working on themes related to oil, resource extraction, political economy, and Indigenous jurisdiction in the Canadian context. Watching the events surrounding DAPL and the NoDAPL campaign from this perspective highlights the broad significance and far-reaching implications of this struggle. More specifically, our analysis pivots on two points. First, generally, DAPL and the struggle that surrounds it exist within a broader, flexible, and fluctuating environment of North American oil infrastructure expansion. While each proposed pipeline presents as a single or isolated project, we might instead think of them as flashpoints in a much larger ongoing struggle over the expansion of extractive capitalism across North America.

Secondly, and more specifically, even when the Dakota Access Pipeline is built its legacy will not be of community failure to abort construction, but about the power of Indigenous jurisdiction to intervene in the financial architecture of investment in North America and, more fundamentally, to challenge the system of valuation on which this architecture rests. The NoDAPL campaign posed a clear and fundamental threat to Energy Transfer Partners' (ETP) bottom line by conjoining disruption of pipeline construction with targeting of its financing; these combined tactics undermined the viability and profitability of the project on a number of fronts. But NoDAPL's most fundamental disruption—to which the North American oil industry and its financial backers have taken notice—was to the certainty that capital can control and dictate the rules of the game.

The assertion of Indigenous jurisdiction at Standing Rock by the Oceti Sakowin also threw into question the supremacy of North American extractive capital in a more fundamental way. By enacting geographies of Indigenous title, law, and responsibility, these assertions challenged the regime of valuation that calculates life, climate, and refusal as costs or risks that must be accounted for. Companies try to account for these risks in the language they know, but Indigenous regimes of countervaluation cannot be easily absorbed into a framework of financial calculation. Practices of accounting derived from Indigenous socioeconomic orders like those we saw at Standing Rock—for land, water, the future, and life systems of reciprocal obligation—lay down a different political-economic terrain that sits uneasily alongside industry's calculative logic. The enactment of this political economy of Indigenous authority sends extractive capital into frenzy because it challenges its most basic assumptions: relentless social and natural extraction as a source of value. By blocking construction, disrupting finances, and destabilizing the supremacy of extractive valuation, Indigenous jurisdiction poses an entwined physical, financial, and epistemological risk to the expansion of oil infrastructure well beyond the specific geographies of DAPL.

After placing DAPL and the NoDAPL campaign in continental context, we explore some of these dynamics as they are playing out in the case of the Kinder Morgan Trans Mountain project in south-central British Columbia: a pipeline expansion project that would transport tar sands bitumen across the unceded territories of several nations, including the Treaty 8 nations at the source of the oil that is set to flow to the Kwatlen, Squamish, and Tsleil Wauthuth territories on the coast, crossing through the largest part of its route (among others) on the Indigenous territory of the Secwepemc Nation (pronounced Se-KWEP-umk).

We explore the multifaceted ways that Secwepemc jurisdiction throws into question the completion of this project, and the broader ways this threat is reconfiguring the financial and geographical landscape of pipeline politics. By way of conclusion we aim to draw broader lessons across these two cases by thinking through what it means for extractive capital to confront these parallel regimes of valuation as they are enacted through assertions of Indigenous authority on the ground.

DAPL's Continental Context

The struggle over DAPL was informed by the broader scramble to get North American oil to refineries, ports, and markets, and to build the transportation infrastructure that would make this possible. This drive has been particularly intense in the context of the Alberta tar sands—but is also, as we have seen, present in the Bakken context underlying parts of Montana, North Dakota, Saskatchewan, and Manitoba—as industry and decision makers have repeatedly invoked the "imperative" of accessing new markets.[1]

In turn, capital markets have followed with great interest the expansion of North American oil transportation infrastructure across the continent. The major pipeline companies have developed complex and sophisticated ownership structures to entice investors with stable returns. They have also entered into numerous lending agreements with banks in North America as well as Europe. On the surface, this was done to attract the financing necessary for the costly projects. Beyond that, however, the attraction of a broader swath of investors increases and diversifies the beneficiaries of a project. This augments and reinforces the intracapitalist coalition supporting and advocating for pipelines and oil infrastructure.

But the economic justification for pipelines is always shifting, generally between two main poles: one, that lines are needed as a way to move oil to markets; and two, pipeline construction is needed as a form of economic stimulus. After President Obama's delay in approving Keystone XL, for example, which would have given "Canadian oil" passage to U.S. refineries and markets, the Canadian government emphasized the imperative of moving tar sands oil to tidewater to enable it to fetch world prices.

More recently, industry and governments have been focused on the economic benefits of the infrastructure itself. In Canada, since the crash in oil prices starting in 2014, industry advocates have been arguing that private pipeline expansion is an effective form of national economic stimulus. The active debate that surrounds these different claims has thrown into question the need for expanded pipeline capacity in North America. Crucially, researchers have found that new pipeline projects would only be needed under scenarios in which oil sands production were expanded to levels that would push Canada well beyond its climate obligations. As long ago as 2011, the International Energy Agency warned of the pivotal role played by energy infrastructure in the future of the climate. Investing in new fossil-fuel infrastructure, they warned, would risk locking us into a future of expanded fossil-fuel production beyond what the climate could bear.[2] It is against this backdrop that governments and industry have repeatedly appealed to the need for more pipeline capacity across North America.

North American oil pipeline projects exist in relation to one another. The conditions for one project change very quickly depending on the status of other projects, market conditions, resistance, and political climate. As noted, in 2011 U.S. president Barack Obama announced that he would delay the approval of Keystone XL by at least a year. In reaction to this, the Canadian federal government led by Prime Minister Stephen Harper aggressively asserted energy exports as a top government priority and claimed that diversifying markets away from the United States was a "strategic imperative" for Canada. Holding up Asia as the key target market, the Canadian government turned its attention to pushing forward the Enbridge Northern Gateway Pipeline, designed to transport tar sands oil from northern Alberta to the coast of northern British Columbia. From here, the oil would be loaded onto tankers, where it would have traveled through the rough, pristine, and remote waters of the Douglas Channel on its way to Asian markets.

The most controversial of domestic pipelines, the Northern Gateway drew massive resistance for its incursion into unceded Indigenous lands, its threat to environmentally sensitive areas, and its promise to expand tar sands production. As resistance mounted to Northern Gateway, two new pipeline projects were proposed to transport tar sands bitumen to tidewater: Kinder Morgan's Trans Mountain Expansion to the city of Burnaby terminal in British Columbia, and TransCanada's Energy East, which would run 4,600 km east to Saint John, New Brunswick.[3] When the Northern Gateway project was ultimately rejected by the Liberal government of Justin Trudeau in November 2016, it was on the same day that he approved two other major projects: the Kinder Morgan Trans Mountain project and the Enbridge Line 3 "replacement," the largest project in Enbridge history.[4]

The continental character of oil infrastructure is important to keep in mind. Not only does it form the basis on which particular place-based contestations unfold, but it informs the logic under which industry operates. Governments, pipeline companies, and the financial backers of pipeline projects have an eye to the shifting terrain of certainty when it comes to their perceived ability to access territory and build infrastructure free of financial or physical disruptions. Pipeline companies have generally been considered lower risk investments. That appears to be changing as capital grapples with the uncertain effects of resistance to pipeline projects. In this way, shifting local conditions related to one project have implications for the perceived viability and profitability of other proposals.

Within this context, in both Canada and the United States, companies and governments have fast-tracked, fragmented, and avoided approvals processes in an attempt to skirt public scrutiny and expedite construction. Recently companies are focusing on another important strategy for skirting resistance: the consolidation of corporate control and an increased emphasis on "pipe in the ground."[5] As industry and governments have repeatedly encountered opposition to new-build projects, companies are beginning to understand the political advantages of consolidating control over *existing* infrastructure. Canadian company Enbridge has been at the forefront of this trend. As part of an effort to build flexibility into its operations, the company has dramatically expanded its ownership of the North American network, recently merging with Houston-based pipeline company Spectra Energy in the largest deal in Canadian oil patch history. Analysts place this merger within the context of widespread resistance to pipelines in Canada and repeated delays in the approval and construction of new-build projects. Analysts predict that this sort of cross-border merger of assets—including, crucially, infrastructure assets—will become more common within this context as an alternative to building new infrastructure.[6]

Resistance to hydrocarbon expansion is continental, too, however, and it is becoming increasingly difficult to isolate local struggles against energy infrastructure as coalitions coalesce to coordinate assertions of jurisdiction that map over the temporal and geographic strategies of extraction companies. For example, the Tar Sands Treaty Alliance is a continental alliance convened to prohibit "the pipelines/trains/tankers that will feed the expansion of the Alberta Tar Sands." In May 2017, the coalition that includes 121 grassroots First Nations and Tribes committed to an integrated divestment campaign against the banks funding DAPL and tar sands pipelines including the Kinder Morgan Trans Mountain Expansion, TransCanada's Energy East and Keystone XL projects, and Enbridge's Line 3.[7]

These efforts have not gone unnoticed among investors. During ETP's earnings call for its fourth quarter results of 2016, one analyst asked the ETP executives, "Do you see any permanent damage to financing sources from the pushback that your counterparties have received on Dakota Access?"[8] The executives reassured the analyst that all was well. However, one ETP representative added that the pressure on financial backers "has been tough." He further acknowledged that the continued backing of the banks may have been dependent on contractual obligation. The fact that the question was raised means resistance tactics targeting financing have caught the attention of capital.

The coalescing movement against hydrocarbon expansion is further conjoined to the global climate justice movement. Governments have tried to separate the two movements, with Canada's Liberal government and Alberta's New

Democratic Party government both implementing carbon taxes in order to obtain "social license" for pipeline projects, particularly Kinder Morgan's Trans Mountain Expansion. As capital struggles to account for the costs of climate change, companies and projects associated with fossil-fuel use and expansion become much riskier investments. The risk is compounded by the growing efforts of social movements and Indigenous communities to intervene in financial markets, such as the bank divestment campaign mentioned above.

Indigenous Jurisdiction against Capitalism: Kinder Morgan and the Secwepemc "Standing Rock North" Standoff

The NoDAPL campaign cost billions of dollars in delays, launched dozens of bank divestment campaigns, created massive reputational risks for financial backers, and brought into stark relief the integral tie between finance and physical infrastructure.

The continental oil industry was put on notice by the massive disruptions to pipeline construction on Standing Rock Sioux territory. Now the precedent of NoDAPL disruption to business-as-usual has cast a shadow on all pipeline projects currently under review for approval or pushing forward toward construction. The Kinder Morgan Trans Mountain Expansion, for example, is set to carry tar sands oil through a number of Indigenous territories creating elevated risk and uncertainty for investors. The specter of NoDAPL provoked Canada's Natural Resources Minister Jim Carr to suggest that resistance to pipelines could be met with military force. Although Carr backed away from the statement, it demonstrates the government's line-in-the-sand where their otherwise progressive rhetoric on recognizing Indigenous rights and jurisdiction will not tread.

In July 2017, the Secwepemc Nation in south-central British Columbia released the *Secwepemc Peoples Declaration on Protecting Our Land and Water against the Kinder Morgan Trans Mountain Pipeline*.[9] The declaration states: "we hereby explicitly and irrevocably refuse its passage through our territory." According to the Secwepemc Nation, Kinder Morgan will be unable to commence and complete construction of the Trans Mountain Expansion.

Dubbed "Standing Rock North" by Canadian media, Secwepemcul'ecw in south-central British Columbia covers approximately a third of the total pipeline route. The people of this region—the Secwepemc—hold what the Supreme Court of Canada calls "Aboriginal Title" to the land, which means the land has never been ceded or surrendered or treatied, and therefore is the proprietary interest of the Indigenous nation. The Supreme Court of Canada has found that an Indigenous Nation with Aboriginal Title must give consent to development on their lands. So the legal precariousness of Kinder Morgan to obtain all necessary permits and right-of-ways and to succeed in proceeding with construction hangs dangerously in the balance of Secwepemc proprietary rights and jurisdiction.

Against the backdrop of heightened uncertainty introduced by NoDAPL, there are clear signs that the environment for pipeline investment has shifted. Desjardins Bank has suspended lending to pipeline projects. And the Dutch bank ING responded to a letter sent by a coalition of Indigenous peoples and environmentalists to banks investing in Kinder Morgan by announcing it no longer plans to finance pipelines from Canadian tar sands. The main argument in this letter sent by the Indigenous coalition called on institutions to "avoid financing Indigenous rights abuses and climate change":

> As with DAPL—a highly controversial project constructed without the free, prior and informed consent of the Standing Rock Sioux Tribe and other affected tribal nations that source their drinking water from the Missouri River—the Trans Mountain pipeline expansion also poses a grave threat to Indigenous rights. First Nations that would be directly impacted by the route and port terminal are fighting the project in the courts and leading heated protests on the ground.[10]

The failures of industry to obtain consent from the Standing Rock Sioux is held up as warning of the continuing ecological devastation that Indigenous peoples oppose and will fight on their lands. ING's announcement followed one by Sweden's pension fund AP7 that it would divest from Trans Canada and five other companies because they were incompatible with the Paris climate agreement.

The Kinder Morgan Canada prospectus identifies several risks associated with the financial operations of the pipeline. Most of these risks are transformed and amplified by the declaration of sovereignty and resolute rejection of the project by the Secwepemc. The financial risks associated with the pipeline stemming from commodity supply and demand, market volatility, capital access, and corporate debt are magnified by the increased likelihood of delays and the possibility of outright cancellation that emerge from the Secwepemc declaration.

In Kinder Morgan's 2012 annual report, it estimated the Trans Mountain Expansion would be in operation by late 2017. In its 2016 report, this had been extended to December 2019, with construction estimated to begin in September 2017. The projected completion in the company's June 2017 credit agreement with twenty-four lenders was April 30, 2020. Then, in the spring of 2018 Kinder Morgan, frustrated by unpredicted delays and investment risks, suspended all "non-essential" activities related to the pipeline. In response, touting jobs and the national interest, the Canadian government announced its plans to purchase the Trans Mountain Pipeline and its planned expansion project. Kinder Morgan shareholders approved the CDN$4.5 billion sale in August 2018. This chapter was written before the sale of the pipeline, however, and focuses on the period of Kinder Morgan ownership.

DAPL crossed about 50 km of Sioux territory, where it generated high-profile resistance that cost ETP millions of dollars. The planned route of the

Trans Mountain Expansion traverses more than four times that distance through Secwepemcul'ecw. In an affidavit filed with the B.C. Supreme Court, a Trans Mountain representative states that each month of delay costs the company CDN$5.6 million. Beyond the direct costs incurred, delays create uncertainty about future costs. The company consistently projected that building the pipeline would cost US$5.4 billion, beginning with its 2012 annual report (10-K). This remained the estimate in its 2016 annual report. However, when the Canada–U.S. exchange rate is taken into account, this estimate represents a 32 percent increase from CDN$5.4 billion to CDN$7.15 billion. In Kinder Morgan Canada's credit agreement the estimate is CDN$7.4 billion. The costs will only increase if the start of construction is delayed. They will increase further if delays occur after construction has begun. Even more recently a court challenge quashed federal Cabinet approval for the pipeline due to the lack of meaningful consultation with Indigenous peoples and poor marine studies to determine oil tanker risks.[11]

Delays in building the pipeline make projected oil prices more uncertain. Recent dramatic fluctuations, plus the suggestion of several experts that prices will fall further, create uncertainty around the future earnings of the pipeline.[12] Although the expansion is fully subscribed for the near future, and Kinder Morgan touts the stability of its customers, Alberta's oil industry is in a state of great turbulence. With falling oil prices comes falling production and falling demand for pipeline capacity. Once again, this is worsened by the Secwepemc refusal, which is not only against this pipeline in particular, but aligned with the anti–tar sands movement. The campaign against the Trans Mountain Expansion is supported by several groups opposing extraction and transportation of Alberta tar sands oil. This campaign extends further, connecting with the movement to stop climate change. Successes by these movements will make extraction of Alberta bitumen costlier, squeezing the margins of midstream operators like Kinder Morgan.

The company is scrambling to account for Secwepemc opposition and related risks. But either due to a lack of understanding or—more likely—to their desire to downplay the risk to shareholders and the public, Kinder Morgan has publicly understated the real threat posed by Indigenous jurisdiction. Kinder Morgan Canada's recent IPO prospectus engages only with the question of "Aboriginal Relationships" rather than the riskier terrain of rights and jurisdiction. Further, discussions of Indigenous rights are completely absent from Kinder Morgan's annual management discussion and analysis of the Trans Mountain Expansion. While KML's prospectus identifies potential for opposition through the permitting process and in the courts, there is no mention of blockades, encampments, or other direct action tactics. The consequences of this blinkered view come into sharp relief when considering the Secwepemc's clear statement of opposition and intention to stop the pipeline using diverse means. The Secwepemc have a well-established history of using direct action to defend their sovereignty, including the high-profile

Gustefsen Lake standoff. Inspired by actions at Standing Rock, members of the Secwepemc Nation have come together under the name Tiny House Warriors to construct homes that will be placed in the path of the planned pipeline.

In the fall of 2016, in the midst of the struggle at Standing Rock, Kinder Morgan CEO Ian Anderson reflected to the media on the possibility of similar protests against the Trans Mountain Expansion: "I'd be naive if I didn't expect that," he told a CBC reporter. "Hopefully, it's peaceful. People have the right to express their views publicly and in that regard, we will accept and acknowledge that." But, "it's when it goes beyond that that we'll have to be prepared," he said, explaining that the company had held preparatory meetings with the RCMP.[13] The criminalization and pacification of land defenders is always a weapon of weakest resort because it reflects the shallow depths of settler colonialism. These lands are not British Columbia's or Canada's to sell: calling in the military—the Royal Canadian Mounted Police that have terrorized communities for centuries—is a scare tactic of violence meant to divert the Secwepemc from asserting their inherent jurisdiction to the land.[14]

The construction of the Dakota Access Pipeline encountered various degrees of resistance along its length.[15] Within the context of growing international movements to defend the planet and Indigenous rights, there is a high likelihood of similar, if not greater, opposition to the Trans Mountain Expansion. Given the evidence that NoDAPL put the continental oil industry on notice to the power of Indigenous jurisdiction, Kinder Morgan's muted public characterization of the risk posed to the Trans Mountain Expansion is likely part of the company's attempt to account for it. As the late great Secwepemc leader Arthur Manuel used to say, "the first risk mitigation strategy is always to *deny* Indigenous economic rights."[16]

Valuation: Colonialism's Accounting Problem

The risk of Indigenous jurisdiction is both a liability and an indispensible strength in the movement to defend the land and reshape how resource extraction is authorized throughout the continent. The market capitalization of corporations must constantly re-resolve its calculation of growth and decline with realities on the ground. A process of endless adjustment keeps capitalist enterprises in a state of flux and uncertainty as shifting social and ecological landscapes can affect that bold, single, all-encompassing number: the price of share value. But when this magical price encounters Indigenous jurisdiction, how is value reestablished?

Critical political economy has long maintained a distinction between productive and finance capital, between Main Street and Wall Street. The latter was considered "fictitious," while the former was "real."[17] Based on this distinction, value theorists tried to find the measure of real productivity that bypassed financial measures. Although impressive in both scope and detail, these alternative accountings have failed to unveil a fundamental quantitative basis for nominal financial values.[18] Like economists, capitalists also try to locate a basis or determinant for market valuations. However, they remain entirely within the domain of finance, with both productivity and capitalization denominated in financial values. Capitalization is routinely checked against productivity through quarterly earnings reports that get scrutinized by analysts and defended by executives. Between reports, capitalists devour information about events on the ground in anticipation of their effects on earnings. The buying and selling of shares, which constructs and responds to the share price, translates the expectations of capitalists. The volatility of the price is an expression of capitalist uncertainty about those expectations.

In the case of pipelines, capitalist uncertainty has grown at the same time as earnings and capitalization have fallen. Between 2014 and 2015, the average earnings of pipeline companies fell by 75 percent and average market capitalization fell by 35 percent.[19] Both recovered in 2016, although they remain below 2014 levels. Of greater significance, however, is an increased volatility of share prices. Before 2015, pipeline shares displayed lower price volatility than the market in general, expressing greater certainty by capitalists about conditions on the ground and their likely effect on returns. Conversely, since 2015 the situation has reversed. Now, pipeline shares are more volatile than the market as capitalists try to grapple with the changing situation of global oil demand and the greater awareness of—and resistance to—continental oil infrastructure.[20]

The changing situation concerns an old uncertainty: What knowledge will settler states produce to authorize their extraction of resources from Indigenous land? The valuation regimes of capital are not just technical figures produced by the strict rationale of economic scientists. Bigger and Robertson define *valuation regimes* as "the rules for and models of comparison" between forms of life that bring into focus the way that *value* is measured as a political act of performance. As they write, "Understanding value as the capacity to be measured or compared, lets us see how apparently incompatible value regimes flow from foundational choices about what is to be counted, visible, and present."[21]

This look at valuation is an important step for "recognizing the co-presence of valuation regimes" toward "contesting the expansion of the logics of capital on the terrain of nature."[22] This exercise is not simply about pointing out the incompatibility between Kinder Morgan and DAPL and Enbridge with Indigenous peoples' forms of life, but rather to intervene precisely in these places where such incompatibilities are resolved "in more or less violent or absurd ways."[23] These companies that seek to render Indigenous life *value-less* or *invaluable* avoid any need for reconciliation between competing claims to jurisdiction. If Indigenous life were counted, sovereignty would need to exist as a crucial index of value. For this reason, Bigger and Robertson urge us to understand the conversion of value earlier in the process, rather than just debate the measurements themselves. "The measurement of the thing is not as important as the settlement about what measurement is and what ruler will be used."[24] This much is clear in pipeline battles.

A parallel process of valuation is simultaneously taking place alongside the capitalist valuation that is fueling the pipeline construction boom. This parallel process is deemed a "threat" because Indigenous jurisdiction endangers capitalist production: the "production of hierarchical difference is crucial to the production of value," in this case because "to accumulate capital, capitalism needs the diverse materials and creative forces of natures ordered in a variety of positions within society, not just as commodities."[25] The legal rights of Indigenous peoples and the moral authority of their socioeconomic orders and sacred obligations to their lands throw up a valuation system that forces a radical recalculation of *both* the means by which to measure the *value* of a resource-extraction project (capitalization) and the *cost* of proceeding without Indigenous consent (physical/material/financial/climate). When pipeline projects externalize risk, they do so not only onto local Indigenous communities, but also to the continental infrastructure and the global ecology.

The existing Kinder Morgan pipeline that currently goes through Secwepemc territory has not been free from spills. These spills threaten the land and the water that many of the Secwepemc land use activities depend on. Defenders of the pipeline expansion—the plan is to twin the lines—contend that it will be the safest and most environmentally sound ever built. However, even the small threat of a spill carries excessive risk for the Secwepemc opponents of the expansion. More importantly, accepting the pipeline would change the relationship of the Secwepemc with the land, including their underlying title. As Art Manuel has noted, "Sleeping on your rights is an argument that the governments have used against [Indigenous peoples] in past litigation."[26] The Secwepemc peoples' declaration against the Trans Mountain pipeline expansion states that it constitutes an "infringement" that "can never be accepted or justified."

Indigenous peoples take into account their own systems of value and principles of land use and care. Asserting their values through the physical occupation of their lands in the path of pipeline construction not only reinforces Indigenous jurisdiction through its exercise and potent expression of authority. It also confronts the foundations of capitalism. Market capitalization is the fundamental expression of power in capitalist societies. Resistance takes the form of both intervening in capitalist valuations and challenging the capitalist value regime,[27] bringing colonial capitalism to its knees.

NOTES

1. See, for example, "Joe Oliver Concerned about a Canada Divided over Energy," *CBC News*, December 30, 2014, http://www.cbc.ca.
2. The IEA's analysis indicated that 80 percent of the total carbon dioxide (CO_2) emissions permissible through 2035 under the 450 Scenario—the IEA's widely used but conservative scenario in which the rise in average global temperature is limited to

2°C—was already "locked-in" by infrastructure currently in place or under construction in 2011. The IEA's 2011 World Energy Outlook explains: "Emissions that will come from the infrastructure that is currently in place or under construction can be thought of as 'locked-in' because they cannot be avoided without stringent policy intervention to force premature retirements, costly refurbishment and retrofitting or letting capacity lie idle to become economic. They are not avoidable, but avoiding them does not make economic sense in the current policy context." International Energy Agency, *World Energy Outlook, 2011* (Paris: OECD/IEA, 2011), 229, https://webstore.iea.org/world-energy-outlook-2011.

3. "Harper Looks to Asian Energy Markets after Keystone Delay," *CBC News*, November 14, 2011, http://www.cbc.ca; Carrie Tait, "New Energy Infrastructure 'Strategic Imperative' for Canada," *The Globe and Mail*, August 27, 2013, http://www.theglobeandmail.com/report-on-business/new-energy-infrastructure-strategic-imperative-for-canada/article13990628/.
4. John Paul Tasker, "Trudeau Cabinet Approves Trans Mountain, Line 3 Pipelines, Rejects Northern Gateway," *CBC News*, November 29, 2016, http://www.cbc.ca.
5. Chris Varcoe, "If You Can't Build Pipelines, Buy 'Pipe in the Ground,'" *Calgary Herald*, September 7, 2016, http://calgaryherald.com.
6. In September 2016, Enbridge announced plans to merge with Spectra Energy, a Houston-based pipeline and midstream company. The merger renders Enbridge the largest energy infrastructure company in North America and endows it with major new gas pipeline infrastructure to add to its extensive collection of liquids pipelines. JPMorgan Chase analyst Jeremy Tonet called the combined Enbridge-Spectra entity an "energy infrastructure colossus." The $37 billion Enbridge-Spectra merger is the third-largest mergers and acquisitions deal ever involving a Canadian company and the largest deal in Canadian oil patch history. The new company is said to have a $74 billion "growth backlog" of potential new development. The merger was completed on February 27, 2017. Geoffrey Morgan, "Enbridge Inc Deal to Buy Spectra Creates 'Energy Infrastructure Colossus' with $48 Billion of Future Projects," *Financial Post*, September 6, 2016, http://business.financialpost.com; "Enbridge and Spectra Energy Complete Merger" (press release), Enbridge, February 27, 2017, http://www.enbridge.com; Varcoe, "If You Can't Build Pipelines."
7. See the Tar Sands Treaty Alliance, http://www.treatyalliance.org/.
8. "Energy Transfer Partners LP (ETP) Q4 2016 Results—Earnings Call Transcript," Seeking Alpha, February 23, 2017, https://seekingalpha.com.
9. See Secwepemcul'ecw Assembly, https://www.secwepemculecw.org/.
10. The letter is available at https://d3n8a8pro7vhmx.cloudfront.net/ubcic/pages/1512/attachments/original/1497272052/Trans_Mountain_letter_June_2017.pdf?1497272052, 2.
11. Ainslie Cruickshank, David P. Ball, and Kieran Leavitt, "Federal Court of Appeal Quashes Trans Mountain Approval, Calling It 'Unjustifiable Failure,' in Win for First Nations, Environmentalists," *Toronto Star*, August 30, 2018.

12. On oil price projections, see, for example, "Oil Prices Will Remain Flat for Foreseeable Future, Deloitte Forecasts," *CBC News*, July 5, 2017, http://www.cbc.ca.
13. Kyle Bakx, "Kinder Morgan Braces for Standing Rock–Type Protests," *CBC News*, November 5, 2017, http://www.cbc.ca.
14. See, for example, the recent actions of the RCMP on Wet'suwet'en lands north west of Secwepemc territory: "Unist'ot'en Camp Awaits RCMP after Injunction Enforced at Gidimt;en Anti-pipeline Checkpoint, Mounties Enforcing Court Order to Allow Pipeline Company Access to Northern B.C. Road and Bridge," *CBC News*, January 8, 2019, http://www.cbc.ca.
15. Gregor Aisch and K. K. Rebecca Lai, "The Conflicts along 1,172 Miles of the Dakota Access Pipeline," *New York Times*, March 20, 2017, https://www.nytimes.com.
16. Arthur Manuel used to say this often in public lectures. See, for example, "Aboriginal Rights as Economic Rights: Whose Land Is Canada Selling?" lecture, November 24, 2016.
17. Jonathan Nitzan and Shimshon Bichler, "Capital Accumulation: Breaking the Duality of 'Economics' and 'Politics,'" in *Global Political Economy: Contemporary Theories*, ed. by Ronen Palan (New York: Routledge, 2000), 67–88.
18. For an overview and critique of these efforts by both mainstream and critical political economists, see Jonathan Nitzan and Shimshon Bichler, *Capital as Power: A Study of Order and Creorder* (London: Routledge, 2009), chaps. 5–7.
19. Calculations based on data from Bloomberg.
20. Volatility is measured using beta. A beta value for the pipeline sector was constructed using Bloomberg classifications and weighting the beta of individual companies by market capitalization. A beta value of less than one indicates lower volatility than a benchmark for the market—often the S&P 500. A beta of greater than one indicates higher volatility than the market. The beta for pipeline companies crossed one in 2015. In the first quarter of 2017, the value was 1.17. The volatility of pipeline shares is highly correlated, and the correlation has increased over time.
21. Patrick Bigger and Morgan Robertson, "Value Is Simple: Valuation Is Complex," *Capitalism Nature Socialism* 28, no. 1 (2017): 69.
22. Bigger and Robertson, "Value Is Simple."
23. Bigger and Robertson, "Value Is Simple."
24. Bigger and Robertson, "Value Is Simple," 71.
25. Rosemary Collard and Jessica Dempsey, "Capitalist Natures in Five Orientations," *Capitalism Nature Socialism* 28, no. 1 (2017): 80, 78.
26. Arthur Manuel, "Report on Canada's Self-government + Land Rights Policies at the Root of Canada's Opposition to the UN Draft Declaration on Indigenous Rights," Indigenous Networks on Economies and Trade, October 1, 2006, http://www.firstnations.de/links.htm.
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