DOLLARS VS. DEMOCRACY

Inside the Fossil Fuel Industry’s Playbook to Suppress Protest and Dissent in the United States

GREENPEACE
Greenpeace is an independent campaigning organization that uses peaceful protest and creative communication to expose global environmental problems and to promote solutions that are essential to a green and peaceful future.

Published October 2023 by
Greenpeace USA*
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As we collectively fight for our lives amid climate chaos, the fossil fuel industry is behind an intensified effort to steamroll overwhelming public support for U.S. climate action. The industry’s new playbook expands significantly upon years of spreading climate change denial and disinformation. Indeed it represents an even more dangerous threat: a threat to First Amendment-protected free speech, which is urgently needed to forestall the devastating consequences of climate inaction.

Since the Dakota Access Pipeline (DAPL) protests at Standing Rock in 2016, the fossil fuel industry has increasingly contributed to a pattern of escalation whereby activists—and nonactivists exercising their right to dissent—are painted as violent extremists who must be subdued. The industry’s playbook to suppress protest and dissent includes various forms of intimidation and deterrence, sophisticated public relations efforts to turn public opinion against protesters, and enforcement actions intended to pressure protesters into submission. In many cases, the fossil fuel industry has worked in lockstep with government allies: officials who may share in the industry’s ideology, but who have also benefited from its election spending, lobbying, targeted payments, and shared financial interests, or have passed through the “revolving door” from industry to government or vice versa.

This report profiles the industry response to opposition to five major fossil fuel projects ranging from 2014 to the present. The examples reveal widespread public-private coordination to monitor activism, physical and legal aggression toward protesters, extensive corporate lobbying for anti-protest bills that criminalize civil disobedience, and more. But they also reveal a mixed success record for the industry: some states have staved off anti-protest legislation and, across the country, activists and concerned citizens have continued to fight for justice and environmental protection despite the powerful forces opposing them.
Law enforcement authorities, sometimes working side-by-side with private security paid for by fossil fuel companies, have used hostile tactics to quell pipeline protests including:

+ Water cannons and rubber bullets against water protectors resisting the construction of DAPL (Morton County Sheriff’s Office);
+ Buffer zones that prevented food from being delivered to protesters engaged in tree-sits along the Mountain Valley Pipeline (MVP) route (U.S. Forest Service);
+ Pain compliance torture against water protectors engaged in equipment lockdowns blocking Line 3 construction (Hubbard County Sheriff’s Office).

The fossil fuel industry has utilized public relations techniques and faux grassroots groups to turn public opinion against water protectors and activists, often depicting them as violent extremists, terrorists, or out-of-line troublemakers. Law enforcement authorities have used similar rhetoric in public statements and internal communications, providing cover for their hostility toward protesters.

Since 2016, broad fossil fuel anti-protest laws have been enacted in 18 states, barricading roughly 60% of domestic oil & gas production and local infrastructure from peaceful protest that could impede the industry’s continued growth. These laws typically create extreme and unnecessary penalties—which can include years-long imprisonment and harsh fines—for protest-related infractions such as trespass, despite the pre-existence of laws in every state that address such infractions. Another four states have enacted narrowed versions of the same law posing less explicit threats to peaceful protest, but which could still be exploited by prosecutors seeking to issue trumped up charges against peaceful protesters.

The close-knit relationship between fossil fuel companies and law enforcement can involve extensive intelligence sharing, often without regard for First Amendment-protected activity; joint planning; hiring off-duty police for private security; and financial support in the form of donations and reimbursements paid by the company. The nature of these relationships opens the door to potential abuses of law enforcement authority and raises the possibility that law enforcement are serving private interests above the public.

+ The fusion center network, in particular—a web of state and federal agencies that was created to coordinate counter-terrorism intelligence, but quickly expanded to monitoring First Amendment-protected activity of nearly any kind—has facilitated surveillance and information-sharing with fossil fuel companies and their security contractors.

The fossil fuel industry has utilized public relations techniques and faux grassroots groups to turn public opinion against water protectors and activists, often depicting them as violent extremists, terrorists, or out-of-line troublemakers. Law enforcement authorities have used similar rhetoric in public statements and internal communications, providing cover for their hostility toward protesters.

Eminent domain laws strongly favor the fossil fuel industry and have been used to force landowners to surrender their property rights, cede property access without consent, and arrest protesters on private land—in some cases including the landowners themselves.
The fossil fuel industry has lobbied extensively for anti-protest legislation and donated to many of its sponsors.

- Since 2017, nine of the top ten companies that have lobbied the most for fossil fuel anti-protest bills are midstream or integrated oil and gas companies.
  1. Marathon Petroleum Corp
  2. ExxonMobil
  3. Enbridge
  4. TC Energy (TransCanada)
  5. Koch Industries / Flint Hills
  6. Chevron
  7. Energy Transfer
  8. Williams Companies
  9. AT&T
  10. Valero

- 25 fossil fuel and energy companies have contributed more than $5 million to state anti-protest bill sponsors since 2017. The top five are listed below, counting donations to anti-protest bill sponsors in the bill introduction year or preceding year, only.
  1. Duke Energy $538,750
  2. Dominion Energy $383,850
  3. Marathon Petroleum $324,265
  4. BNSF Railway Co. $260,730
  5. Koch Industries $245,950

This analysis covers all state anti-protest bills tracked by the International Center for Not-for-profit Law (ICNL). In addition to fossil fuel anti-protest bills, this analysis includes bills that eliminate driver liability for hitting protesters, create felony offenses for demonstrations construed as “riots” and more.

Source: FollowTheMoney / OpenSecrets.org

The fossil fuel industry uses strategic lawsuits against public participation (SLAPPs) to intimidate and chill dissent. There is a high crossover of fossil fuel companies that have used SLAPPs with those that have lobbied for anti-protest laws.

- Out of 116 SLAPP and judicial harassment claims since 2010, 86 were filed by companies that have lobbied for anti-protest laws including: ExxonMobil, Murray Energy Corporation, Energy Transfer, Chevron, and TransCanada.

- Another 15 of the 116 claims were filed by companies whose trade groups have lobbied for anti-protest laws or whose hired lobbyists have done so on behalf of other clients.

2023 has been marked by the broadening use of aggressive prosecutorial and civil litigation claims against protesters, violent policing against “Stop Cop City” protesters in Georgia, and the continuing spread of anti-protest laws.

- Atlanta law enforcement and the Georgia Bureau of Investigation have responded to protests opposing the construction of the Atlanta Public Safety Training Center with heavy-handed tactics and sweeping arrests. During a January 2023 raid of campgrounds occupied by activists, police fatally shot Manuel Esteban Paez Terán 57 times. In September 2023, state Attorney General Chris Carr indicted more than 60 individuals—including organizers from the Atlanta Solidarity Fund—on RICO charges that dangerous and absurdly, mischaracterize anyone who showed opposition to Cop City as part of a criminal enterprise.

- In September 2023, MVP took direct aim at its critics through a civil lawsuit that seeks to constrain more than 41 individuals and two organizations from activities that are alleged to have slowed construction, including through fundraising, as well as seeking more than $4 million in damages.

- North Carolina and Georgia have enacted fossil fuel anti-protest laws that carry draconian penalties for vague offenses that prosecutors could use against peaceful protesters. In North Carolina, impeding an energy facility could now be punished with up to 19 years in prison and $250,000 in fines. Another new law, which was initially sought by North Carolina Republicans after the 2020 Black Lives Matter protests, enacts heightened penalties for activities defined as “rioting.” In Georgia, interfering by “force [...] with the proper operation of any critical infrastructure” could now be punished with between two and 20 years in prison.

- Mississippi has enacted new laws that undermine local governance and threaten free speech in the majority-Black city of Jackson, after decades of neglected infrastructure left thousands without water for a month. One of the laws prohibits Jackson residents from engaging in peaceful protests near government buildings without express permission from state officials.
**Key Findings**

- Challenge and repeal anti-protest laws; pass anti-SLAPP protection laws on the state and federal level; and pass local, state, and federal resolutions affirming all Americans’ right to protest, free from threats of invasive surveillance, and physical and legal aggression.

- Reaffirm Indigenous sovereignty and provide redress for human rights violations, as outlined in the UN Declaration on the Rights of Indigenous Peoples.

- **Pass the Climate Equity Act and the Environmental Justice for All Act, and phase out fossil fuel production** through steps that include: banning new fossil fuel leasing and permitting on public lands and waters; strengthening “polluter pays” requirements to ensure fossil fuel corporations pay the full cost of remediation; and establishing public health and safety buffer zones to prohibit oil and gas production near where people live, work, play, and learn.

- End the use of sweeping intelligence-gathering practices that target activism and dissent under the cover of domestic terrorism prevention; prohibit law enforcement authorities from participating in arrangements that open the door to conflicts of interest; and pass state and federal laws banning the use of injury-prone tactics against peaceful protesters.

**Case Studies at a Glance**

**Dakota Access Pipeline**

In 2016, demonstrations against DAPL at Standing Rock brought conversations about Indigenous sovereignty, water rights, and the dangers of oil and gas pipelines to kitchen tables across the globe. As public awareness about the #NoDAPL movement grew, so too did the fossil fuel industry opposition strategy. Energy Transfer Partners (ETP), the controlling owner of DAPL, began pumping money into private security that forged a close working relationship with North Dakota local law enforcement—uniting forces to quell public dissent with militarized equipment and tactics. State and federal law enforcement also contributed to this oppressive response. At the same time, ETP and their political allies ramped up retaliatory efforts to prevent the contagious power of the Standing Rock demonstrations from spreading, including pushing for boosted penalties to criminalize protest, flooding the media with anti-protest rhetoric, and filing baseless SLAPP suits to chill dissent.

**Diamond Pipeline**

The Diamond Pipeline, announced in 2014, was a 440-mile project that would carry crude oil from Oklahoma’s Cushing Terminal to Valero’s Memphis Refinery. Resistance to the pipeline swelled in early 2017, inspired by the movement at Standing Rock. As well as expressing environmental concerns, Indigenous activists and their allies were deeply disturbed that the pipeline route would intersect the Trail of Tears. The fossil fuel industry and government officials struck back against the movement, however, with stigmatizing rhetoric, which opened the door for increasingly harsh state repression. A state and federal law enforcement-backed report, which was distributed to local police and reproduced by the media, warned that “environmental rights extremists” posed a terrorist threat to the project. At the urging of Oklahoma’s oil and gas lobby and Valero, Oklahoma Gov. Mary Fallin enacted two anti-protest laws with first-of-their-kind, strategic provisions targeting protests near fossil fuel facilities, foretelling a drop-off in opposition to the Diamond Pipeline project. These laws were the blueprint for a “model bill” adopted by the corporate-funded American Legislative Exchange Council, which would aid the spread of similar laws around the country.
**Line 3 Pipeline**

In 2014, Enbridge proposed replacing and expanding its Line 3 crude oil pipeline, a project that would require constructing a new pipeline route across treaty territories where the Anishinaabe (Ojibwe) peoples are granted certain land access rights. Between 2017 and 2021, a large and diversified movement opposing the pipeline grew out of Indigenous resistance and climate activism. In an effort to avoid the political mistakes made at Standing Rock, the state and Enbridge claimed they respected protesters’ rights. Yet they quietly took steps to stifle resistance. Enbridge funded faux grassroots groups to shift public opinion and reimbursed police and other agencies in Minnesota for more than $8.6 million, mainly in protest-related expenses, through a state-managed escrow account. Law enforcement authorities participated in training sessions and meetings with Enbridge employees, and used increasingly forceful tactics against water protectors between June and August 2021. Pipeline construction was completed in September 2021, but repeated efforts to pass anti-protest legislation failed. In 2023, in a powerful defense of protest, a district court judge dismissed all protest-related charges against three Indigenous women leaders, writing in her decision, “to criminalize their behavior would be the crime.”

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**Atlantic Coast Pipeline and Mountain Valley Pipeline**

The fossil fuel industry had only mixed success at quashing years-long grassroots opposition to the Atlantic Coast Pipeline (ACP) and MVP. The Appalachian fracked gas pipeline projects, both announced in 2014, were repeatedly stalled by eminent domain disputes, successful legal challenges, and protests. Dominion and EQT Corporation, the pipelines’ controlling owners, coordinated extensively with fusion center officials in Virginia and North Carolina, and worked side-by-side with local law enforcement along the pipeline route. Starting in 2018, Virginia and West Virginia used escalating fines, arrests, and subjective buffer zones to deter civil disobedience, but many protesters adapted or endured in the face of these pressures. ACP was canceled in 2020, but MVP construction resumed in July 2023 nearly four years after a court-ordered construction stoppage. Since 2020, anti-protest laws have been enacted in West Virginia and North Carolina, and MVP protesters have been sued by the company, and threats to protest and dissent have been compounded by an anti-environmental backlash stoked by the fossil fuel industry.
**INTRODUCTION**

*Dollars vs. Democracy 2023* is a deep-dive into the fossil fuel industry’s attacks on peaceful protest and dissent. In addition to updating key analyses from *Dollars vs. Democracy 2021*, this report profiles the industry’s response to opposition to five major fossil fuel projects ranging from 2014 to the present. These case studies reveal how fossil fuel companies are using protest and dissent-stifling tactics to fight all efforts to phase out fossil fuels, in pursuit of record profits, while global temperatures rise.

**The right to protest is constitutionally protected and has been a hallmark of our democracy since the founding of this nation.** Yet, free speech in all its forms has been increasingly at risk as a result of the backlash against social movements organizing for justice and environmental protection. Indigenous-led movements to defend land and water from polluting infrastructure and the Black Lives Matter movement, in particular, have been targeted by polluting corporations, special interests, and government officials. And the extreme measures they are willing to take to see activists defeated are well documented. The corporate and political powers threatening democracy are now drawing from an expansive set of tactics to stifle protest and dissent, including various forms of intimidation and deterrence, sophisticated public relations efforts to turn public opinion against demonstrators, civil suits for monetary damages, and law enforcement actions intended to pressure demonstrators into submission.

**Anti-Protest Legislation Since 2017**

Anti-protest legislation has been a primary and particularly dangerous tactic. According to the International Center for Not-for-Profit Law (ICNL), more than 250 anti-protest bills have been introduced in 45 states since 2017. Among them: bills that eliminate driver liability for hitting protesters, create felony offenses for demonstrations construed as “riots,” and more. These bills are designed to selectively repress political participation, especially from racial justice and environmental movements. They are formulated in such a way that they can restrict protected First Amendment speech, including but not limited to peaceful protest.

The fossil fuel industry has played a key role in the creation and spread of fossil fuel anti-protest laws with provisions specifically intended to stifle protest near fossil fuel facilities. (The industry calls these “critical infrastructure” laws—a term that diverts attention from the use of these laws in stifling protest that opposes fossil fuel expansion.) Among other provisions, these laws typically create draconian penalties for protest-motivated trespass, despite the pre-existence of laws in every state that address trespass regardless of motive. The industry’s push for anti-protest laws has involved direct lobbying, trade group lobbying, and using the American Legislative Exchange Council (ALEC), a powerful corporate-funded group with direct access to state legislators, to craft and promote “model legislation” that can be replicated and introduced in statehouses across the country. Since the Dakota Access Pipeline (DAPL) protests at Standing Rock in 2016, broad fossil fuel anti-protest laws have been enacted in 18 states, barricading roughly 60% of domestic oil & gas production and local infrastructure from peaceful protest that could impede the industry’s continued growth. Another four states have enacted narrowed versions of the same law posing less explicit threats to peaceful protest, but which could still be exploited by prosecutors seeking to issue trumped up charges against peaceful protesters.
For the past six years, Greenpeace USA has monitored the fossil fuel industry’s involvement in the push for fossil fuel anti-protest laws. Dollars vs. Democracy 2021 included the most comprehensive ranking of corporate lobbying for these bills to date based on financial disclosures, news reports, and legislative committee records. This ranking has been updated below, covering the timeframe from 2017 through 2023.

Many sectors of the fossil fuel industry have lobbied for fossil fuel anti-protest bills, but companies in the oil refining and oil and gas pipeline sectors have been among the most active proponents of this trend. Nine of the top ten companies that have lobbied the most for fossil fuel anti-protest bills have pipeline and/or refining business activities, and seven operate near-exclusively in the refining and/or pipeline business.

According to Bloomberg, Marathon Petroleum and the American Fuel and Petrochemical Manufacturers (AFPM) spearheaded efforts to get ALEC to adopt its model fossil fuel anti-protest bill in 2017. An AFPM lobbyist was also revealed to be “intimately involved” with crafting the bill through leaked audio from a 2019 energy conference in Washington DC.

In addition to the industry’s extensive lobbying, 25 fossil fuel and energy companies have donated a combined total of $5 million to anti-protest bill sponsors covering the entire spectrum of legislation tracked by ICNL.
The Fossil Fuel Industry’s Direct Assault on Democracy

Over the course of years, the fossil fuel industry has systematically expanded its arsenal aimed at suppressing protest and dissent. One key tactic: abusive civil suits called “strategic lawsuits against public participation” - better known as “SLAPPs.” The industry also employs hostile policing and security, stigmatizes protest, manufactures anti-environmental backlash, exploits divisive rhetoric, and more. Such tactics are cumulative, mutually reinforcing, and at times overlapping.

It is critical to note that none of these corporate attacks on democracy would be possible without allies in government: public officials who often share in the fossil fuel industry’s ideology, but who have also benefited from its election spending, lobbying, targeted payments, and shared financial interests, or have passed through the “revolving door” from industry to government or vice versa. The fossil fuel industry holds close—and deeply reciprocal—relationships with government officials empowered to pass laws restricting opponents’ rights and vested with authority to approve or reject new fossil fuel projects. This has been especially dangerous in states with Republican-controlled legislatures, which account for 21 of the 22 states that have passed fossil fuel anti-protest laws. Yet, the industry also has substantial power in Democratic-controlled states. Moreover, the industry has collaborated extensively with law enforcement entities in the countrywide “fusion center” network, a cross-jurisdictional government program supported by the Department of Homeland Security (DHS) that was originally developed to coordinate and share intelligence related to terrorism, but quickly expanded to monitoring First Amendment-protected activity of nearly any kind. The fusion center network has been widely condemned by organizations including the American Civil Liberties Union (ACLU) and the Brennan Center for targeting minority communities and protest movements, and for its poor oversight and collaboration with the military and the private sector. Reports by fusion centers sometimes all but erase the distinction between peaceful civil disobedience and violent extremism.
A Desperate Attempt to Keep Polluting

As climate action movements grow and scientists issue calls to halve carbon dioxide ($CO_2$) emissions by 2030, the fossil fuel industry has sought to expand oil and gas production. According to the Guardian, short-term industry plans include “oil and gas projects that will produce greenhouse gasses equivalent to a decade of $CO_2$ emissions from China, the world’s biggest polluter.” These plans include 195 projects that would result in at least a billion tons of $CO_2$ emissions over their estimated lifetimes—and 60% of these carbon bombs are already pumping. The top 12 biggest oil companies are expected to spend $103 million per day to exploit new oil and gas through the rest of the decade.

While these fossil fuel projects exacerbate the climate crisis globally, they also pointedly threaten Black, Brown, and Indigenous communities. The fossil fuel economy is dependent on sites of concentrated harm, or “sacrifice zones,” whose inhabitants are subject to elevated health risks. Fossil fuel transport routes are frequently mapped along Indigenous communities and tribal lands, endangering water supplies, and sacred sites. Beyond environmental concerns, oil projects often entail the influx of hundreds of workers forming “man camps” near Indigenous communities, which have led to increased incidents of violence, sex trafficking, and illicit drug trade.

Throughout history, communities impacted by corporate assaults on their environment, health, and wellbeing have fought back through public demonstrations, civil disobedience, and peaceful protest. The right to protest and dissent has been instrumental to climate and environmental justice victories such as restricting the use of toxic pesticides that disproportionately harm farmworkers, defeating dangerous and climate-damaging pipelines such as Keystone XL, and countless others. In continuing the fight for climate and environmental justice, it is more important than ever to understand the fossil fuel industry’s retaliatory playbook.
In 2016, demonstrations against DAPL at Standing Rock brought conversations about the dangers of oil and gas pipelines, Indigenous sovereignty, and water rights to kitchen tables across the globe. The scope of the Standing Rock resistance was monumental. In the words of Ruth Hopkins, a reporter from Indian Country Today, “it’s historic, really. I don’t think anything like this has ever happened in documented history.”

During the course of the protests, hundreds of tribes came together to stand with the Standing Rock Sioux, and the road into Sacred Stone Camp at Standing Rock was lined with flags from tribal nations across the globe. Thousands of Indigenous water protectors and invited movement allies came through the camp, municipalities across the country passed resolutions of support, and 1.3 million people “checked in” at Standing Rock on social media in a digital demonstration of solidarity.

This wave of public attention triggered a multi-pronged opposition strategy aimed at undermining the Standing Rock movement and its broader support. Energy Transfer Partners (ETP), the operator of DAPL, and its private security forces carried out an extensive surveillance operation, acquired militarized policing and security equipment, and attempted a public relations campaign that depicted water protectors as criminals. Local law enforcement authorities—working side-by-side with state police, the Federal Bureau of Investigations (FBI), the DHS, and ETP’s private security force—responded to protesters with brutal force, soaking them with water in freezing temperatures and shooting them with rubber bullets at close distance. ETP and its well-connected allies fueled retaliatory efforts to prevent #NoDAPL momentum from spreading, filing lawsuits intended to chill dissent and exploiting the false specter of violent protest to advocate for aggressive security preparation and anti-protest laws across the country.
Texas-based ETP applied for permits to build DAPL. The pipeline project was designed to carry crude oil from the Bakken shale oil field in northwest North Dakota to an oil storage and transport facility in Illinois, crossing North Dakota, South Dakota and Iowa. Initially, the pipeline was mapped to cross the Missouri River ten miles north of Bismarck, North Dakota, but was redirected at least in part due to its planned proximity to the state capital’s drinking water. The DAPL plan draft was amended to put the river crossing a half mile from the Standing Rock Sioux reservation.

The Standing Rock Sioux Tribe passed a resolution stating that “the Dakota Access Pipeline poses a serious risk to the very survival of our Tribe and ... would destroy valuable cultural resources.” As a sovereign nation, the tribe declared that the construction of the pipeline violated Article II of the 1868 Treaty of Fort Laramie, which guaranteed the “undisturbed use and occupation” of the reservation lands surrounding the proposed location of the pipeline.

Indigenous youth leaders from Oceti Sakowin Youth & Allies, the One Mind Youth Movement, and Indigenous leaders, including LaDonna Brave Bull Allard, established a small prayer camp on the north end of the Standing Rock Sioux reservation, just off the DAPL route. This camp became the base for a global protest movement against DAPL—over the next six months, the camp brought together Tribal leaders and Indigenous youth, farmers, environmentalists, justice organizations, and other individuals called to defend sacred Sioux land.

Indigenous youth runners set off on a 500-mile relay from the Standing Rock Sacred Stone Camp to Omaha, Nebraska, to deliver a letter to the Army Corps of Engineers, demanding the agency deny DAPL permission to cross the Missouri River.

The U.S. Army Corps of Engineers office determined that Standing Rock Sioux cultural sites would not be impacted by direct construction of DAPL, despite the identification of more than 30 historical or cultural sites within a 1-mile radius of building locations.

The Standing Rock Sioux Tribe sued the Army Corps of Engineers, alleging that they failed to consult tribal leadership before approving pipeline permitting, therefore violating the National Historic Preservation Act. The Tribe stated that the Corps “effectively authorized construction of the vast majority of the pipeline in and around federally regulated waters without any provision to ensure against destruction to culturally important sites.”
Unlicensed DAPL security guards pepper sprayed and unleashed dogs on Indigenous water protectors defending a sacred tribal burial site from bulldozing.

Shortly after a federal judge declined a request for an injunction to stop construction on DAPL, the Obama administration announced that it would not permit the project to continue. Less than two months later, newly elected President Donald Trump issued an executive order giving DAPL the green light to proceed with construction.

Nearly three years after oil began flowing through DAPL, lawsuits filed by the Standing Rock Sioux resulted in an order from a federal judge requiring the Army Corps of Engineers to conduct a full environmental review of the pipeline.

Federal officials released a draft environmental impact statement and opened it for public comment and review. This review will be a key determinant in the federal government’s decision whether to reissue permits for the pipeline. There are currently five options in consideration for compliance, including rerouting the pipeline.
Fossil Fuels and the Political Landscape

North Dakota’s Crude Oil Boom Resulted In Pervasive Fossil Fuel Influence

By 2014, new shale drilling technology had opened the floodgates for the Bakken oil field—North Dakota production surged from about 123,000 barrels per day in 2007 to more than one million in 2014. According to a report jointly published by the Center for Public Integrity and Inside Climate News, with the expansion of fracked oil production came billions of dollars in tax revenue for the state—$4 billion between July 2011 and June 2013—solidifying the influence of oil companies in the state political arena. The report also found that oil companies invested millions in North Dakota museums, hospitals, and universities, and contributed thousands of dollars to politicians, making the oil sector the largest single source of political contributions in North Dakota. According to Jim Fuglie, a former state tourism director and head of the state Democratic-Nonpartisan League Party, “what the industry did was they went and bought themselves a friend.”

Fossil Fuel Spending Paved the Way For Political Support of DAPL

With production expanding, fossil fuel interests in North Dakota’s Bakken region stood to benefit if they could move oil more quickly and efficiently to the Gulf Coast for refining and export. Just days before the pipeline was announced in 2014, North Dakota Gov. Jack Dalrymple “urged industry and government officials to build more pipelines to keep pace with the state’s oil production.”

Both North Dakota and Iowa state politics were awash in fossil fuel money when DAPL secured its permit approvals from both states in 2015 and 2016. Oil and gas interests donated about $380,000 to Dalrymple’s 2012 campaign, and were his top corporate supporters. To bring the fossil fuel relationship full circle, Dalrymple headed the three-member, all-Republican North Dakota Industrial Commission, which oversaw drilling and pipelines during the construction of the DAPL project.

In Iowa, the members of the Iowa Utility Board—a key oversight panel for pipelines—are appointed by the governor. Between 2010 and 2016, over $1 million out of $18 million total contributions to Iowa Governor Terry Branstad were from energy and natural resources donors—and the Branstad-appointed Iowa Utility Board approved DAPL’s permit in March 2016. After Branstad resigned to join the Trump administration as the United States Ambassador to China in 2017, ETP contributed over $20,000 to his successor, Governor Kim Reynolds.

ANALYSIS: DAPL Companies Flooded State and Local Politics With Cash

The owners of DAPL (ETP; Phillips 66; and MarEn Bakken, LLC, the joint venture between Marathon Petroleum and Enbridge) contributed more than $300,000 to 173 state-level candidates in the four states on the pipeline path in the 2014 and 2016 election cycles.

North Dakota Pipeline Oil Spill, October 12, 2013.
As the resistance at Standing Rock grew, the industry’s tactics became more militaristic—in part due to their hiring of the private security firm TigerSwan. Reporting by the Intercept described the group as “a shadowy international mercenary and security firm” which “targeted the movement opposed to the Dakota Access Pipeline with military-style counterterrorism measures, collaborating closely with police in at least five states.”

TigerSwan was founded by James Reese, a former U.S. Army special operations commander. He entered into the private security and intelligence industry as a U.S. military and State Department contractor helping fight the “war on terror” in Iraq and Afghanistan. After the completion of DAPL, Reese established a three-man oil company called Delta Crescent Energy, that would insert itself into Syria amid the chaos of the Syrian Civil War.

Hundreds of leaked internal TigerSwan documents obtained by the Intercept show that the company described water protectors with much the same language that they used to describe “jihadist” fighters and insurgents. A February 2017 report attributed to TigerSwan’s Chief Security Officer John Porter expressed concern that pipeline opposition would spread to other states through a post-insurgency “bleedout” model, citing the rise of Osama bin Laden and al Qaeda as an example. Consequently, the report concluded that “we are able to study protesters’ successes and failures and so improve our preparedness” and “aggressive intelligence preparation of the battlefield and active coordination between intelligence and security elements are now a proven method of defeating pipeline insurgencies.” For months, TigerSwan expanded surveillance tactics to monitor protestors, despite being denied a license to operate by the North Dakota Private Investigation and Security Board.

TigerSwan communicated with agents from the FBI, the DHS, the U.S. Justice Department, the U.S. Marshals Service, the Bureau of Indian Affairs, and state and local law enforcement to share intelligence. During the demonstrations at Standing Rock, TigerSwan provided law enforcement support with “helicopter flights, medics, and security

Standing unarmed in cold water, water protectors were forcibly repelled by law enforcement officials with tear gas, pepper spray and rubber bullets, November 2, 2016. Earlier, in an effort to access ancestral burial grounds, the water protectors had engineered a makeshift wooden pedestrian bridge to cross the river. Law enforcement officials pulled the bridge apart with boats.
guards, and the private security firm pushed for the purchase (by ETP) of hundreds of thousands of dollars worth of radios for police. The company also ordered a catalog of less-lethal weapons, such as tear gas, for police use.

Leaked TigerSwan documents show evidence of extensive surveillance that included radio eavesdropping, infiltration of camps and activist groups, and the creation of a “persons of interest” list and databases with identifying information such as photographs and license plate numbers. Public records reveal that TigerSwan planned for the bidirectional exchange of purported evidence of illegal activity with law enforcement. Both TigerSwan and the FBI used paid informants who spent months posing as pipeline opponents. The FBI’s now known informant, Heath Harmon, owned a gun and entered into a romantic relationship with the Oglala Sioux water protector Red Fawn Fallis. Fallis was later arrested and sentenced to years in prison for an incident where the gun was allegedly fired while in her possession.

Local law enforcement used violent tactics against demonstrators. More than 300 water protectors were injured during a November 2016 stand-off, prompting the Water Protector Legal Collective to file a class action lawsuit against the Morton County Sheriff’s Office and other law enforcement agencies for excessive force. One of the class action representatives, Vanessa Dunodon, was hit in the eye by a tear gas canister from a distance of around 20 feet; the resulting injury, a detached retina, required three surgeries, and Dunodon’s vision had not fully healed as of August 2020. Another one of the representatives, Israel Hoagland-Lynn, lost consciousness after being shot in the back of the head with an impact munition. The resulting injury left him hospitalized and required 17 head staples.

The Indigenous Environmental Network summarized the impact of excessive force on water protectors in their report, Indigenous Resistance Against Carbon:

“Local authorities arbitrarily arrested and harassed water protectors, and both local and TigerSwan forces used aggressive attack dogs and other forms of physical violence, including water cannons in freezing conditions. Despite later vindication by courts, thousands of victims of these abuses — the vast majority of whom were Indigenous — remain scarred by these clubs and beatings...Hundreds were left with arrests on their records and files at the Federal Bureau of Investigation and Department of Homeland Security, with gratuitous charges, including trespassing, despite being arrested on public roads. The brutality of the private security forces played a major role in provoking public outrage.”

Of nearly 15,000 water protectors and supporters present at the Standing Rock protests, 837 people faced criminal charges in North Dakota. 393 of the cases were dismissed, 336 resolved by guilty plea or pretrial diversion, 42 ended in acquittal, and 26 in convictions at trial.

**TACTIC #2. Framing Water Protectors and Activists as an Extremist Threat**

In a peer-reviewed study examining the fossil fuel industry’s push to target climate protesters, researcher Grace Nosek wrote that the “threat against lawful protest is most greatly felt where those who disagree with climate protesters have led a rhetorical push to label such protesters as terrorists and extremists.” According to Nosek, this extreme rhetorical framing contributes to militarized responses to protesters and helps advance legislative proposals targeting them.

During the demonstrations at Standing Rock, North Dakota law enforcement and officeholders made frequent claims that the camps harbored violent demonstrators and terrorists. They spread false information about tactics and weapons used, and frequently painted the entire
movement as violent and dangerous. After the camps at Standing Rock saw a surge in public support through the fall and winter of 2016, some law enforcement talking points about protesters were prepared by public relations firms with links to the Republican Party and the National Sheriffs’ Association. Fossil fuel interests developed a calculated strategy to divert attention away from the demonstrators’ actual aims and concerns over Indigenous treaty rights and water/environmental protection, by framing them as chaotic and violent outsiders.

One of the earliest and most pervasive examples of false rhetoric used by North Dakota law enforcement began with a statement from Morton County Sheriff Kyle Kirchmeir. Kirchmeir stated on television that protesters were armed with firearms and “pipe bombs,” threatening the safety of police officers and DAPL workers. He later recanted this dangerous accusation. Angela Bibens, a lead attorney for the Oceti Sakowin camp, told the Los Angeles Times that the “weapons” Kirchmeir referenced were actually ceremonial pipes—“this is a profound cultural misinterpretation of what are chanupas, or peace pipes.” The Los Angeles Times also reported that on at least two occasions, the Morton County Sheriff’s Department alleged that Standing Rock demonstrators were carrying bows and arrows, only to later state that these accusations were not true.

In a January 2017 interview published by the Bismarck Tribune, Cass County Sheriff Paul Laney smeared demonstrators as “eco-terrorists” and likened Standing Rock to “the mecca” where “140 years of perceived Native American oppression came together”—a statement that simultaneously ignored a long history of American oppression and the genocide of Indigenous Peoples, and painted the Indigenous organizers at Standing Rock as extremists.

Following this push to villainize protestors, North Dakota House Rep. Keith Kempenich and six co-sponsors introduced a bill to eliminate driver liability for “unintentionally” hitting protesters. To make the case for the bill, Kempenich told CNN that the demonstrations at Standing Rock,
“turned from a protest to basically terrorism on the roadways, and the bill got introduced for people to be able to drive down the roads without fear of running into somebody and having to be liable for them.” It appears that Kempenich’s driver liability bill was the first of its kind. Since then, 29 similar bills have been introduced in 17 states, mainly as a backlash to Black Lives Matter protests.

According to the Intercept, TigerSwan also “attempted a counter information campaign by creating and distributing content critical of the protests in social media.” This public relations strategy to shift public opinion was assisted by Off the Record Strategies, MarketLeverage, DCI Group and the National Sheriffs’ Association, which helped craft messaging, plant pro-pipeline articles, and produce content such as “wanted”-style posters depicting water protectors as “Professional Protestors with Dangerous Criminal Histories.” Similarly inflammatory rhetorical framing was used by conservative politicians and think tanks. For example, Seton Motley, a columnist for the Heartland Institute, compared DAPL demonstrators and American hostage-takers in Iran in an article titled “We Don’t Negotiate With (Eco-) Terrorists.”

The battle to own the narrative at Standing Rock fueled attempts at national political intervention. In November 2016, U.S. Senator John Hoeven, U.S. Congressman Kevin Cramer, and Governor Jack Dalrymple wrote a letter to then-president Obama requesting federal law enforcement intervention due to “ongoing — and oftentimes violent” protest activity threatening public safety. Several months later, Hoeven was elected by his peers in the Republican-controlled Senate to chair the Senate Indian Affairs Committee.

**TACTIC #3. Boosting Penalties For Protest**

By March 2017, North Dakota and South Dakota had each passed laws restricting the right to peaceful assembly. North Dakota expanded the scope of its criminal trespass offense, which carries a penalty of up to 30 days in jail and a $1,500 fine, and created a non-criminal trespass offense allowing officers to issue citations with a $250 fine for trespassing. North Dakota also introduced new penalties for protesters who conceal their identities while committing any criminal offense (including minor offenses such as jaywalking), setting the penalties at up to one year in jail and a $3,000 fine, and increased penalties for protesters engaged in activities defined as rioting, setting the penalties at up to ten years in prison and a $20,000 fine. South Dakota expanded the governor’s authority to restrict protests on public lands and boosted penalties for protest-related infractions, setting the terms for criminal trespass and obstructing traffic at one year in jail, a fine of $2,000, or both.

The companies responsible for DAPL helped spread anti-protest laws around the country. In 2017, Marathon Petroleum pushed for ALEC to adopt its model fossil fuel anti-protest bill, which boosts penalties for infractions that include trespassing near, or impeding, energy infrastructure. (The importance of this model bill, which ALEC formally adopted in January 2018, is further examined on page 30 of this report.) From 2018 onward, Marathon Petroleum and Enbridge each lobbied for similar fossil fuel anti-protest bills in at least five states and ETP in four. To justify the need for such laws, anti-protest bill sponsors across the country used fossil fuel industry talking points, which included resentful and misleading comments regarding the movement at Standing Rock.

In 2019, North Dakota enacted a fossil fuel anti-protest law carrying the potential for five years of prison time, $10,000 in fines, or both, for protests near existing and planned pipelines. The law also increased liability for organizations that support protesters by treating such support as a criminal conspiracy, punishable by a $100,000 fine. South Dakota enacted a fossil fuel anti-protest law in 2020, carrying the potential for up to two years in prison and $4,000 in fines for protests near energy infrastructure. The law also entitled the owners of energy infrastructure to seek restitution from individual protesters and their supporters convicted for related offenses.
TACTIC #4. Costly Lawsuits to Chill Dissent

Energy Transfer Partners v. Greenpeace
In the summer of 2017, ETP filed a baseless $900 million RICO lawsuit in North Dakota against Greenpeace, BankTrack, and the Earth First! movement. A Federal Judge dismissed both BankTrack and Earth First! from the case, and requested ETP to amend its complaint against Greenpeace after the original failed for procedural reasons. When filing this amended version, the company decided to include five individual defendants and expand the scope of its claims to other pipelines like Bayou Bridge.

The suit attempted to rewrite the history of a movement led by Indigenous Peoples, falsely claiming that Greenpeace and other environmental groups planned, funded, and organized the demonstrations opposing the pipeline at Standing Rock. The allegations included an implausible RICO claim that these groups and others formed a “criminal enterprise” to instigate violence and damage the company.

In 2019, a federal court dismissed ETP’s RICO claims but declined to retain jurisdiction over the remaining state law-based claims. One week after the federal case was dismissed, Energy Transfer LP and Energy Transfer Operating, L.P. filed a new lawsuit in Morton County, North Dakota state court—including state-based conspiracy claims—against Greenpeace. This remaining lawsuit is scheduled to go to trial in July 2024.

Strategic Lawsuits Against Public Participation Threaten Free Speech
SLAPPs are a legal action designed in large part to silence and intimidate defendants, as well as draining them of the resources necessary for adequate legal defense. Often in such cases the plaintiff’s claims are weak, or even spurious, because winning the lawsuit is only a secondary aim. The primary aim of such lawsuits is to send a public message to a targeted community of activists or other stakeholders: stay silent. The message to the broader movement is equally clear: be silent, or you could be next. An outcome of SLAPPs is that they remove conversations from the public sphere and shift them into the courtroom, where the plaintiff behind the SLAPP can leverage its access to (typically) vast financial resources to stifle informed opposition. Defendants targeted for SLAPPs almost always have less resources with which to defend themselves and will often incur significant costs, regardless of whether they win or lose.

Energy Transfer is not the first company that has leveraged the SLAPP strategy in an effort to strike back at Greenpeace. In May 2016, Resolute Forestry Products filed a CAD $300 million lawsuit for RICO and other claims in the United States against Greenpeace, Stand. earth and five individual activists. A U.S. federal judge dismissed the lawsuit in 2017, writing in his decision:

“the defendant’s’ speech constituted the expression of opinion, or different viewpoints that [are] a vital part of our democracy.” and “Moreover, many of Greenpeace’s publications at issue rely on scientific research or fact.”

Resolute found ways to extend the lawsuit for seven years—an attempt to punish activists for speaking out over the company’s destructive operations in the Canadian boreal forest—but it was fully dismissed in April 2023.
ANALYSIS: SLAPP Suits and Anti-Protest Laws Are Two Sides of the Same Coin to Silence Free Speech

In a 2022 report, EarthRights International identified 116 cases in the public domain since 2012 where the fossil fuel industry has used strategic lawsuits against public participation (SLAPPs) and other judicial harassment tactics in attempts to silence or punish its critics in the United States.

The vast majority of the cases were filed by companies that have also lobbied for anti-protest laws since 2017. 101 of 116 cases were filed by plaintiffs with known connections to the push for anti-protest laws.

- ExxonMobil, Murray Energy Corporation, Energy Transfer (and its subsidiary Sunoco), Chevron, TransCanada, Millennium Pipeline, and Phillips 66 were plaintiffs in 84 SLAPP suits/subpoenas. All of these companies, or their parent companies, have lobbied for anti-protest laws.
- Drummond Company, Cabot Oil & Gas, Extraction Oil & Gas, and Mountain Valley Pipeline LLC were plaintiffs in 12 SLAPP suits/subpoenas. All of these companies, or their parent companies, belonged to trade groups that have lobbied for anti-protest laws.
- Green Group Holdings and Range Resources were plaintiffs in 5 SLAPP suits/subpoenas. Both companies have used lobbyists who lobbied for anti-protest laws on behalf of other clients.
The Diamond Pipeline, announced in 2014, was a 440-mile project that would carry crude oil from Oklahoma’s Cushing Terminal directly to Valero’s 195,000-barrel-per-day Memphis Refinery, crossing Arkansas and the federally recognized Muscogee (Creek) Nation in the process. Beginning the same year, the project faced resistance from landowners who opposed the companies’ use of eminent domain and who were alarmed by the risk of oil spills near rivers and watersheds containing drinking water resources. However, a larger movement opposing the pipeline formed in 2017, centered primarily on Indigenous environmental resistance and inspired by the Standing Rock protests. Between January and May 2017, Diamond Pipeline opponents established the Oka Lawa resistance camp and held protests in Oklahoma, Arkansas, and Tennessee. As well as expressing concerns over climate and environmental pollution, Indigenous activists and their allies were deeply disturbed that the pipeline route would intersect the Trail of Tears, where victims of the 19th century forced relocation are buried in unmarked graves.

Despite achieving notable inroads, Diamond Pipeline opponents found themselves in a steep uphill battle. The oil industry and its allies, fearful that Standing Rock-like demonstrations could spread across the country, framed environmental activists as criminals and fringe extremists. Fusion centers along the Diamond Pipeline route also trafficked fears of “environmental rights extremists,” despite not possessing credible evidence of such threats. Claims such as these have stigmatizing power that can undercut collective solidarity and justify increasingly harsh state repression toward protest. In May 2017, Oklahoma enacted two anti-protest laws with first-of-their-kind, strategic provisions targeting protest near fossil fuel facilities. According to Ashley McCray, who co-founded the Oka Lawa resistance camp, these laws were “pretty successful” in thwarting continued activism.
Diamond Pipeline Timeline and Key Dates

**August 2014**
Plains All American announced plans to build the Diamond Pipeline, part of a long-term shipping agreement with Valero Energy.

**August 2016**
The City of Clarksville, Arkansas, withdrew its opposition to the Diamond Pipeline in exchange for $6.6 million in escrow funds for improving Johnson County’s water treatment facility. The Diamond Pipeline had already been permitted under a controversial U.S. Army Corps of Engineers program, Nationwide Permit 12, that requires little to no environmental review or public feedback.

**2015**
Diamond Pipeline and its agents told Arkansas landowners that their property would be condemned to obtain easements if they did not grant them voluntarily. The landowners struck back by challenging the company’s eminent domain authority in Johnson County Circuit Court. They faced steep odds—Arkansas state law grants oil pipelines an automatic right to eminent domain—and the cases were eventually settled out of court.

**January 2017**
Demonstrations were held in all three states along the pipeline route: Oklahoma, Arkansas, and Tennessee. On January 16, an estimated group of 40 protested outside Valero’s Memphis Refinery. Some protesters were arrested after using concrete-filled barrels to block the refinery’s truck entrance. Twelve days later, on January 28, hundreds gathered to protest the Diamond Pipeline in Fayetteville, Arkansas. On January 30, activists from #NoPlainsPipeline, Bold Oklahoma, the American Indian Movement, Black Lives Matter, the Oklahoma Sierra Club, and other groups held a press conference at the Oklahoma Capitol building to announce the formation of a new coalition to oppose the Diamond Pipeline. “There definitely will be an encampment in Oklahoma in the near future,” said Mekasi Camp Horinek of Ponca Nation and Bold Nebraska.
**February 2017**

The Muscogee National Council expressed unanimous opposition to the Diamond Pipeline in a resolution. Tribal councilors had previously pledged to accommodate the project, but new information about oil and gas pipelines in general, and the Diamond Pipeline in particular, was responsible for the change of policy.\(^{110}\)

**March 2017**

Ashley Nicole McCray, founder of #NoPlainsPipeline, set up the Oka Lawa camp with other activists on Choctaw Land in Southeast Oklahoma.\(^{111}\) According to McCray, some activists noticed aerial surveillance, and were pulled over and questioned while driving nearby the camp.\(^{112}\)

**May 2017**

Oklahoma Governor Mary Fallin signed HB 1123 and HB 2128 into law. The bills, which were supported by the oil and gas industry, carried prison time and harsh fines for trespassing or interfering with so-called “critical infrastructure” facilities, as well as creating liability for organizations that support protesters, in part by treating such support as a criminal conspiracy.\(^{113}\)

**October 2017**

Members involved with the Oka Lawa camp shifted their efforts to a new location named the Good Hearted People Camp, which focused primarily on community empowerment initiatives without resisting the construction of Diamond Pipeline, specifically.\(^{114}\)

**December 2017**

Diamond Pipeline finished construction and entered into operations.
Fossil Fuels and the Political Landscape

Big Oil’s Towering Influence In Oklahoma

Oklahoma elected officials answer to Big Oil and not the other way around. In the early 2010s, when fracking wastewater injection underground caused increasingly frequent, powerful earthquakes across the state, Big Oil took drastic steps to strangle reform.115 (Among them: lobbying for SB 809, which restricted local governments’ ability to regulate oil and gas operations.)116 Several years later, when oil market woes plunged Oklahoma into a budget crisis, Big Oil fought back against proposed tax increases and threatened to relocate their drilling to nearby states.117

At the forefront of the industry stood oil barons like Harold Hamm and Larry Nichols, who maintained close relationships with elected leaders. Hamm amassed a family fortune exceeding $19 billion at the helm of Continental Resources as the company grew to become the largest oil producer in both Oklahoma and North Dakota.118 He enjoyed a close relationship with Scott Pruitt during Pruitt’s stints as Oklahoma Attorney General and EPA Administrator. In the former role, Pruitt was at the center of a “secretive alliance” of energy firms and attorneys general that coordinated to oppose environmental protections.119 In the latter role, Pruitt attended dozens of closed-door events with fossil fuel executives.120 Nichols, the co-founder of Devon Energy and a former chairman of the American Petroleum Institute (API), held a close relationship with Mary Fallin, who served as Governor from 2011 to 2019.121 In 2016, Fallin, a former ALEC “legislator of the year,” established an “Oilfield Prayer Day” in Oklahoma to “thank God for the blessings created by the oil and natural gas industry and to seek His wisdom and ask for protection.”122 It would be under Fallin’s leadership—and not lacking input from the fossil fuel industry—that Oklahoma’s fossil fuel anti-protest bill would be enacted into law.

The fossil fuel industry used trade groups, as well as personal relationships with elected officials, to assert its power: namely, the Oklahoma Independent Producers Association (OIPA) and the Oklahoma Oil and Gas Association (OKOGA). Hamm was a long-time board member and the former chairman of OIPA.123 OKOGA’s board included representation from Devon Energy, ExxonMobil, BP, Chevron, Phillips 66, and Enbridge, all of whom were also members of API, along with Plains All American, and four of whom were members of AFPM, where Valero Energy’s CEO would be named vice-chairman in 2017.124

ANALYSIS: Board-level OKOGA Companies’ Lobbyists Reported Thousands In Spending125

Between January and May 2017—when Oklahoma’s fossil fuel anti-protest legislation was on its way to becoming law—board-level OKOGA companies’ lobbyists reported $23,473.54 in expenditures (not including lobbyist compensation, which the state does not require to be reported.)126

Among these expenditures were more than 30 reported meals with the authors of HB 1123 and HB 2128. One of the authors, Rep. Mark McBride, was treated to a $174.39 dinner by a lobbyist for the oil company OneOK.

Another expenditure was for tickets to see the Oklahoma City Thunder: a birthday gift for Sen. Bryce Marlatt and two of his friends in the Senate paid for by a lobbyist for Devon Energy.
Over Years, Local Police Accepted Payments and Briefings From Pipeline Companies

In 2017, Diamond Pipeline LLC donated $1 million to first responder organizations in Oklahoma and Arkansas, according to a press release in local news. A spokesperson for Plains All American said that first responders received “additional training and equipment to respond safely to the hazards they may encounter in service of their community.” The average grant value was reportedly between $7,000-$10,000, “and, in some cases, represent as much as 100 percent of the receiving departments’ annual budgets.” It is unknown whether any of the training sessions or equipment were protest-related.

Years earlier, however, local law enforcement officials from Oklahoma and Nebraska, and the FBI, came together for a briefing delivered by the Keystone XL owner TransCanada about the threat posed by environmental activists and local landowners. PowerPoint slides from the 2013 briefing included a list of individuals previously arrested for nonviolent protest. According to Inside Climate News, the FBI returned to Oklahoma in 2017 to train local police on how to handle the Oka Lawa protest camp.

TACTIC #1. Stigmatizing Protest

Law enforcement agencies in Oklahoma, Arkansas, and Tennessee made claims that the movement opposed to the Diamond Pipeline could turn violent at any time, echoing fossil fuel industry rhetoric.

In April 2017, when the Washington Examiner published a troubling, and mysteriously leaked, government report titled, “Potential Domestic Terrorist Threats to Multi-State Diamond Pipeline Construction.” The report, which was attributed to the DHS, and Oklahoma, Arkansas, and Tennessee fusion center entities, claimed that “environmental rights extremists” were the most likely domestic terrorist threat to the Diamond Pipeline project, while also admitting to not possessing any credible information regarding such threats. Fusion centers across the country, including the Oklahoma Information Fusion Center, have a track record of coordinating with fossil fuel companies and perhaps even serving private interests rather than public safety.

Although the cause for the leak has remained unknown, similar government leaks are often deliberate and politically-motivated, according to Margaret Kwoka, a University of Denver Sturm College of Law professor who was interviewed by DeSmog. Notably, the Washington Examiner is owned by the fracking billionaire and former API board member Philip Anschutz. Shortly after the report was published by the Washington Examiner, its claims were reproduced by Fox13 Memphis.

One section of the leaked fusion center report listed out “Behavioral Indicators of Planned Violence,” which all but erased the distinction between non-violent civil disobedience and violent extremism. Among the indicators:

- Signs of trespassing or suspicious persons in construction areas possibly indicating pre-incident surveillance; […]
- Reports of individuals wearing all dark or black clothing and mask or bandanas without a reasonable explanation; […]
- Reports of “direct action” training camps […]

Unsurprisingly, the police response to demonstrations in all three states reflected significant distrust toward protesters. Nearly 50 police and fire vehicles responded to the January 16 protest outside Valero’s Memphis Refinery, where some protesters locked themselves to concrete-filled barrels: “a large showing out of concern the barrels could explode,” according
A 22-year old protester who locked himself to Diamond Pipeline construction equipment in Arkansas was arrested under felony charges carrying up to six years in prison and $10,000 in fines, after Delta Directional Drilling filed a criminal complaint alleging damages. In Oklahoma, Ashley McCray, the co-founder of the Oka Lawa camp, recalled aerial surveillance and traffic stops where activists were questioned by police near the entrance to the camp. These police measures and rhetoric cast the movement opposing the Diamond Pipeline as outsiders, thus reproducing coercive stigmas that discouraged solidarity and protest.

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**TACTIC #2. Boosting Penalties For Protest**

Oklahoma’s HB 1123 was introduced just days after the January 30 press conference that activists, including McCray, held on the steps of the state capitol where they promised to oppose the Diamond Pipeline. The bill, authored by Rep. Scott Biggs, carried new penalties for protests and civil disobedience near so-called “critical infrastructure,” an umbrella term that was defined to include energy facilities, crude oil and gas pipelines, railways, telecommunications infrastructure, and more.

The penalties for trespassing with intent to impede or inhibit such a facility’s operations were at least $10,000 in fines, imprisonment for one year, or both. Willfully damaging, vandalizing, or tampering with such a facility would increase the fines to $100,000 and the prison sentence to a maximum of 10 years. The bill also sought to create liability for organizations that support protesters by treating such support as a criminal conspiracy, with fines as high as $1,000,000.

Rep. Biggs and Sen. Bryce Marlatt, who became HB 1123’s principal Senate author, were among the fossil fuel industry’s unwavering allies in elected office. Both candidates had easily won their elections in 2016, amassing significant fossil fuel donations in the process. Among their donors were at least 15 corporate members of OKOGA, OIPA, and the AFPM (see Table below).

Biggs was not shy about his motivations. “Across the country, we have seen time and time again these protests have turned violent,” Biggs said on the House floor when introduced HB 1123. Moreover, according to Tulsa World, he told the Oklahoma House Judiciary Committee on Criminal Justice and Corrections that the bill was “prompted by oil and gas industry concerns arising from the Dakota Access Pipeline protests.”

Biggs had accepted $1,000 from ETP in the 2016 election cycle. Marlatt, too, had accepted $1,500 from ETP, in a transaction dated November 16, 2016, months after he had already clinched re-election.

When HB 1123 passed in the House, Rep. Mark McBride introduced a related bill, HB 2128, that would grant companies the ability to hold protesters and their supporters liable for property damages.

Rep. McBride, House co-author Jonathan Echols, and principal Senate author Ann Griffin were also close allies to the fossil fuel industry. They amassed donations from many of the same companies as Biggs and Marlatt. In an appeal to the House, McBride said his bill was an effort to deter “paid protesters.”

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The Executive Vice President of OKOGA wrote to Fallin on behalf of the association on May 12. The letter stressed that fossil fuel opponents were aiming “to not only interrupt construction of pipeline and oil and gas projects, but to also harm existing facilities” and that HB 2128 was important “to protect all Oklahomans from risk of losing efficient and affordable access to critical services.”

Fallin signed HB 1123 on May 3 and HB 2128 on May 15, 2017.
The Fossil Fuel Industry Used ALEC to Spread Fossil Fuel Anti-Protest Laws Across the Country

Seizing on the successful passage of HB 1123 and HB 2128 in Oklahoma, the fossil fuel industry turned to the American Legislative Exchange Council (ALEC) in its efforts to spread fossil fuel anti-protest laws across the country. Through ALEC, HB 1123 and HB 2128 were combined into a ready-made template bill named the "Critical Infrastructure Protection Act." A lobbyist for the trade group AFPM was revealed to have been "intimately involved" in crafting the template bill in leaked audio from an energy conference obtained by The Intercept.

Bloomberg reported that “AFPM, and one of its top members, Marathon Petroleum Corp., spearheaded efforts to get ALEC to support the model legislation in 2017, according to two people familiar with the matter.” AFPM and Marathon Petroleum were joined in a letter urging lawmakers to support the proposal by four other trade groups—the American Gas Association, the American Chemistry Council, the Energy Policy Network, and Edison Electric Institute. The letter, obtained by Huffington Post, emphasized that environmentalists targeting critical infrastructure “expose individuals, communities, and the environment to unacceptable levels of risk.”

The task force that considered the model bill was co-directed by Grant Kidwell, a former Americans For Prosperity (AFP) and Charles Koch Institute lobbyist, and included representatives from AFPM and major fossil fuel companies such as ExxonMobil, Koch Industries, Duke Energy, American Gas Association and Peabody Energy. The bill was approved in January by ALEC’s Private Enterprise Advisory Council—which included executives from AFP, Koch Industries, and ExxonMobil at the time.

Bills based on ALEC’s “Critical Infrastructure Protection Act,” referred to by Greenpeace as fossil fuel anti-protest bills, have spread widely. By the end of 2019, new fossil fuel anti-protest laws had been enacted in ten states: Oklahoma, Iowa, Louisiana, South Dakota, North Dakota, Indiana, Tennessee, Texas, Missouri, and Wisconsin. By the end of 2021, the number of states with fossil fuel anti-protest laws had grown to 17 with the addition of Kentucky, West Virginia, Mississippi, Ohio, Kansas, Arkansas, and Montana. At the time of writing, 22 states have such laws due to the addition of Alabama in 2022, and North Carolina, Utah, Oregon, and Georgia in 2023 (these bills are discussed in the “2023 and the Road Ahead” section).

ALEC has played a crucial role spreading these bills. ALEC-affiliated legislators sponsored or authored these bills in 18 out of the 22 states where they were passed. In a 2019 email, ALEC took credit for “educating” legislators about “critical infrastructure protection” in seven states, five of which have enacted such bills into law.

In general, Republican lawmakers are receptive to ALEC model legislation. According to an investigation by USA Today, The Arizona Republic, and the Center for Public Integrity, “bills based on ALEC models were introduced nearly 2,900 times […] from 2010 through 2018, with more than 600 becoming law.” Carrying model legislation can bring long-term benefits such as relationships and campaign financial support that further lawmakers’ careers, according to multiple experts quoted in the investigation.
Starting in 2018, Virginia and West Virginia have used escalating fines, arrests, and subjective buffer zones that deter civil disobedience, but many protesters have adapted or endured in the face of these pressures. Since 2020, fossil fuel anti-protest laws have been enacted in West Virginia and North Carolina, posing a threat to continuing resistance to the Mountain Valley Pipeline. These laws carry extreme and unnecessary penalties for conduct that was already addressed under pre-existing law. North Carolina’s law, passed in June 2023, is especially draconian: attempting to obstruct, impede, or impair pipeline construction can be punished by more than 15 years in prison and a mandatory $250,000 fine. No such fossil fuel anti-protest laws have passed in Virginia. But in September 2023, MVP took direct aim at its critics through a lawsuit that seeks to constrain more than 41 individuals and two organizations from activities that are alleged to have slowed construction of the MVP project, including fundraising, as well as seeking more than $4 million in damages. These threats to protest and dissent are compounded by anti-environmental backlash that has been manufactured by the fossil fuel industry and their back-pocket elected officials, particularly in West Virginia.

MVP, like ACP, entailed significant safety, conservation, and environmental justice risks, enough so that the company has amassed hundreds of violations and had one of its proposed compressor stations struck down under the Virginia Environmental Justice Act. Yet, construction on the pipeline resumed in 2023, resulting from a deal sought by U.S. Sen. Joe Manchin that permitted MVP by fiat and sharply limited court review of the project.

Despite prolonged efforts, the fossil fuel industry and its allies in government have had only mixed success at quashing years-long opposition to these pipeline projects. Fusion center entities have viewed the opposition as a hotbed for potential violent extremism, a false political trope that has been widely promoted by the industry to clear the way for faster pipeline construction. At the same time, they have coordinated extensively with Dominion and EQT Corporation (EQT) to monitor activism, effectively serving the private interests of these companies.

The Atlantic Coast Pipeline (ACP) and the Mountain Valley Pipeline (MVP), sought after by the fossil fuel industry to uncork Appalachian fracked gas growth, drew massive and sustained grassroots resistance. Both pipelines were announced in 2014, but it was not until 2020 that ACP would be canceled, a major victory for concerned residents, community leaders, and environmentalists who opposed the project at every step. If built, the $8 billion, 550-mile pipeline would have crossed steep mountains, sensitive watersheds, and countless streams, and disproportionately impacted low-income and communities of color. Compressor stations were planned for construction in the historically Black, Freedman-built community of Union Hill in rural Buckingham, Virginia, and a census block in Northampton County, North Carolina, where 79% of the population is Black. The pipeline would have ended in Robeson, North Carolina, the most ethnically diverse rural county in the United States and the ancestral home of the Lumbee Tribe of North Carolina. When it was canceled, ACP was over two years behind schedule, billions of dollars over budget, and still lacked certain permits due to a string of successful legal challenges.

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Atlantic Coast Pipeline and Mountain Valley Pipeline Timeline and Key Dates

**September 2014**
On September 2, Dominion, Duke Energy, Piedmont Natural Gas, and AGL Resources announced a joint venture to build and own ACP.\(^{177}\) Within a week, more than 150 Augusta County, VA, residents gathered for a town hall discussion on how to fight the pipeline, and 22 environmental and citizens groups joined together to form the Allegheny-Blue Ridge Alliance (ABRA).\(^{174}\)

**2014–2018**
Landowners along both pipeline routes, including at least 178 VA landowners and 103 WV landowners, refused land surveyors permission to enter their properties, sparking court challenges.\(^{176}\) In VA, the courts repeatedly sided with ACP and MVP due to a controversial law allowing gas companies to access private property without landowner permission, whereas in WV, the courts sided with landowners in a 2015 ruling, blocking MVP from entering private property to survey.\(^{177}\) Meanwhile, coalitions like ABRA continued holding regular meetings, attending public hearings, and submitting comments; and protesters took to street marches, including a blockade at Dominion’s Richmond headquarters in February 2015.\(^{178}\)

**January 2018**
MVP secured permission from FERC to begin full pipeline construction in West Virginia, sparking a wave of nonviolent direct action. Details on the resulting aerial blockades, such as tree-sits, are highlighted below.

- **February 26:** The first tree-sitters appeared in Jefferson National Forest, aiming to block access to a drill-site for MVP to pass through Peters Mountain. Tree-sits here continued until June 1.\(^{179}\)

- **March 28:** The anonymous activist “Nutty” embarked on a “monopod” blockade blocking a service road on the other side of Peters Mountain.\(^{180}\) In April, the U.S. Forest Service closed access to the road and began preventing supporters from delivering food and other supplies to Nutty, who eventually descended on May 23, days after they said their reserves ran out.\(^{181}\)

- **April 2:** Theresa “Red” and Minor Terry embarked on a tree-sit on property their family has owned for generations. On April 11, local police told the Terrys that their family and friends could no longer deliver them food. (After public outcry, the police began supplying Red and Minor with daily bagged bologna sandwich meals.) On April 20, MVP asked a federal judge to hold the Terrys in civil contempt and remove them. Facing escalating fines and forcible removal, the Terrys descended on May 5.\(^{182}\)

- **April 20:** Anonymous activists embarked on a tree-sit on a separate property in Franklin County, VA called Little Teel Crossing. The landowners, who claimed no connection to the tree-sitters, were sued by MVP for neglecting to remove the tree-sitters on MVP’s behalf. One of the tree-sitters was injured on May 25, when MVP workers cut branches that were dangerously close to the activist’s perch. The last activist at Little Teel Crossing descended on May 28 after facing contempt of court charges.\(^{183}\)

- **April 22:** Supporters who crossed the police buffer zone surrounding Nutty were ordered to the ground, shackled, and arrested by armed police.\(^{184}\)

- **May 21:** The anonymous tree-sitter “Fern” set up a monopod near Nutty, just days before Nutty’s descent, and was forcibly removed by U.S. Forest Service and Virginia State Police less than two weeks later.\(^{185}\)
**June – August 2018**
ACP construction began in West Virginia and North Carolina in June and July, but was halted in August due to the 4th Circuit Court of Appeals’ finding that the National Park Service’s decision to allow the pipeline under the Blue Ridge Parkway was “not accompanied by any explanation, let alone a satisfactory one.”

**July 2018**
The 4th Circuit Court of Appeals annulled MVP’s right of way through federal land due to inadequate analysis of alternative routes, effectively halting work in the Jefferson National Forest.

**October 2019**
FERC ordered a stop to all work on MVP, except stabilization and restoration activities, following a decision by the 4th Circuit Appeals Court that rescinded a U.S. Fish and Wildlife Service permit due to its failure to consider risks to four endangered or threatened species.

**July 2020**
ACP was canceled.

**July 2022 – July 2023**
In July 2022, Senator Manchin made a deal with Democratic leadership that would approve MVP’s construction by fiat in exchange for his vote on the Inflation Reduction Act. Environmental and grassroots groups organized to defeat the deal three times, but the next year, in a similar move, Manchin successfully fought for provisions in the 2023 Fiscal Responsibility Act that sharply limited courts’ jurisdiction over the project. In July 2023, FERC approved MVP construction to restart.

**September 2023**
MVP files a retaliatory lawsuit against Appalachians Against Pipelines, Rising Tide North America, and 41 individuals in Montgomery County Circuit Court. The lawsuit seeks to prohibit the groups from encouraging, promoting, or accepting donations for activities meant to slow construction of the MVP project, as well as seeking $4 million in damages.
Fossil Fuels and the Political Landscape

West Virginia: Fossil Fuel Empire?
The fossil fuel industry’s grip over West Virginia politics is evidenced by its ties to government officials, as well as its political spending. West Virginia’s governor since 2017, Jim Justice II, inherited a coal business from his father. A billionaire and climate denier, Justice has said that God will “give us time” to fix climate change—“if” it exists, concluding that “we don’t want to forget about the coal and natural gas industries” in West Virginia and it’s time to “Drill, baby, drill!” Justice’s appointee for Secretary of Commerce, Woody Thrasher, is the co-founder and former president of the Thrasher Group, a firm that provides technical services for oil and gas pipeline projects and was caught surveying along the ACP route in North Carolina without a valid license. As the main regulator and promoter of business in the state, Sec. Thrasher was tasked with overseeing an 84-billion dollar West Virginia petrochemical deal with China, the Appalachian Storage and Trading Hub, a deal which the Thrasher Group stood to benefit from. West Virginia Attorney General Patrick Morrisey is a member and former chairman of the Republican Attorneys General Association, an ALEC-like group that connects paying fossil fuel executives with ultra-conservative attorneys general to strategize on fighting environmental regulation, among other activities.

Duke and Dominion’s Powerhouse Politics
In Virginia and North Carolina, the monopolies behind ACP are enormously influential. Since 2014, Dominion has contributed over $16 million to Virginia state elections, dwarfing its closest energy sector peer by about eight times, and reported more than $3.2 million on lobbying across both Virginia and North Carolina. Over the same timeframe, Duke has channeled $2.3 million into North Carolina election campaigns through direct donations and numerous PACs. Its lobbying efforts in North Carolina have totaled more than $6.7 million, and its “influence spending” could top $80 million annually, according to an analysis by NC WARN that covers about a dozen spending categories including public relations, civic relations, philanthropy, and business association memberships, in addition to state and federal election spending and lobbying.

The companies struck deals in both states that were criticized as blatant “pay-to-play” schemes. Virginia
Governor Terry McAuliffe brokered a “guarantee” that Virginia would approve ACP in exchange for a $57.8 million payment to public and private conservation entities, and two MVP deals worth $30 million total that preemptively absolved the companies of responsibility for damage to Virginia’s forests, water resources, and historic properties. North Carolina Governor Roy Cooper also struck a $57.8 million deal with ACP: a mitigation fund intended to compensate for “unavoidable effects of the ACP on the interior forest habitats, open-space lands, water bodies, and natural resources of the communities along the ACP’s route.”

Officeholders in both states held direct or indirect interests in ACP and its joint owners. Five Virginia legislators who threw their weight behind ACP also had investments in Dominion. Among them was Senator Bill DeSteph, the primary sponsor of 3 out of the 6 fossil fuel anti-protest bills introduced in Virginia, who held more than $250,000 of Dominion stock. North Carolina Senator Dan Blue’s legal firm was procured for legal services by Atlantic Coast Pipeline LLC in at least 32 land condemnation proceedings along the pipeline route. At the same time, Sen. Blue co-sponsored and was the lead spokesperson for SB 559, a bill that Duke Energy extensively lobbied for. Gov. Cooper’s predecessor Pat McCrory, who was serving when ACP was announced in 2014, has a long, documented relationship with Duke Energy — both as a stockholder and former 28-year employee. The McCrory administration worked to dramatically expand natural gas infrastructure in North Carolina, and ardently supported ACP and Atlantic drilling for gas. McCrory also served as a spokesperson for the Koch-controlled lobbying group Americans For Prosperity (AFP) from 2009 to 2011.

### ANALYSIS: Pipeline Owners, Shippers, and Trade Groups Reported More Than $21 Million In Lobbying Across West Virginia, Virginia, and North Carolina

Pipeline owners, prospective shippers, and trade groups that publicly supported the MVP and ACP projects spent more than $21.7 million on lobbying based on available data for ACP and MVP project-specific timeframes. Breakdowns by state and stakeholder type are shown below. The data reflect lobbyist compensation and lobbying expenditures for Virginia and North Carolina, but lobbying expenditures only for WV because the state does not require compensation to be reported.

#### ACP Stakeholders and Aligned Trade Group Lobbying

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<tr>
<th></th>
<th>Owners</th>
<th>Shippers (excl. Owners)</th>
<th>Trade groups</th>
<th>Total</th>
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<tr>
<td>WV (2017-2020, expenditures only)</td>
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<td>$110,869</td>
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<tr>
<td>VA (2016-2020)</td>
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<td>$138,026</td>
<td>$2,320,636</td>
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<tr>
<td>NC (2014-2020)</td>
<td>$8,090,739</td>
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<td>$3,611,572</td>
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<tr>
<td><strong>Grand Total</strong></td>
<td></td>
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<td></td>
<td><strong>$16,422,793</strong></td>
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#### MVP Stakeholders and Aligned Trade Group Lobbying

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<th>Shippers (excl. Owners)</th>
<th>Trade groups</th>
<th>Total</th>
</tr>
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<tbody>
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<td>$6,232</td>
<td>$181,577</td>
<td>$195,336</td>
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<tr>
<td>VA (2016-2022)</td>
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<td>$803,818</td>
<td>$3,528,715</td>
<td>$4,740,766</td>
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<tr>
<td>NC (2014-2023)</td>
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<td>$1,246,968</td>
<td>$4,189,202</td>
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<td></td>
<td></td>
<td><strong>$11,285,780</strong></td>
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</table>
Public-Private Security Coordination

Dominion and EQT built close relationships with law enforcement in North Carolina and Virginia, which opened the door for potential abuses of law enforcement authority. These companies fed recurring intelligence updates and meeting agendas to state police. Some state and local police agencies upheld the cozy relationship by participating in joint meetings, offering to share intelligence back to the pipeline companies, and allowing police officers to work off-duty as private security.

Dominion sent agendas for recurring meetings with state and federal law enforcement

In December 2017, the North Carolina Information Sharing and Analysis Center—a fusion center under the North Carolina State Bureau of Investigation—produced a field analysis report warning that “ACP has the potential to become a regional focal point for ideologically or politically motivated violent extremist actors.” Yet the report also admitted to having no specific, credible information that violent actors were targeting the operations.

Public records obtained by the Blue Ridge Environmental Defense League, and reviewed by Greenpeace USA, reveal that Dominion personnel sent meeting agendas for a “recurring Law Enforcement/ACP Security Information Sharing Working Group meeting” to more than a dozen law enforcement personnel across federal and Virginia, North Carolina, and West Virginia state agencies as early as July 2017. The first agenda, for a September 5 meeting, included:

- ACP Security Information Exchange eRoom […]
- Opposition updates […]
- ETP lawsuit against Greenpeace—Enterprise of Eco-terrorists
- Bold Alliance, 350.org, Sierra Club, Veterans Stand (Veteran Service Corps)

September 16, 2017, rally in Richmond, VA (Fight White Nationalism) […]

StopETP Campaign (September 8-9, 2017) target list

Tiger Swan HQ—Apex, NC

ETP Pipelines—Rover Pipeline, WV

Army Corps of Engineers Office - Nationwide Roundtable

ETP does not appear to be among the email recipients, despite appearing relevant to items on the agenda.

In ongoing emails, some of the recipients exchanged information about public events that included, for example, a Sierra Club-hosted meeting to discuss Indigenous perspectives on the ACP.

According to Dominion’s Construction, Operation, and Maintenance Plan, local security contractors and/or off-duty police officers would be used to maintain security at worksites. Emails reveal that Dominion contacted ten local Sheriff’s Offices in North Carolina asking whether they would allow their officers to work off-duty as private security, and nearly all of them answered yes. According to a forwarded attachment, Dominion also prepared a list of questions for the North Carolina State Highway Patrol. Among them:

- Will the North Carolina State Highway Patrol be willing to consider Dominion Energy support in sponsoring a FEMA Cut Team Training?
- Does the North Carolina State Highway Patrol have sufficient cut team equipment to respond to all ACP incidents?

“Cut Teams” are personnel charged with cutting through equipment used in blockades to remove protesters.

On June 12, 2018, a Dominion security analyst sent an email introduction between the head Security Coordinator for EQT and officials with the North Carolina Information Sharing and Analysis Center.
Melissa and Mike,

Duane Moriarity is the head Security Coordinator with EQT working on the Mountain Valley Pipeline (MVP) project. EQT has recently requested from FERC to extend that project into North Carolina. As you all are aware from our weekly calls, MVP has experienced a bit of opposition in VA and WV. I suspect it will follow them into NC. Especially with that project’s proximity to Asheville.

Duane, Melissa Roberts is an Analyst at the North Carolina Information Sharing and Analysis Center (NCISAAC). Mike Harper is a Special Agent at NCISAAC. Both have been working closely with us on ACP security and have been valuable partners.

Forrest C. Kelley
Senior Intelligence Analyst

The Virginia Fusion Center Coordinated With EQT and Compared Environmental Activists to Al Qaeda

The Virginia Fusion Center (VFC) encouraged EQT personnel to share information on Mountain Valley Pipeline activity “so the information could be vetted and disseminated to those that need to know.” When tree-clearing and construction were scheduled to begin in 2018, Cynthia Waters, a Virginia State Police intelligence analyst, informed local law enforcement officers that EQT would be in touch to schedule meetings and offered to follow up to discuss “VFC support throughout the project’s duration.”

According to the Richmond Times-Dispatch, “[t]he state records also show that the Fusion Center disseminated ‘pipeline situation reports,’ which included information on how many people on Facebook were ‘interested’ in meetings of groups such as the Sierra Club, Chesapeake Climate Action Network and Preserve Floyd.” Emails obtained by Climate Investigations Center, and reviewed by Greenpeace USA, indicate that the pipeline situation reports were being produced and disseminated daily during March and April 2018.

A 2019 VFC intelligence assessment, discovered by The Intercept, referred to groups that build citizen support networks opposing pipelines as “criminal environmental groups.” This deeply problematic framing was repeated 28 times in the ten-page document. The assessment even used examples from al Qaeda, including a mosque bombing and an Osama Bin Laden quote, to demonstrate insurgent tactics, and warned that the same tactics could be used “in order to gain support and impact pipeline construction in Virginia.”
**TACTIC #1 Escalating Enforcement Against Protesters**

**Through the Courts**

After the start of construction in January 2018, MVP turned to the courts in its efforts to clear protesters from the pipeline construction route. Its first attempt, a preliminary injunction aimed at tree-sitters on the West Virginia side of Peters Mountain in the Jefferson National Forest in March 2018, was decisively rejected by Monroe County Judge Robert Irons.\(^{214}\)

But the company’s success rate improved after it turned to the federal court system. In April 2018, MVP petitioned the U.S. District Court to hold Red and Minor Terry in contempt of court for refusing to vacate a tree-sit on their own property.\(^{215}\) Several weeks later, U.S. District Court Judge Elizabeth Dillion did just that, and the Terrys complied under the threat of $1,000 in fines per day and forcible removal by the U.S. marshal.\(^{216}\) Judge Dillon also presided over hearings brought by MVP attorneys related to the protests at Little Teel Crossing. The property owners argued that they were unconnected to the tree-sitters and should not be responsible for removing them, but were still found in contempt of court.\(^{217}\) Contempt-of-court findings were also used to pressure the tree-sitters at Little Teel Crossing to climb down.\(^{218}\)

In September 2018, after the first wave of aerial blockades had been cleared, several protesters embarked on one of the longest tree-sits in U.S. history at Yellow Finch Lane in Elliston, VA. MVP won an injunction against the tree-sitters and their support camp in November 2020, resulting in $500 fines per day in Montgomery Circuit Court.\(^{219}\) The tree-sitters refused to comply and were forcibly removed on March 24, 2021. Although the tree-sitters faced criminal charges that would result in months-long jail sentences, MVP also successfully pursued civil charges for $141,386 in compensation.\(^{220}\)

**Through Policing and Security**

Law enforcement from the U.S. Forest Service used buffer zones and arrests that prevented food and water from being lifted up to the Peters Mountain activists. The monopod protester, Nutty, says she went six weeks without resupplies before eventually coming down.\(^{221}\) One day, when a group of supporters ducked across the caution tape to bring Nutty daypacks filled with supplies, “at least ten law-enforcement vehicles and over a dozen officers from multiple agencies arrived with assault rifles,” according to Outside Magazine.\(^{222}\) The supporters were ordered to the ground and at least one was handcuffed and leg-shackled. In a faxed letter to the Forest Service, Virginia attorneys Tammy Belinski and Alan Graf said “No one knows, whether [Nutty] has the strength or volition to leave the pod. If she cannot do so, Forest Service’s actions in continuing to starve her out are tantamount to torture and contrary to human rights and International Law.”\(^{223}\) Roanoke County law enforcement prevented supporters from delivering supplies to Red and Minor Terry, but began delivering bagged meals to them after receiving negative media attention.\(^{224}\)

Although many activists were aware of the potential for legal consequences, some were arrested on shaky and increasingly trumped up charges. Two activists were arrested by U.S. marshals in May 2018 for allegedly failing to comply with an officer’s order, despite not having crossed into the easement boundary, according to the activists.\(^{225}\) In 2019, three non-violent MVP protesters in West Virginia were arrested and charged with felony threats of terrorist acts, each on a separate occasion.\(^{226}\) And in 2021 and 2022, District Attorneys in Giles County and Roanoke County brought restitution charges against protesters to recover costs associated with police officers’ time.\(^{227}\) In an email obtained by EarthRights International during the latter lawsuit, the Roanoke County Attorney wrote that billing for higher expenses would be “sending a message that such unlawful and unsafe MVP protesting will not be tolerated in the County and that protesters will be responsible for costs incurred.”

In addition to coordinating with the VFC, MVP’s private security was accused by tree-sitters of harassment with spotlights and loud noise at night, preventing them from sleeping, and filing malicious charges against activists.\(^{228}\) MVP also proceeded with tree cutting near the tree-sitters at Little Teel Crossing, which the activists described as reckless.\(^{229}\)
DOLLARS VS. DEMOCRACY 2023

TACTIC #2. Boosting Penalties for Protest

West Virginia’s 2020 Fossil Fuel Anti-Protest Bill Was Pushed By the Industry

The West Virginia “Critical Infrastructure Protection Act,” based closely on ALEC’s model legislation, was signed into law by Gov. Jim Justice on April 15, 2020. The Intercept reported several companies and groups that worked to advance the bill: AFPM, Dominion Resources, and the West Virginia Oil and Natural Gas Association. In a celebratory email after the bill passed through the legislature, a lobbyist for AFPM took credit for “organizing the wide base of support.” In the bill introduction year and preceding year, the bill’s primary sponsor, John Kelly, accepted contributions from AFPM members: $1,000 from Marathon Petroleum and $500 from ExxonMobil.

Dominion’s role, however, should not be overlooked. Research from The Intercept revealed that a Dominion lobbyist communicated with West Virginia’s House Majority Leader, a West Virginia House Energy Committee lawyer, and lobbyists for EQM and Southwestern Energy about “a bill to address civil disobedience towards pipeline” less than a year before the “Critical Infrastructure Protection Act” was passed. At the time, Dominion occupied the Vice President seat on WVONGA’s board, which had substantial overlap with AFPM, and was registered to lobby for a similar bill in Ohio for the 3rd straight year. Later, in 2023, Dominion would lobby for fossil fuel anti-protest legislation in Utah.

North Carolina and Virginia Anti-Protest Legislation

Since 2017, there have been eight anti-protest bills introduced in Virginia, none of which have been enacted into law. Three of them were introduced in August 2020, after outpourings due to the killing of George Floyd shook Richmond, Virginia. None of the bills are closely related to ALEC’s model bill or specifically target trespassing near energy infrastructure.

There is no evidence that the fossil fuel or energy industry had an interest in these bills. But Bill DeSteph, the primary sponsor of four of the bills, appears to be a major ally to Dominion. In addition to holding more than $250,000 in Dominion stock, DeSteph has accepted $101,750 in campaign donations from Dominion since 2019 and appeared as an ACP “endorser” on the company’s website.

Most of Dominion’s donations to DeSteph were made between 2020 and 2022, even though DeSteph’s next election was not until 2024. Other Virginia anti-protest bill sponsors (including cosponsors) have reaped a combined $54,500 in political contributions from Dominion.

There have been 12 anti-protest bills introduced in North Carolina since 2017. Several of them appeared to be a direct response to racial justice protests that formed after the police shooting of Keith Lamont Scott (2016) and Andrew Brown Jr. (2021). They included bills that would provide legal immunity for drivers who hit protesters with their car, impose felony charges for any person found to engage in a riot, waive liability for law enforcement officers who injure or kill “using reasonable force under the circumstances and acting in good faith to enforce the laws,” and impose criminal liability on state officials who order police to stand down in response to demonstrations. But it would take until 2023 for North Carolina to enact anti-protest legislation: H 40, a “riot” bill, and S 58, an ALEC-inspired fossil fuel anti-protest bill.
S 58 specifically included energy facilities that are planned or under construction in its definition of "critical infrastructure." Under the law, according to ICNL, “a group of people protesting the construction of a fossil fuel pipeline could face more than 15 years in prison and a mandatory $250,000 fine if they impede or impair the construction of a pipeline, for instance by blocking workers’ access to the pipeline construction site.” The bill’s primary sponsor, Sen. Paul Newton, was a long-time Duke Energy employee including President of Duke Energy North Carolina.

It is so far unknown whether Duke lobbied for either bill, but in 2022, Duke contributed more than $176,000 to both bills’ primary sponsors and cosponsors. In addition to Duke, other fossil fuel and energy companies contributed more than $260,000 to the NC anti-protest bill sponsors in 2022. The #2-7 contributors after Duke were the North Carolina Association of Rural Electric Cooperatives ($123,700), Dominion ($57,200), Koch Industries ($25,800), Norfolk Southern ($19,750), Marathon Petroleum and Williams Companies (each around $11,000).
## ANALYSIS: Duke and Dominion Have Contributed Massively To Anti-Protest Bill Sponsors Across the Country

### Duke Energy

<table>
<thead>
<tr>
<th>State</th>
<th>Total Amount Contributed to Anti-Protest Bill Sponsors (in the bill introduction year and preceding year)</th>
<th># of Recipients</th>
<th>Top Recipients by Amount (bold name indicates primary sponsor)</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Carolina</td>
<td>$409,200</td>
<td>74</td>
<td>Dean Arp ($22,000), Timothy Moore ($22,000), Warren Daniel ($19,400), Paul Newton ($16,300), Danny Britt ($14,900), Thomas McInnis ($12,400), John Bell ($11,200), Destin Hall ($11,200), Jason Saine ($10,400)</td>
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<td>Florida</td>
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<td>Indiana</td>
<td>$19,300</td>
<td>17</td>
<td>Mark Messmer ($8,500), Edmond Soliday ($3,000), Eric Koch ($1,300)</td>
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<tr>
<td>All States</td>
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### Dominion Energy

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<tr>
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<td>Joseph Scarnati ($2,000), Patrick Stefano ($2,000), Elder Vogel ($2,000), Camera Bartollotta ($1,500), Kim Ward ($1,000), John Yudichak ($1,000)</td>
</tr>
<tr>
<td>All States</td>
<td>$383,850</td>
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Source: FollowTheMoney/OpenSecrets.org
ACP companies bankrolled a business coalition that used deceptive research and pro-pipeline messaging in an effort to build public support for ACP construction. The so-called “EnergySure Coalition” paid for one-sided TV, radio, print and website ads that appealed to economic and social justice values. To burnish its claims, the coalition used flawed polling data from the Tarrance Group, which openly described itself as a “Republican strategic research and polling firm,” and a biased report that was paid for by Dominion. Messaging used by the coalition was disparaging toward the pipeline opposition movement, using taglines such as, “Families on the line: Build the ACP” and “ACP opposition: Focused on blocking access to American energy and new jobs.” Social scientists refer to arguments like these as “discourses of delay,” which emphasize the downsides of climate policies and raise doubt that climate action is possible. The spread and strategic use of such rhetoric has contributed to making environmentalism “a new front in the culture wars, becoming ever-more enmeshed in broader identity and grievance politics,” according to research by the Institute for Strategic Dialogue.

The fossil fuel industry and its allies in government have seized on opportunities to stoke cultural divisions and manufacture anti-environmental backlash, which lend credence to efforts to stifle protest and dissent, despite the fact that a supermajority of Americans support climate action. After leading a lawsuit against the federal Environmental Protection Agency, West Virginia Attorney General Morrissey co-led an effort opposing ESG investing—an acronym for environmental, social and governance—which he blamed on “the woke left [mission] to change every facet of American life … and erode our democratic institutions.” West Virginia’s state treasurer Riley Moore and state delegate Zack Maynard have also been key figures in the anti-ESG movement, which was initiated and amplified by fossil fuel lobbyists at groups that included the West Virginia Coal Association. In 2021, ALEC’s Energy, Environment, and Agricultural task force—which included lobbyists for Charles Koch’s Americans for Prosperity Foundation, Koch Companies Public Sector, and AFPM—adopted a model “Energy Discrimination Elimination Act” by unanimous vote. The policy was adapted from ALEC’s longtime opposition to boycotts, divestment and sanctions efforts against Israeli occupation of Palestine. In 2023, anti-ESG bills were introduced in 37 states, 22 of which became law despite widespread pushback from business lobbyists, workers unions and environmental advocates.

Perhaps unsurprisingly, the fossil fuel industry and its allies helped manufacture the very basis of the anti-ESG fears they helped spread. Large fossil fuel companies routinely publish ESG commitments, a practice that often amounts to greenwashing. Most of the banks and financial institutions targeted by the anti-ESG backlash are still doing plenty of business with fossil fuel companies. Take BlackRock, a recent target of Florida Governor Ron DeSantis, who pulled state investments from the money manager at the end of 2022. In a panel just weeks earlier, BlackRock’s CEO told the audience “I actually believe we’re going to need hydrocarbons for 70 years.” The company’s investments have also been tied to deforestation and Indigenous rights violations, according to BlackRock’s Big Problem, an advocacy coalition calling on asset managers like BlackRock to rapidly align their business practices with a climate-safe world.
In 2014, Enbridge proposed replacing and expanding a segment of its pipeline network known as Line 3. Originating in the tar sands region of Edmonton, Alberta, Line 3 was intended to carry Canadian tar sands oil—a highly polluting form of crude oil—to Enbridge’s 550-acre oil terminal in Superior, Wisconsin. The expansion project would increase Line 3’s capacity from 390,000 barrels per day (bpd) to 915,000 bpd. The new route would snake its way across the state of Minnesota and cross territories referenced in a series of treaties between the Anishinaabe (Ojibwe) and the U.S. government, where Anishinaabe rights to hunt, fish, and gather were upheld by a 1999 Supreme Court decision.

By 2017, six Ojibwe Bands (the Red Lake, White Earth, Fond du Lac, Leech Lake, Mille Lacs, and Bois Forte Bands) and Honor the Earth were raising concerns over the U.S. portion of the Line 3 replacement project. A fundamental concern, according to letters that the White Earth and Red Lake Bands sent to state officials, was “the failure of state government agencies to fairly recognize and respect our natural resource and other sovereign rights across northern Minnesota.” In related terms, the Indigenous resistance movement opposing Line 3 was intimately linked to Anishinaabe struggles for off-reservation land management rights and the defense of their sacred wild rice from pollution, as well as the broader climate action movement.

Underscoring pollution-related concerns, a Greenpeace USA report found that Enbridge and its subsidiaries had spilled 66,059 barrels of hazardous liquids from incidents that occurred, on average, once every 20 days between 2002 and 2018.

As years passed, the movement opposing Line 3 grew and diversified. The Red Lake, White Earth, and Mille Lac Bands, along with environmental organizations, leveraged a variety of legal strategies to halt the project. Demonstrations were held across the state, and several resistance camps, including the Giniw Collective’s Namewag Camp, were founded along the pipeline route.

Minnesota’s government was supportive of Line 3, but sought to avoid the political mistakes made at Standing Rock. The state and Enbridge touted their support for protesters’ rights. But they also quietly used surveillance to monitor activism, hostile police tactics to clear civil disobedience, and narrative campaigns to turn public opinion against demonstrators. As a result, around 1,000 demonstrators were arrested for activities related to Line 3 protests between 2021 and 2022, and many were charged with trumped up charges. Nevertheless, the movement opposed to the Line 3 pipeline endured for years, and fossil fuel industry-backed efforts to pass anti-protest legislation failed due to the considerable power held by Democrats in Minnesota state government and strong opposition from civil society groups.
March 2014
Enbridge announced its plans to replace and expand the Line 3 pipeline, targeting its completion in the second half of 2017.263

June 2018
Minnesota’s Public Utilities Commission (PUC) granted approval for Enbridge’s proposed Line 3 route. The Mille Lacs, White Earth, and Red Lake Bands, along with Friends of the Headwaters and Honor the Earth, appealed the PUC’s decision to approve Line 3’s Environmental Impact Statement, setting off a years-long permitting dispute that would continue until August 2021.267

August 2015
Roughly 100 people turned out to a Line 3-related public hearing on the White Earth Indian Reservation, voicing significant concerns and opposition to the Line 3 replacement project.264

2017
In February 2017, Indigenous activists set up a frontline camp, Camp Makwa, on private land on the Fond du Lac reservation, which functioned as “a space for people to come together, to practice and protect our treaty rights and make sure that Line 3 does not get constructed.” Although permits were still pending in Minnesota, construction on Line 3 began in Wisconsin in August, drawing peaceful protests near the construction route.265

2017–2018
In July 2017, the Red Lake, White Earth, Fond du Lac, Leech Lake, and Mille Lacs Ojibwe Bands, along with Honor the Earth and a group of 13 Indigenous and non-Indigenous youth became official intervenors in the Line 3 permitting process. In October 2017 the same Bands, along with the Bois Forte Band, announced a sovereign Line 3 environmental review process, while continuing to participate in Minnesota’s process in parallel.266

November–December 2020
Line 3 received its final permit approvals and began construction, despite continued opposition and pending challenges in state court.268
**SEPTEMBER 2021**

Line 3 construction was completed.

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**OCTOBER 2022**

Enbridge was ordered by the Minnesota Pollution Control Agency to pay $11 million in settlements, environmental projects, and financial assurances due to water quality violations and aquifer breaches that occurred between June 8 and August 5, 2021, during Line 3 construction.273

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**SEPTEMBER 2023**

District Court Judge Leslie Metzen dismissed all charges against three Indigenous women, Winona LaDuke, Tania Aubid, and Dawn Goodwin, who helped lead peaceful protests opposing Line 3 in 2021. In a powerful decision, Judge Metzen wrote: “To criminalize their behavior would be the crime.”274

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**SPRING-SUMMER 2021**

Increased urgency to slow Line 3 construction combined with the Spring thaw paved the way for a new phase of non-violent direct action. Protests crescendoed in late summer 2021 and met fierce suppression from law enforcement. Key events are detailed below.

- **JUNE 7**: During the Indigenous-led Treaty People Gathering, a Border Patrol helicopter descended to a low level, kicking up dust and showering protesters with debris. Officials claimed that the helicopter was brought in to execute a dispersal order, but the announcement is inaudible to many protesters. By the end of the day, 186 demonstrators had been detained.269

- **JUNE 28**: the Hubbard County Sheriff’s Office informed Tara Houska, the founder of Giniw Collective, that they would be closing off and barricading access to their Namewag camp, which was located on private property used with permission and acquired in 2018 by Winona LaDuke. There were no illegal activities alleged to be occurring on the property. A judge later granted a temporary restraining order against Hubbard County authorities, barring them from interfering with access to the property.270

- **JULY 30**: Water protectors were pepper sprayed and hit with rubber bullets after climbing a fence during their effort to prevent drilling under the Red River, a site that Houska said has particular significance to the Red Lake Nation and all Pembina Ojibwe Bands of the 1863 treaty signed with the United States.271

- **AUGUST 2021**: Over the course of several weeks, water protectors documented numerous incidents of pain compliance torture in response to efforts to prevent drilling under the Red River. These tactics, according to interviews with water protectors, included applying pressure to the face and jaw area that resulted in jaw dislocation and nerve damage causing face paralysis.272
Fossil Fuels and the Political Landscape

Minnesota’s Midstream Madness
Although Minnesota does not possess fossil fuel deposits, it is an essential fossil fuel gateway: nearly two-thirds of Canadian crude oil imports into the U.S. are transported through the state. Practically all of these imports flow through the Enbridge-owned Mainline System, which runs from the Alberta tar sands region to destinations in the Great Lakes region. And roughly one-sixth of these imports are processed at Minnesota’s Pine Bend Refinery, which is owned by Koch Industries subsidiary Flint Hills Resources. The refinery has been called a “cash cow” for the Koch Industries empire, serving as a key profit center from the 1960s to the present. According to 350 Minnesota, Koch Industries is the most powerful voice on climate and energy issues in the Minnesota Chamber of Commerce, a group that has opposed “nearly every pro-environment proposal and legislation over the past decade or more.”

ANALYSIS: Line 3 Stakeholders and Pro-Line 3 Trade Groups Spent Over $43 Million On Lobbying in Minnesota Between 2014 and 2021
Enbridge, prospective Line 3 shippers, and pro-Line 3 trade groups spent a combined $43,732,942 on lobbying in Minnesota from 2014 to 2021, the timeframe spanning Line 3’s announcement through completion. Among these organizations, Enbridge and the Minnesota Chamber of Commerce were the top spenders. The company spent more than $1 million on lobbying in Minnesota every year between 2014 and 2021. In 2018, it spent nearly $11 million lobbying the Minnesota PUC—more than double all other entities combined. The Minnesota Chamber of Commerce spent more than $2 million annually on lobbying between 2016 and 2020.

Flint Hills, the Koch Industries subsidiary, spent more than $4 million on lobbying between 2014 and 2021. In 2019, it was part of a group with Marathon Petroleum and other businesses that tried and failed to block a state-wide electric vehicles program. Marathon Petroleum is the country’s largest oil refiner, and was investigated by Congress the same year after a New York Times investigation found that it had worked with Koch-backed industry groups to “run a stealth campaign to roll back car emissions standards.”

Enbridge Used Self-Serving Payments and Donations To Shore Up Support
Enbridge offered deals to the Red Lake Band of Chippewa and the Fond du Lac Band of Lake Superior Chippewa for their support in routing the pipeline through tribal lands. (Red Lake said no, and the Fond du Lac Band accepted.) “There has been an attempt [by Enbridge] to divide us, and to an extent it has,” Sam Strong, Red Lake’s tribal secretary, told the Star Tribune. “It’s very negative, and it is their playbook.” In addition to a jobs package working on Line 3, Enbridge’s offer to Red Lake included more than $1 million for community projects, including $500,000 to rebuild the tribe’s Ponemah Pow Wow Grounds, and an offer to arrange a $25 million solar energy project that would be partly owned by Red Lake. The Fond du Luc deal was not made public, but in January 2021, the band sent a letter to members saying this year’s $400 monthly per-capita payments would be made “using Enbridge funds.” In a 2017 deal, Enbridge offered payments totaling around $60 million over 25 years to the Lac Courte Oreilles Band of Lake Superior Chippewa for a new long-term easement for two Enbridge pipelines.
Corporations like Enbridge might use donations as a strategy to shore up support and protect their assets. Through its “Safe Communities” program that began in 2013, Enbridge provides monetary support to law enforcement and first responder organizations under the cover of philanthropy.\textsuperscript{286} In 2022, Enbridge touted spending $100,000 in a carbon offset tree-planting program that it claimed would help landowners.\textsuperscript{287} But tar sands oil extraction has a direct and potentially irreparable impact on Canada’s boreal forests: between 2000 and 2014, the industry contributed to nearly two million acres of forest loss or degradation.\textsuperscript{288}

As a condition for Line 3’s permit approval, Enbridge paid more than $8.6 million into a state-managed escrow account that was used to fund the state’s response to pipeline protests.\textsuperscript{289} Further details of this arrangement are discussed in the “Sanctioning Hostile Policing” section below.

**TACTIC #1 Pushing for Boosted Penalties For Protesters**

After Line 3’s approval on November 30, 2020, many Indigenous water protectors and allied activists found themselves with no choice but to put their bodies on the line. There was an immediate upswing in protest and direct action around the state.\textsuperscript{290} Minnesota legislators opposed to the movement’s tactics would soon introduce a new batch of “critical infrastructure” bills. The bills bore similarities to ALEC’s model legislation but notably went even further. One bill, HF 129 (2021-2022), deemed the “Guilt-by-association anti-protest bill” by the ACLU of Minnesota, would have created civil and criminal liability for anyone who “intentionally recruits, trains, aids, advises, hires, counsels, or conspires with” someone to trespass.\textsuperscript{291} In certain cases of property damage, the criminal penalties would have ranged up to $20,000 and 10 years in prison. According to ICNL, “the broad language could be construed to include aiding a protester by providing them with water or medical assistance.”\textsuperscript{292} Another of the bills, SF 355 (2021-2022), would have created a felony offense with penalties of up to three years in prison and $5,000 in fines for trespassing on critical infrastructure in cases without actual property damage, but rather with the intent to “damage, destroy, or tamper with equipment, or significantly impede or inhibit operation.” Unlike similar legislation previously attempted in the state, these bills did not pass Minnesota’s House or Senate because of organized local opposition and the sponsors did not have the votes in the legislature. But, not to be dissuaded—and despite Line 3 becoming operational—two of the bill’s sponsors, Rep. Paul Novotny and Sen. Warren Limmer, tried again in the 2023-24 session.

Minnesota does not require lobbyists to disclose positions taken on specific bills, but several are known to have testified in favor of anti-protest bills in legislative committee hearings, including lobbyists for the Minnesota Chamber of Commerce (2018) and Marathon Petroleum (2019 and 2020).\textsuperscript{297} Moreover, Enbridge and prospective Line 3 shippers Marathon Petroleum and Koch Industries are among the top five companies that have directed the most resources to lobbying for fossil fuel anti-protest legislation across the country (as described in the country-wide ranking in this report’s Introduction).
TACTIC #2. Using Public Relations and Astroturfing to Shift Public Opinion

The construction of Line 3 benefited from a wide range of public relations tactics that appeared to be intended to distract Minnesotans from the environmental and anti-Indigenous issues at hand through openly hostile rhetoric or veiled messaging. Enbridge worked with PR front groups to generate support for Line 3. According to the Canadian climate change media outlet, DeSmog:

“Minnesotans for Line 3, a group established last year to advocate for an Enbridge oil pipeline project, presents itself as a grassroots organization consisting of “thousands of members.” But a DeSmog investigation has found that behind the scenes, the Calgary-based energy giant is pulling the strings. Enbridge has provided the group with funding, public relations, and a variety of advocacy tactics. The investigation has also found that a public relations firm behind the operation recently tried to erase its ties to Enbridge.”

The group’s spending was so high that they ranked as the tenth largest Facebook ad purchaser among special interest groups between November 2018 and April 2019. Its Facebook campaign likely produced more than 20 million impressions. Three Enbridge executives were listed on the filings for Minnesotans for Line 3 TV ads and one of the ads was placed by Velocity Public Affairs, a group whose principal represented Enbridge as a lobbyist for years, according to DeSmog’s investigation.

Even without resorting to the level of vitriol that became so prevalent in North Dakota, Minnesotans for Line 3 portrayed activists and water protectors as outsiders with backward values, ignoring the fact that Indigenous water protectors at the forefront of the movement have long-standing ties, predating European colonialism, to the land, water, and wild rice that is threatened by Enbridge.

The “Respect Minnesota” campaign used similar appeals to politeness to nudge potential sympathizers away from the Line 3 opposition movement. The tagline was trademarked by Velocity Public Affairs in 2019, the same company listed behind a Minnesotans for Line 3 ad. In 2017, the Consumer Energy Alliance (CEA), a fossil fuel-funded astroturfing group, created a campaign titled “Modernizing America” that ran two TV ads in Minnesota in support of the pipeline. CEA’s member groups include Koch and Enbridge, although its website depicts the CEA as a consumer group advocating for “working families, seniors, and small businesses.”
TACTIC #3: Sanctioning Hostile Policing

Public-Private Security Coordination and Protester Surveillance

In a series of articles for the Intercept, Alleen Brown and Will Parish revealed years of close coordination between Enbridge’s security forces and state and local law enforcement in Minnesota and Wisconsin to prepare for and respond to Line 3 protests. In 2017, as protesters were arrested in Wisconsin for delaying construction, the Douglas County Sheriff’s Office was in regular contact with Raven Executive and Security Services and Securitas, two private contractors hired by Enbridge. Law enforcement agents in Wisconsin and Minnesota, and Enbridge’s hired security contractors, circulated and exchanged information about the pipeline opposition movement and specific activists, such as Winona LaDuke.304

Public-private security coordination intensified in the year and a half leading up to Line 3’s construction phase in Minnesota.305 In 2020, more than a dozen Enbridge employees participated in joint training sessions with an FBI agent and local sheriffs along the pipeline route. Law enforcement agents from the so-called “Northern Lights Taskforce”—a Minnesota group of sheriffs and public safety officials—sometimes requested Enbridge’s intelligence support and participation in meetings. Law enforcement also shared information with Enbridge including, in one known case, the attendee list for an anti-pipeline organizing meeting. As construction started in late 2020, these public-private meetings were occurring daily.306 Drones and ground vehicles, some belonging to private security, were used to monitor activism, but exact details of the surveillance operation remain unclear because, in August 2021, the agency responsible for the Minnesota Fusion Center enacted an unprecedented policy that barred the release of Line 3-related records that would detail law enforcement’s use of surveillance, among other tactics.307

Forceful Tactics to Suppress Protest

Law enforcement used mass arrests and increasingly forceful tactics to suppress the Line 3 protests. As detailed in the timeline of this section, demonstrators reported enduring low-flying helicopters, rubber bullets, pepper spray, and pain compliance torture between June and August 2021 while opposing pipeline construction. These protest-suppressing tactics were dangerous. In 2020, the previous year, low-flying helicopters were used to intimidate Black Lives Matter protesters in Washington D.C., in a widely-publicized incident that led to disciplinary action against a number of the individuals involved.308 Christopher Harmer, a veteran military helicopter pilot and writer for the Drive, called the tactic a “show of force” that endangers both protesters on the ground and the flight crew.309 Rubber bullets used against protesters in other instances have caused serious injury or death. Moreover, after being arrested, some demonstrators reported mistreatment from officers such as lack of proper food, solitary confinement, and denial of medications.310

Minnesota state and local law enforcement may have picked up some of their tactics from the police response to the Standing Rock protests. In 2017 and 2018, local law enforcement participated in a training session from the former Disaster Recovery Chief for the North Dakota Department of Emergency Services and three training sessions from members of the Cass County Sheriff’s Office.311 In December 2020, the intelligence coordinator for the Minnesota Department of Public Safety sent out a Standing Rock After-Action Report from the North Dakota Department of Emergency Services, calling it “the best document I’ve read in 10 years of working for the state!”312 According to Alleen Brown, the report contained “not a lot of reflection, actually, around the use of tactics like water hoses in below-freezing weather. There was more reflection on how to better utilize drone footage, or how to win information battles. So I don’t know that the lessons learned were that violent tactics need to be avoided. But it was more like: How do we look better?”313
Spending totals also reveal the troubling incidence of pipeline-related human trafficking and sexual violence. Nearly a quarter of a million dollars were paid to state agencies and nonprofits responding to these issues. At least four Line 3 workers were reportedly arrested in sex trafficking stings.315

Around 1,000 water protectors were arrested for Line 3 protest-related activities between 2021 and 2022. Over 700 faced criminal charges for their protests, and nearly 100 were threatened with felony charges.316 In November of 2021, Honor the Earth launched the Drop the Charges campaign asking politicians to support dismissing the charges against water protectors who fought for the environment and in defense of treaty rights. The campaign cited “dozens of highly questionable felonies” such as “attempted assisted suicide” for demonstrators who entered empty pipes during a non-violent blockade.317 Threatening protesters with such felonies can be a retaliation tactic intended to stifle dissent.

In 2023, all of the remaining charges against three Indigenous women leaders, including Winona LaDuke, were dropped by District Court Judge Leslie Metzen. Metzen wrote in her decision:

In the interests of justice the charges against these three individuals who were exercising their rights to free speech and to freely express their spiritual beliefs should be dismissed. To criminalize their behavior would be the crime.318

The Enbridge-funded escrow account was used to pay for wages and overtime for public officials to attend Northern Lights Taskforce meetings, which also involved Line 3 security personnel. Moreover, the account was used to reimburse $700,000 worth of riot gear purchases, including over $260,000 worth of gas masks and attachments.

Through the escrow account, Enbridge funds were used to reimburse over $79,000 worth of expenses accrued in just one day: June 7, 2021, the day protesters were showered with debris caused by a low-flying helicopter. The Enbridge-funded account was also used to reimburse “proactive” safety patrols, which may have been used to surveil water protectors and demonstrate an intimidating police presence along the pipeline route. Police and sheriffs’ offices overall received at least $5.8 million funds from the account. Another $2.17 million went to the Minnesota Department of Natural Resources.
2023 AND THE ROAD AHEAD

The world has witnessed a worrisome decline of democracy.\textsuperscript{319} This has direct implications on forestalling the climate crisis, since one of the formidable challenges to keeping global greenhouse gas emissions within Paris-aligned targets is making governments act to halt and reverse the expansion of one of the world’s most powerful industries. Indeed, many countries with the largest remaining fossil fuel reserves are governed by autocratic regimes whose power is heavily if not entirely dependent on continued fossil fuel production.\textsuperscript{320} In such contexts, protest and dissent are often met with brutally oppressive force.

The reality of this global situation also means that those who live in countries with robust civil societies, global influence, and abundant fossil fuel reserves must take on greater global responsibility for phasing out fossil fuels and protecting human rights. Many of us, especially those of us living in the U.S., bear the additional responsibility of living in a society whose relative affluence (for many) was built upon a disproportionate contribution to the blanket of atmospheric carbon that poses existential threats to human wellbeing and a healthy planet.\textsuperscript{321}

Yet the U.S. is not immune from threats to democracy, despite possessing legal and political accountability mechanisms that set it apart from autocracies. To the contrary, recent events—ranging from the continued spread of anti-protest laws to the police response to Stop Cop City protests—have severely undermined the right to free speech, a fundamental principle of American democracy. What ties many of the examples in this report together is a dangerous pattern of escalation whereby activists—and nonactivists exercising their right to dissent—are treated as criminals and extremists, a pattern that the fossil fuel industry has promoted. The examples throughout this report also demonstrate how the very potency of the U.S. legal system has resulted in a situation where undemocratic actors often seek to capture and exploit it. Our legal system should protect all of us, but fossil fuel companies have sought to weaken or control it for private gain.

The combination of rhetorical attacks, protest criminalization, and hostile law enforcement toward protesters has continued into 2023. This section continues below with an overview of anti-protest laws that have been enacted in 2023 and a review of how counterterrorism powers have been weaponized to suppress protest opposing the construction of the Atlanta Public Safety Training Center popularly known as “Cop City.” It concludes with an overview of the growing use of costly lawsuits and anti-protest laws to criminalize dissent around the world.
Overview of 2023 Anti-Protest Bills

So far in 2023, 23 anti-protest bills have been introduced in 15 states. Out of these, six bills in five states have been enacted into law.

Four States Have Enacted Fossil Fuel Anti-Protest Laws

The fossil fuel and energy industries, and ALEC, have continued to advocate for fossil fuel anti-protest laws. Four such laws have been enacted so far in 2023, including three with narrowed provisions.

Between January and February, lawmakers in North Carolina, Utah, and Oregon introduced sweeping fossil fuel anti-protest bills with draconian penalties for trespassing upon, impeding, and/or disrupting energy infrastructure. However, the bills in each of these states, except North Carolina, were substantially narrowed during the legislative process. In Georgia, lawmakers introduced a narrowed version of fossil fuel anti-protest legislation by substitute, which was enacted with only minor amendments. Each law is summarized below:

- **North Carolina’s enacted law (S 58) is particularly extreme.** It carries felony penalties with up to 19 years imprisonment and $250,000 in fines for attempting to “obstruct, impede, or impair the services of transmissions of an energy facility.” Under the new law, trespassing on energy facilities is also classified as a felony with up to two years in prison. The bill was primarily sponsored by Sen. Paul Newton, who worked at Duke Energy for 25 years and was the company’s state president.

- **Georgia’s enacted law (HB 227) carries felony penalties with between two and 20 years imprisonment for interfering “by either force or violence or by electronic means […] with the proper operation of any critical infrastructure.” The law also carries a misdemeanor penalty for the vague offense of “interfer[ing] with the proper action of a company, municipality, or political subdivision owning critical infrastructure.” The bill was supported by lobbyists for the Georgia Chamber of Commerce and Georgia Power, a Southern Company subsidiary. Members of the Georgia Chamber of Commerce include Koch Industries, Marathon Petroleum, Georgia Power, and NextEra.

- **As introduced, Utah’s anti-protest bill (HB 370) would have made “inhibiting or impeding the operation of a critical infrastructure facility” a first degree felony punishable by five years to life in prison. The amended and enacted version criminalizes such conduct only if doing so causes “widespread injury or damage to persons or property.” The original version of the bill had a very broad definition of critical infrastructure that included highways, bridges, and transportation systems, but these were removed in the enacted version. Energy industry lobbyists supported the bill before it was narrowed, including Dominion Energy and Rocky Mountain Power.

- **As introduced, Oregon’s anti-protest bill (HB 2772) would have created a domestic terrorism crime for attempting to cause “disruption of daily life” that “severely affects the population, infrastructure, environment, or government function of the state.” The amended and enacted version creates a domestic terrorism crime for attempting to destroy or substantially damage critical infrastructure, including pipelines and roads, with the intent to cause the widespread disruption of services provided by such infrastructure. No private sector interest groups testified in favor of the bill, so it is unclear who supported it.

Although the narrowed laws enacted in Utah, Oregon, and Georgia use language that appears to preclude peaceful protest, they could still open the door for aggressive prosecutorial tactics intended to punish peaceful protest. For example, protesters obstructing the expansion of a gas pipeline could be charged under Georgia’s law if the prosecutor interprets their activity as interfering “by force” in the pipeline’s proper operation. Likewise, protesters could be charged under Oregon’s law if the prosecutor deems that the protesters attempted to substantially damage the pipeline with “intent” to cause widespread disruption of services.

According to Jessica Maravilla, policy director from the ACLU of Oregon, Oregon’s new law “targets conduct that was already criminal, and adds a stigmatizing label and vague language that could enable law enforcement to mischaracterize protest actions as terrorist activity.”

The newest purported justification for these bills is that they are needed to deter electricity substation attacks.
Such crimes, however, are already punishable under laws that are less susceptible to abuse and that do not threaten to chill protest.

Versions of fossil fuel anti-protest bills were also introduced, but have not been enacted into law, in Idaho, Illinois, and Minnesota. Idaho’s bills, like the original version of Utah HB 370, would include bridges, highways, and other transportation infrastructure in its definition of critical infrastructure.\(^{334}\)

**New Laws Undermine Local Governance and Threaten Free Speech in the Majority-Black City of Jackson, Mississippi After Decades of Neglected Infrastructure Left Thousands Without Water**

Two 2023 Mississippi laws (HB 1020 and SB 2343) create a “separate and unequal” policing and court structure in the majority-Black city of Jackson, according to a lawsuit filed by the NAACP, after a massive water system failure left thousands of residents without drinking water for a month.\(^{335}\) These laws were introduced after community groups, working with the city, started planning for resident engagement initiatives and a “just and equitable 21st-century water system.”\(^{336}\) The laws contain an arsenal of measures, which include expanding the Capitol Complex Improvement District to bring the entire city of Jackson under control of the state-run Capitol Police (SB 2343) and creating a new court system for the district whose judge would be appointed by the state instead of elected by voters (HB 2010).\(^{337}\) HB 2010 was called a “racist, unconstitutional power grab” by the House Democratic Caucus, and it was successfully blocked by a Mississippi Supreme Court ruling on September 21.\(^{338}\)

At the same time, SB 2343 prohibits Jackson residents from engaging in peaceful protests near the Mississippi state house and other government buildings without express permission from state officials.\(^{339}\) The provision is so sweeping that it applies to sidewalks immediately adjacent to government buildings, as well as streets and other locations that could “hinder ingress” to such buildings, and does not include a minimum number of protesters.

**North Carolina Has Enacted Heightened Penalties For Activities Defined As “Rioting”**

According to the ACLU of North Carolina, a 2023 North Carolina law (HB 40) “increases criminal penalties for protesting and makes protestors liable for substantial civil damages to individuals harmed by a protest, even where a protestor only verbally encouraged activities defined as “rioting” and did not take any individual actions to cause injury or damage.”\(^{340}\) HB 40 became law in March without Gov. Cooper’s signature due to the supermajority held by Republicans and at least one Democrat who supported the bill, which would have likely overrode a veto.\(^{341}\) A similar bill, HB 805 (2021), was introduced after the 2020 wave of Black Lives Matter protests and vetoed by Gov. Cooper. At the time, Cooper wrote in a statement about the veto: “[...] this legislation is unnecessary and is intended to intimidate and deter people from exercising their constitutional rights to peacefully protest.”\(^{342}\)
Federal and state officials have repeatedly weaponized counterterrorism powers to suppress dissent. Doing so can punish non-violent activists for their views and protect polluting interests. Among the most recent targets of counterterrorism tactics have been activists who oppose the construction of the Atlanta Public Safety Training Center.

Many Atlanta residents view the training center as a manifestation of police violence, racism, and environmental injustice. Its construction requires razing one of Atlanta’s last remaining swaths of forest in a predominantly Black neighborhood. Upon the facility’s completion, it could draw police forces from around the country for active shooter simulations and other training sessions. A small minority of demonstrators are alleged to have damaged property, but the overwhelming majority have not.

Nevertheless, Georgia authorities have clamped down upon protesters with authoritarian force. During a forest raid in January 2023, police fatally shot the protester Manuel Esteban Paez Terán 57 times. The Georgia Bureau of Law Enforcement has said that Terán fired at law enforcement first, but evidence from DeKalb County’s official autopsy and body camera footage raises questions about the official account.

In early 2023, police swept up more than 40 people in a pattern of seemingly indiscriminate and politically-motivated “terrorism” arrests. As noted by the ACLU, “[t]he ‘Stop Cop City’ defendants are not accused of injuring, or even attempting to injure, anyone at all. At most, they are accused of damaging property, and some defendants appear to be accused of no more than misdemeanor trespass.” The charges were made possible by a 2017 Georgia law that categorizes actions that disable or destroy so-called critical infrastructure as domestic terrorism.

Police have also raided two charities, the Lakewood Environmental Arts Foundation, which has been operating community food drives since 2014, and the Atlanta Solidarity Fund, which was founded in 2016 to raise money to pay protesters’ bail. Atlanta police justified the SWAT raids as a response to alleged “money laundering” and “charity fraud”, but they have been widely viewed as political persecution. Soon after the Atlanta Solidarity Fund raid, leaked audio surfaced of police allegedly suggesting that the arrests were politically-timed and intended to “send a message.”

Georgia authorities escalated their sweeping assault on protest and dissent once more in September 2023, when state Attorney General Chris Carr indicted more than 60 individuals—including organizers from the Atlanta Solidarity Fund—on RICO charges. These charges dangerously, and absurdly, mischaracterize anyone who showed opposition to the training center as part of a criminal enterprise. The indictment characterizes First Amendment-protected activities, such as writing “ACAB” and making zines, as “overt acts in furtherance of the racketeering conspiracy.” According to Lauren Regan, executive director of the Civil Liberties Defense Center, the indictment is “clearly intended to chill larger political participation.”

While it’s been state and local officials carrying out the “Stop Cop City” arrests, protest suppression disguised as counterterrorism is a country-wide issue. DHS shared intelligence reports with Atlanta Law Enforcement, including one that referred to protesters as “militants” comprising a “violent far-left occupation” several months before the first domestic terrorism charges were filed. And, in 2020, DHS took steps to “undermine the Black Lives Matter movement and spin an election-season story of anarchy,” according to the Brennan Center. Even the department’s own general counsel and inspector general concluded that DHS officials have abused their counterterrorism power to suppress protest.

The extreme police reaction to the Cop City protests reflects a disturbing country-wide trend of militarized policing against peaceful protest. The influx of battlefield equipment and tactics to police departments foments potentially deadly violence, as well as framing demonstrators as “opponents” that should be forcibly suppressed and whose concerns are illegitimate. The rhetorical framing of activists as domestic terrorists and extremists also contributes to an environment where protesters are more likely to be met with force.
Growing Protest Criminalization Around the World

Around the world, those who seek to protect the environment face a barrage of threats ranging from online harassment to brutal attacks. At least 1,390 land and environmental defenders have been murdered since the adoption of the Paris Agreement on December 15, 2015. Ending this tragic and unequal pattern of violence is essential.

Less lethal affronts to activism can still have profoundly negative effects. As a result of criminalization and judicial harassment (such as SLAPPs), individuals can be saddled with legal fees, prevented from earning a stable living, socially stigmatized, and displaced. Organizations can be bankrupted, ruptured, or forcibly dissolved. Criminalization and judicial harassment also threaten to chill free speech and dissent. Such fundamental rights are becoming ever more essential, as it becomes increasingly urgent to confront governments and private corporations about their inaction in the face of the ever-worsening climate crisis.

There is evidence of worsening protest criminalization in many parts of the world. Although there are many differences in the ways that governments criminalize protest, the framing of activists as terrorists or extremists who threaten a country’s development is a common trend. Another similarity is the misuse and abuse of counterterrorism frameworks. Two notable examples of this pattern are Mohad Gasmi, an Algerian activist who joined the anti-shale gas drilling movement in 2015, and Disha Ravi, an Indian youth climate activist. Gasmi was sentenced to five years imprisonment for “praising terrorism” in October 2021, after 490 days’ detention, and additionally sentenced to three years imprisonment in April 2022. Ravi was arrested under a sedition law in February 2021 for distributing a Google Doc “tool kit” intended to support the Indian farmers’ protests. She was detained for ten days and released on bail.

The fossil fuel industry and its allies have contributed to a worldwide spread of fossil fuel anti-protest laws. In 2022, the UK government enacted a law intended to target Extinction Rebellion protests that was drafted by Policy Exchange, a British think tank funded by Exxon and other oil and energy companies. Policy Exchange is one of more than 500 member think tanks in nearly one hundred countries belonging to the Atlas Network, an influential global network that has spent decades pushing for environmental activists to be viewed and treated like extremist criminals. State governments across Australia have passed anti-protest laws that target climate and environmental protesters. Days before the most recent law was passed in South Australia, the state mining and energy minister, Tom Koutsantonis, told the audience at a gas conference that the state government was “at your disposal.” Alberta, Canada enacted a law officially known as the “Critical Infrastructure Defense Act” in 2020 that was widely viewed as a response to Indigenous-led peaceful protests opposing the Coastal Gaslink Pipeline.

Deep-pocketed corporations often weaponize the court system by using SLAPPs to silence their critics. More than 400 such lawsuits have been recorded by the Business and Human Rights Resource Center since January 2015, with the highest number of cases occurring in Latin America, followed by Asia and the Pacific. These suits may carry the potential for enormous damages. But regardless of whether the plaintiff wins or loses, defendants targeted for SLAPPs almost always incur significant costs.

A broad coalition has begun organizing to defeat the SLAPP strategy. Environmental groups, human rights groups, legal experts, professional societies (especially journalists), and progressive business groups all have a stake in this issue—and many have been fighting against SLAPPs for years. In the U.S., the Protect the Protest coalition is fighting back against SLAPPs and offering support to those who have been targeted by SLAPPs. Similar coalitions have formed in Europe and Africa.

Some governments have begun taking action. Responding to reports documenting the intensifying pattern of legal threats against investigative journalists and civil society organizations, for instance, the U.S. government (USAID) helped launch Reporters Shield in 2022, a program to provide training, resources and assistance to help reporters and news and other organizations respond to legal threats. Strong anti-SLAPP laws are an even better solution. In the U.S., 33 states have some degree of anti-SLAPP protection under the law, but many are not as strong as they need to be.
Dakota Access Pipeline Day of Action in Los Angeles, November 15, 2016.

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None of the U.S.’s greatest social and political gains, or its greatest advancements in public health and environmental protection, have come about without a struggle. Indeed, this recognition is what led to the creation of Greenpeace 52 years ago by a small group of activists who sought to defeat the existential threat of nuclear annihilation.

Today, the fossil fuel industry’s intensified efforts to suppress free speech stand in the way of a livable future for billions of people and countless species at risk of extinction this century. Activists and water protectors who have stood firm against this hulking industry have too often been met with violent reprisals, criminal penalties, stigmatization, and iron-handed legal actions. However insurmountable these obstacles might seem, it is still possible—and, indeed, essential—to reclaim popular protest and dissent for the long-held purpose of holding the U.S. government accountable to its own promise of delivering democracy and security to all Americans.

The following policies are necessary to reverse the deterioration of civic space and advance the movement for a healthy, socially just, and fossil-free future.

**Take back our right to protest and dissent.**

- Pass anti-SLAPP laws on the state and federal level aimed at protecting the rights of individuals to speak truth to power and be free from threats of burdensome lawsuits from corporations.
- Pass local, state, and federal resolutions affirming all Americans’ right to protest, free from threats of invasive surveillance, and physical and legal aggression.
- Challenge and repeal anti-protest laws, including fossil fuel anti-protest laws that boost penalties for protest-related activities near pipelines and other polluting infrastructure. Challenge the overbroad use of RICO against protesters and their supporters, which dangerously conflates dissent with organized crime.

**Reaffirm Indigenous sovereignty and provide redress for human rights violations.**

- Federal, state, and local governments should honor historical treaties with Tribal Nations.
- Institutionalize free, prior, and informed consent to require the consent of American Indian and Alaska Native tribes and Indigenous peoples regarding all governments’ actions affecting their lands, livelihoods, culture, and spirituality.
- Governments should provide redress for violating the rights of all affected Tribal Nations as outlined in the UN Declaration on the Rights of Indigenous Peoples.

**Strengthen the rights of communities to defend themselves against the harms of the fossil fuel industry.**

- Advance climate and environmental justice through steps that include passing the Environmental Justice for All Act, which strengthens consultation with impacted communities, provides legal remedies to civilians, and expands environmental justice resources; and passing the Climate Equity Act, which elevates climate justice to the highest level of governance.
- End the use of Nationwide Permit 12 to permit oil and gas infrastructure without robust opportunities for community input.
- Phase out fossil fuel production through steps that include: banning new fossil fuel leasing and permitting on public lands and waters, and phasing out existing leases; strengthening “polluter pays” requirements to ensure fossil fuel corporations pay the full cost of remediation; and establishing one-mile public health and safety buffer zones to prohibit oil and gas production near where people live, work, play, and learn.
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POLICY RECOMMENDATIONS

representatives, and others in and apart from fusion center operations and related communications.

385

End the use of sweeping intelligence-gathering practices that target activism and dissent under the cover of domestic terrorism prevention.

+ Implement minimization procedures that prevent the intentional collection, retention, and dissemination of private information when there is no reasonable indication of criminal activity; require that federal funds allocated to state and local law enforcement not be used for monitoring First Amendment-protected activities in the context of activism and dissent; and staunch the free flow of data exchanged between fusion centers and the private sector.

+ Investigate potential violations of constitutional rights of activists and civil society organizations by law enforcement authorities, private sector representatives, and others in and apart from fusion center operations and related communications.

386

Prohibit law enforcement authorities from participating in arrangements that open the door to conflicts of interest through steps that include: passing state and federal laws regulating private employment for off-duty law enforcement; and prohibiting law enforcement authorities from accepting reimbursements or donations from the fossil fuel industry.

387

Pass state and federal laws banning the use of injury-prone tactics such as pain compliance, chemical agents, blunt-force weapons, and kettling against peaceful protesters.

Help us fight for a Green Democracy!

Stay connected with Greenpeace USA’s Democracy Campaign for opportunities to take action.

These 18 states have enacted laws that boost penalties for: trespass onto property containing critical infrastructure; activities defined as impeding, obstructing, or interrupting the construction or operations of critical infrastructure; or similar offenses (Oklahoma, Louisiana, North Dakota, Indiana, Tennessee, Ohio, Texas, Missouri, Kentucky, Wisconsin, West Virginia, South Dakota, Mississippi, Arkansas, Kansas, Montana, Alabama, and North Carolina). See Supplementary Analysis: Fossil Fuel Anti-Protest Laws and Barricaded Oil and Gas Production for an explanation of each fossil fuel anti-protest law included in this count.

These four states have enacted laws that boost penalties for activities that are construed as critical infrastructure “interference by force,” “sabotage,” or similar offenses (Iowa, Oregon, Georgia, and Utah). These narrowed laws appear to preclude peaceful protest but could still be subject to abuse by prosecutors, if they seek to interpret certain provisions broadly. For example, Georgia’s law carries a penalty of between two and 20 years in prison for interfering by “force […] with the proper operation of any critical infrastructure,” but does not clearly define the activities that fall under this provision. According to Jessica Maravilla, Policy Director from ACLU of Oregon, Oregon’s law “targets conduct that was already criminal, and adds a stigmatizing label and vague language that could enable law enforcement to mischaracterize protest actions as terrorist activity.” See Supplementary Analysis: Fossil Fuel Anti-Protest Laws and Barricaded Oil and Gas Production for an explanation of each fossil fuel anti-protest law included in this count.


See Ranking companies lobbying for state anti-protest laws, 2017 - 2023 for complete analysis


See Fossil Fuel & Energy Sector Contributors to Anti-Protest Bill Sponsors (Companies Ranked) for complete analysis

Oregon is the only state that has enacted a fossil fuel anti-protest law without Republican control of the state legislature. Six states have enacted such laws with Republican control of the state legislature and a Democratic governor: Louisiana, Wisconsin, Kentucky, Kansas, North Carolina, and Oregon.


Lerner, S. 2010. Sacrifice Zones: The Front Lines of Toxic Chemical Exposure in the United States


42 See FollowTheMoney


45 See FollowTheMoney

46 See FollowTheMoney


“Whatever the anti-DAPL protesters have called an ‘indigenous decolonization movement’ was, essentially, an externally supported, ideologically driven insurgency with a strong religious component. And, as it generally followed the jihadist insurgency model while active, we can expect the individuals who fought for and supported it to follow a post-insurgency model after its collapse. The archetype of a jihadist post-insurgency is the aftermath of the anti-Soviet Afghanistan jihad. While many insurgents went back to their pre-war lives, many, especially the external supporters (foreign fighters), went back out into the world looking to start or join new jihadist insurgencies. Most famously this ‘bleedout’ resulted in Osama bin Laden and the rise of Al Qaeda [...]” (Internal TigerSwan Situation Report (February 27, 2017). Contributed to DocumentCloud by The Intercept. https://www.documentcloud.org/documents/3686812-Internal-TigerSwan-Situation-Report-2017-02-27 (Accessed: September 22, 2023).


Brown, A. & Sadasivam, N. 2023. Pipeline Company Spent Big on Police Gear to Use Against Standing Rock Protesters. The Intercept / Grist


Parrish, W. 2017. An Activist Stands Accused of Firing a Gun at Standing Rock. It Belonged to Her Lover — an FBI Informant. The Intercept


SLAPPs don’t aim to correct an untruth or pursue reasonable damages for harm suffered. They aim to silence critical speech or political expression that threatens the interests of the claimant through ruinously expensive, time-consuming and psychologically exhausting legal action. “SLAPPs don’t aim to correct an untruth or pursue reasonable damages for harm suffered. They aim to silence critical speech or political expression that threatens the interests of the claimant through ruinously expensive, time-consuming and psychologically exhausting legal action.” Silencers Of The Truth: What Are SLAPPS? The Bureau of Investigative Journalism. https://www.thebureauinvestigates.com/explainers/silencers-of-the-truth-what-are-slapps (Accessed: September 27, 2023)

See here for the United States District Court for the Northern District of California dismissal. For further context and Greenpeace USA’s response, see Case Dismissed! Federal Court Dismisses Resolute SLAPP Suit Against Greenpeace 2017. Greenpeace USA, October 17. https://www.greenpeace.org/usa/resolute-case-dismissed/


See SLAPP Suits and Anti-Protest Laws Are Two Sides of the Same Coin to Silence Free Speech for complete analysis

In lawsuits with multiple targeted individuals or organizations, EarthRights counted each target as a separate case, except in some cases where anonymous individuals were listed as a group. EarthRights International. 2022. The Fossil Fuel Industry’s Use of SLAPPS and Judicial Harassment in the United States. EarthRights International. https://earthrights.org/publication/the-fossil-fuel-industries-use-of-slapps-and-judicial-harassment-in-the-united-states/


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ENDNOTES
See, for example, the internal TigerSwan memo stating “we can expect to see the continued spread of the anti-DAPL diaspora and the proliferation of successful TTPs [tactics, techniques, and procedures] following the jihadist bleedout mode” (Internal TigerSwan Situation Report (February 27, 2017). Contributed to DocumentCloud by The Intercept. https://www.documentcloud.org/documents/3868812-Internal-TigerSwan-Situation-Report-2017-02-27 (Accessed: September 22, 2023) In another notable example, Harold Hamm, CEO of Continental Resources, told an audience at the Platts Global Energy Outlook in New York that Dakota tribes “are being used, they are being taken advantage of.” Hamm then cast blame for the protests on “fringe aspects that have come to be involved that are not serving them well.” Egan, M. 2016. Trump’s top oilman: Dakota tribes being used by “fringe.” CNNMoney, December 8. https://money.cnn.com/2016/12/08/investing/harold-hamm-dakota-access-pipeline-trump/index.html


For a theoretical framework on stigma power in response to environmental activism, see Brock, A. et al. 2023. “Go Home, Get a Job, and Pay Some Taxes to Replace a Bit of What You’ve Wasted”: Stigma Power and Solidarity in Response to Anti-Open-Cast Mining Activism in the Coalfields of Rural County Durham, UK. Sociological Research Online, 28(2), pp. 518–539. https://doi.org/10.1177/13607804211055486

Oklahoma was the first state to enact anti-protest laws that specifically targeted trespass on land owner or expropriated by a pipeline company (Ruddock, J. 2019. Coming Down The Pipeline: First Amendment Challenges To State-Level “Critical Infrastructure” Trespass Laws. American University Law Review


Arkansas Code § 23-15-101 states that “all pipeline companies operating in this state are given the right of eminent domain and are declared to be common carriers, except pipelines operated for conveying natural gas for public utility service” (Accessed: September 22, 2023). Court docket for three cases filed against Diamond Pipeline LLC by landowners between March and May 2015 show that they were settled out of court and dismissed by the parties. See docket reports for DONALD PELLEN & MELISSA HEWETT V DIAMOND PIPELINE, BRET & RENEE FOSTER V DIAMOND PIPELINE LLC, and CLAYTON ROGERS V DIAMOND PIPELINE.


“When a project meets Nationwide Permit guidelines, it is deemed to have fulfilled the requirements of the National Environmental Policy Act, Fish and Wildlife Coordination Act and other ‘acts promulgated to protect the quality of the environment.’ Therefore, environmental impact statements are not required.” Eastes, L. 2017. Local natives and environmentalists focus on a proposed pipeline in Oklahoma. Oklahoma Gazette, March 8. https://www.okgazette.com/news/local-natives-and-environmentalists-focus-on-a-proposed-pipeline-in-oklahoma-2979877

For more on the Federman, A. 2013. The fossil fuel industry's secret war on environmental
Oklahoma records do not make it clear how much of the total spending
Hamm was president of OIPA from 2006-2007, and is a current board
Hawkins, D. 2021. Oklahoma Gov. Mary Fallin says all faiths, not just
125 See Board-level OKOGA companies’ lobbyists reported thousands in spending for complete analysis
126 Oklahoma records do not make it clear how much of the total spending was attributable to OKOGA members, as some lobbyists were registered to multiple principals and the state does not require lobbyists to report certain expenses separately by principal.
130 See, for example, TigerSwan’s public relations campaign that aimed to portray Standing Rock demonstrators as violent criminals, discussed in the “Dakota Access Pipeline” section of this report. Interestingly, Plains All American expressed concerns about “eco-terrorism” in their 2016 and 2017 10-K filings to the SEC.
131 For more on the leaked fusion center report, see Horn, S. 2017. Newspaper Owned By Fracking Billionaire Leaks Memo Calling Pipeline Opponents Potential “Terrorists.” DeSmog
132 “The participation of private companies, including some that have been the subjects of protests, in fusion centers raises the possibility that these operations sometimes serve private interests rather than public safety” (German, M. et al. 2022. Ending Fusion Center Abuses. Brennan Center for Justice. https://www.brennancenter.org/our-work/policy-solutions/ending-fusion-center-abuses)
See Trade Group Members Spent Big On Oklahoma’s Anti-Protest Bill Sponsors for complete analysis


Fang, L. 2019. Oil Lobbyist Touts Success in Effort to Criminalize Pipeline Protests, Leaked Recording Shows. The Intercept, August 19. https://theintercept.com/2019/08/19/oil-lobby-pipeline-protests-


See Supplementary Analysis: Fossil Fuel Anti-Protest Laws and Barricaded Oil and Gas Production for an explanation of each fossil fuel anti-protest law included in this count.

The following states passed fossil fuel anti-protest bills sponsored or authored by one or more confirmed ALEC affiliates: Oklahoma, Iowa, Louisiana, North Dakota, Indiana, Tennessee, Ohio, Texas, Kentucky, Wisconsin, South Dakota, Mississippi, Arkansas, Kansas, Alabama, Montana, Georgia, and North Carolina. There are no known ALEC affiliates among the sponsors of fossil fuel anti-protest bills passed in Missouri, West Virginia, Utah, or Oregon. However, ALEC took credit for “educating” state lawmakers about “critical infrastructure protection” in Missouri.


180 The monopod consisted of a tall, vertical pole held up with tension cables and a perch at the top, where the activist sat.


194 See FollowTheMoney 

195 See FollowTheMoney for contributions to Jim Justice and Patrick Morrissey. Justice’s share included a combined $7,500 from EQT and Equitran, and $2,800 from Toby Rice, the current CEO, President and Director of EQT Corporation. Morrissey’s share included $6,600 from Dominion, $1,000 from Duke, and $3,000 from EQT. 

196 For Dominion’s campaign spending, see FollowTheMoney; for lobbying totals, see “Analysis: Pipeline Owners, Shippers, and Trade Groups Reported More Than $18 Million In Lobbying Across WV, VA, and NC Since 2017.” 

197 For Duke’s campaign spending, see FollowTheMoney 


201 DeSteph was the primary sponsor of SB 5074 (2020), SB 1308 (2021), and SB 531 (2022). In 2020, he also co-sponsored SB 5058. For an analysis of DeSteph’s, and other legislators’, investments in the ACP owners, see Seidman, D. 2019. Virginia Legislators Promoting the Atlantic Coast Pipeline Have Big Personal Investments in the Pipeline’s Owners. Little Sis | Eyes on the Ties, June 27. https://news.littlesis.org/2019/06/27/virginia-legislators-promoting-the-atlantic-coast-pipeline-have-big-personal-investments-in-the-pipelines-owners/ 


206 See Pipeline Owners, Shippers, and Trade Groups Reported More Than $21 Million In Lobbying Across WV, VA, and NC for complete analysis

207 According to the ACLU, risks of private sector involvement in fusion centers could include: private sector information entering the hands of law enforcement without proper legal process, companies becoming an extension of the surveillance state, private partnerships being used to mask illicit government activities, companies abusing government information, and more. German, M. & Stanley, J. 2007. What’s Wrong With Fusion Centers? American Civil Liberties Union. https://www.aclu.org/report/whats-wrong-fusion-centers-executive-summary


214 For case text, see here (Mountain Valley Pipeline, LLC v. Appalachians Against Pipelines, 2018 W.V. Cir. LEXIS 24. 2018 W.V. Cir. LEXIS 24.)


216 Hammack, L. 2018. Protesters leaving tree-stands on Bent Mountain after being found in contempt of court. Roanoke Times


222 Miles, K. 2018. The Forest Service Is Arresting Protesters Along the AT. Outside Magazine


224 Hammack, L. 2018. Attorneys warn that Giles pipeline protester could die if denied sustenance. Roanoke Times


228 “Tree-sitters [on Peters Mountain] say private security contractors have harassed them with spotlights and loud noise throughout the night, preventing them from sleeping.” Miles, K. 2018. The Forest Service Is Arresting Protesters Along the AT. Outside Magazine

229 Little Teel Crossing, 2018. Here is the video of an MVP worker cutting branches in a tree I was clipped into. He knew he would hurt me if he kept going… May 25. https://www.facebook.com/watch/?v=968099803358289&ref=sharing


Seidman, D. 2019. Virginia Legislators Promoting the Atlantic Coast Pipeline Have Big Personal Investments in the Pipeline’s Owners. Little Sis | Eyes on the Ties  

See Fossil Fuel & Energy Sector Contributors to Anti-Protest Bill Sponsors (Duke and Dominion) for complete analysis  


See Fossil Fuel & Energy Sector Contributors to Anti-Protest Bill Sponsors (NC 2022) for complete analysis  

See Fossil Fuel & Energy Sector Contributors to Anti-Protest Bill Sponsors (Duke and Dominion) for complete analysis  


Robesonian. 2017. Campaign launched to highlight benefits of pipeline, October 31. https://www.robesonian.com/news/104309/campaign-launched-to-highlight-benefits-of-pipeline. The campaign appealed to social justice values by framing the pipeline as beneficial to communities of color and disadvantaged communities. For more about how “appeals to social justice” are used in discourses of delay, see Lamb et al., “Discourses of Delay.”  

Seidman, D. 2017. Atlantic Coast Pipeline Corporate Backers Fund Faulty Pro-Pipeline Poll. Eyes on the Ties  


The full letters can be read here: White Earth Band letter to Gov. Mark Dayton and Red Lake Band letter to PUC Chairperson Nancy Lange


60 See, for example, lawsuits appealing the Minnesota Public Utilities Commission’s 2018 environmental review and 2020 final permit approval, and the White Earth Band’s “rights of nature” lawsuit filed on behalf of wild rice. 61 Come to the Line Stop Line 3 [https://www.stopline3.org/hub](https://www.stopline3.org/hub) (Accessed: September 25, 2023)


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280 See Pro-Fossil Fuel Interests Spent Big On MN Lobbying Between 2014 and 2021 for complete analysis.


286 In 2014, for example, Enbridge provided Safe Community grants totaling more than $102,900 to emergency response organizations, including police departments, in MN, WI and MI. See Enbridge Community Investment for the Superior Region. Enbridge. https://www.enbridge.com/-/media/Enb/Documents/Projects/Line%2023/ProjectHandouts/ENB_CommunityInvestment_SUPERIOR_L05.pdf?la=en (Accessed: October 10, 2023)


289 Brown, A. & McCracken, J. 2023. Documents show how a pipeline company paid Minnesota millions to police protests. Grist


292 For bill analysis, see the ICNL US Protest Law Tracker


300 Examples of messaging from Minnesotans for Line 3: “That is not what Minnesota believes or stands for. We have rules, processes, requirements and a way of working together that is important. We recognize (and welcome) there will be differences of opinion but share a collective acceptance of what is good for the broader community and society […] As scared as some may rightfully be of these thuggish threats of violence, we know the power of our collective communities coming together to defend what makes Minnesota special is far stronger than any fear being promoted by those who can’t get past their own opinions.” (June 8, 2018) “While this is frustrating to see such blatant disrespect, it needs to be acknowledged that our respectful support efforts have made just as much of an impact and difference,” (June 6, 2019) “Instead of respecting the process and the community, protesters instead trespassed and vandalized equipment that has impacted a Native American construction company,” (June 7, 2021)


306 Brown, A. 2021. Corporate Counterinsurgency: Indigenous Water Protectors Face Off With an Oil Company and Police Over a Minnesota Pipeline. The Intercept


312 Brown, A. 2021. Corporate Counterinsurgency: Indigenous Water Protectors Face Off With an Oil Company and Police Over a Minnesota Pipeline. The Intercept


314 Brown, A. & McCracken, J. 2023. Documents show how a pipeline company paid Minnesota millions to police protests. Grist


319 According to the global civil society alliance CIVICUS, civil society “is under severe attack in 117 of 197 countries and territories [...] up from 111 countries and territories in 2018” (People Power Under Attack 2022. CIVICUS Monitor. https://monitor.civicus.org/globalfindings/ (Accessed: October 3, 2023)). For country-specific reports see the ICNL Civic Freedom Monitor.

320 A recent analysis found that just 10 counties account for three quarters of the emissions potential of the 425 largest “carbon bombs” (proposed or existing fossil fuel extraction projects accounting for over 1 gigaton of potential CO2 emissions), including China (with 141), Russia (41), the United States (28), Iran (24), Saudi Arabia (23.5), Australia (23), India (18), Qatar (13), Canada (12) and Iraq (11). See Kühne, K. et al. 2022. “Carbon Bombs” - Mapping key fossil fuel projects. Energy Policy, 166, p. 112950. https://doi.org/10.1016/j.enpol.2022.112950

321 According to a 2021 New York Times analysis using data from the Global Carbon Project, the United States was responsible for 24.6% of cumulative CO2 emissions released from fossil fuels and industry over the past 170 years. Rich, developed countries, including the US, Canada, Japan, and much of Western Europe, were responsible for 50% of cumulative CO2 emissions and only 12% of the global population (Popovich, N. & Plumer, B. 2021. Who Has The Most Historical Responsibility for Climate Change? The New York Times, November 12. https://www.nytimes.com/interactive/2021/11/12/climate/cop26-emissions-compensation.html

322 This count includes 22 bills tracked by the ICNL US Protest Law Tracker plus Georgia HB 227, a fossil fuel anti-protest bill.

323 These enacted bills are Mississippi SB 2343, North Carolina HB 40, North Carolina SB 58, Oregon HB 2772 (enacted with improvements), Utah HB 370 (enacted with improvements), and Georgia HB 227. For legal interpretation of the first five named bills, see the ICNL US Protest Law Tracker

324 Out of the four fossil fuel anti-protest bills enacted in 2023, three were backed by fossil fuel and energy industry lobbyists or primarily sponsored by one of the industry’s revolving door officeholders. In December 2022, ALEC published a blogpost that recirculated the model “Critical Infrastructure Protection Act;” see Trotter, J. 2022. Protecting Critical Infrastructure Amid Recent Substation Attacks. American Legislative Exchange Council, December 15. https://alec.org/article/protecting-critical-infrastructure-amid-recent-substation-attacks/
325 For North Carolina S 58 (2023) enacted bill text, see here
327 For Georgia HB 227 (2023) enacted bill text, see here
328 For more about oil and gas lobbying for Georgia HB 227 (2023), see PolluterWatch. Note that Southern Company holds 50% ownership stakes in the sprawling Dalton Pipeline and Southern Natural Gas Pipeline system, held a 20% stake in the Enbridge-backed PennEast project (which was canceled in 2021), and held a 5% stake in the ACP.
329 For a legal analysis of the bill, as introduced and enacted, see the ICNL US Protest Law Tracker. For bill text, see here
330 For more about oil and gas lobbying for Utah HB 370 (2023), see PolluterWatch.
331 For a legal analysis of the bill, as introduced and enacted, see the ICNL US Protest Law Tracker. For bill text, see here
334 For more on these bill, see the ICNL US Protest Law Tracker
339 For a legal analysis of the bill, see the ICNL US Protest Law Tracker
343 A petition campaign to put a referendum to Stop Cop City on the Atlanta ballot collected signatures from more than 116,000 Atlanta residents, according to activists. “Organizers of the drive say Atlanta officials have failed to listen to widespread opposition to the training center, which they fear will lead to greater militarization of the police and exacerbate environmental damage in a poor, predominantly Black area.” Rico, R.J. 2023. “Stop Cop City” petition campaign in limbo as Atlanta officials refuse to process signatures. PBS NewsHour, September 11. https://www.pbs.org/newshour/politics/stop-cop-city-petition-campaign-in-limbo-as-atlanta-officials-refuse-to-process-signatures
347 The county medical examiner’s autopsy found no visible gunpowder on Terán’s hands. Valencia, N. et al. 2023. Climate activist killed in “Cop City” protest sustained 57 gunshot wounds, official autopsy says, but questions about gunpowder residue remain. CNN Body camera footage from the raid where Terán was killed shows an Atlanta police officer asking “they shoot their own man?” – supporting the possibility that gunfire attributed to Terán was actually crossfire by another officer.
350 For bill text, see here
351 For more on the Lakewood Environmental Arts Foundation raid, see Silva, C. Opponents of Atlanta police training center say cops arrested 1, detained others. The Atlanta Journal-Constitution Atlanta police described the incident euphemistically as “serving a warrant;” however, an incident report showed that police deployed “less lethal chemical agents,” used “minor physical compliance techniques,” and took three hours to clear the area. For more on the Atlanta Solidarity Fund raid, see Lennard, N. 2023. Atlanta Police Arrest Organizers of Bail Fund for Cop City Protesters. The Intercept, May 31. https://theintercept.com/2023/05/31/cop-city-bail-fund-protest-raid-atlanta/
352 Lennard, N. 2023. Atlanta Police Arrest Organizers of Bail Fund for Cop City Protesters. The Intercept
353 One officer can be heard saying “…we’ve been putting pressure on them and attacking them from all different angles. At some point, they’ve got to give up. I mean, especially if we’re going after all the money. It could just shut them down.” – Smith, C. 2023. Shocking Exclusive: Atlanta Police Officers Admit Law Enforcement Illegally Raided, Arrested, and Targeted Citizens Who Opposed Cop City, Money Was the Reason. News-Talk 1380 WOAK, June 5. https://www.audacy.com/woak/news/local/corrupt-atlanta-police-officers-leaked-audio
In 2020, dozens of laws were passed by governments around the world, criminalizing and victimizing of land and environmental rights defenders. A 2021 technical report by The Rights and Resources Initiative, a global Coalition of more than 150 organizations, found that criminalization and victimization of land and environmental rights defenders in East Africa were on the rise (Okuda, I. 2021. Paying the Price: A Study on Criminalization of Land and Environmental Rights Defenders in East Africa. Rights and Resources Initiative, https://doi.org/10.5389/ZSEA6921) “Frontline Defenders: Global Analysis 2022” found that human rights defenders in Asia, and in Europe and Central Asia, faced “unprecedented” challenges. In Asia, these challenges were summarized as including “legal persecution combined with misuse and abuse of anti-terrorism frameworks and growing restrictions on the rights to privacy and freedoms of expression, assembly and movement.” In Europe and Central Asia, they were summarized as including “increasing violence, racist and anti-refugee and migrant rhetoric, targeted attacks and widespread criminalisation.”

ENDNOTES


355 Pratt, T. 2023. “Alarming and absurd”: concern as “Cop City” activists charged with racketeering. The Guardian


363 In 2020, dozens of laws were passed by governments around the world further narrowing civic space—often in the context of COVID-19 (Frontline Defenders: Global Analysis 2020. 2020. Frontline Defenders. https://www.frontlinedefenders.org/sites/default/files/fld_global-analysis_2020.pdf). A 2021 technical report by The Rights and Resources Initiative, a global Coalition of more than 150 organizations, found that criminalization and victimization of land and environmental rights defenders in East Africa were on the rise (Okuda, I. 2021. Paying the Price: A Study on Criminalization of Land and Environmental Rights Defenders in East Africa. Rights and Resources Initiative. https://doi.org/10.5389/ZSEA6921) “Frontline Defenders: Global Analysis 2022” found that human rights defenders in Asia, and in Europe and Central Asia, faced “unprecedented” challenges. In Asia, these challenges were summarized as including “legal persecution combined with misuse and abuse of anti-terrorism frameworks and growing restrictions on the rights to privacy and freedoms of expression, assembly and movement.” In Europe and Central Asia, they were summarized as including “increasing violence, racist and anti-refugee and migrant rhetoric, targeted attacks and widespread criminalisation.”


370 For more on the Atlas Network, see Westervelt, A. & Dembicki, G. 2023. Meet the Shadowy Network Vilifying Climate Protestors. DeSmog, September 12. https://www.desmog.com/2023/09/12/atlas-network-vilifying-climate-protestors/ (“From Fisher in the 1970s to Frank Schäffler in 2022, Atlas Network executives and member think tanks have always painted environmentalists and the regulations they seek to place on polluting industries as a cancerous growth on society. [...] This kind of rhetoric is exactly what we see today in countries moving swiftly to criminalize environmental and climate protest. While of course industries and governments around the world had plenty of their own reasons for categorizing environmentalists and animal rights activists as extremists and terrorists, Atlas Network think tanks have capitalized on that framing for decades. In recent years, they’ve packaged it in ways that could be turned into anti-protest legislation.”)


Unless or until fusion centers are shut down, Congress should follow the Brennan Center’s recommendations on fusion center accountability, including establishing a special inspector general for the national network of fusion centers “empowered to identify any waste, fraud, or abuse involving resources originating from any federal department or agency” and establish an independent federal oversight office charged with implementing reforms, including corrective measures such as suspension of federal funds. German, M. et al. 2022. Ending Fusion Center Abuses. Brennan Center for Justice. https://www.brennancenter.org/our-work/policy-solutions/ending-fusion-center-abuses


For more on protecting protest, including measures to prevent physical aggression, see Protect the Protest! Why we must save our right to protest 2020. Amnesty International. https://www.amnesty.org/en/documents/act30/5856/2022/en/