

FRONTLINES OF CLIMATE JUSTICE

LINE 3: THE VIOLENT REPRESSION OF INDIGENOUS-LED RESISTANCE TO CLIMATE-DAMAGING INDUSTRIES

“I’m sitting in Pennington County jail covered in bruises, waiting to be arraigned. Rubber bullet welts spread purple down my arms and back, courtesy of Minnesota police, who have reportedly billed nearly \$2 million in security-related costs to a fund set up by Canadian pipeline giant Enbridge. Enbridge is here to expand tar sands oil through my people’s territory. They seek to build a pipeline with the emissions equivalent of 50 new coal-fired plants, slamming another nail into the coffin of climate doom.”¹

—Tara Houska, Water protector, Founder of the Giniw Collective

Line 3 is a pipeline expansion that would bring 760,000 barrels of tar sands crude oil per day from Alberta, Canada, to Superior, Wisconsin. Pipeline opponents estimate that the project has a climate impact on par with Keystone XL and poses an existential threat to waterways like the Mississippi River. Most of the pipeline route in the United States runs through northern Minnesota, including the treaty territory of multiple Anishinaabe tribes holding rights to hunt, fish, and harvest wild rice. Enbridge, a Canadian pipeline company responsible for the largest inland oil spill in the United States, is behind the project. The pipeline corridor runs through untouched wetlands and the Mississippi River headwaters to the shore of Lake Superior. Construction on the pipeline began in late 2020 and ended in October of 2021, despite vociferous opposition from an Indigenous-led movement of water protectors in Minnesota. The

pipeline was constructed subject to both state and federal permits, whose validity is subject to pending litigation and appeals that were not decided before construction was completed.



Photo by: Audrey Schreiber



The Line 3 pipeline: A climate-damaging project.

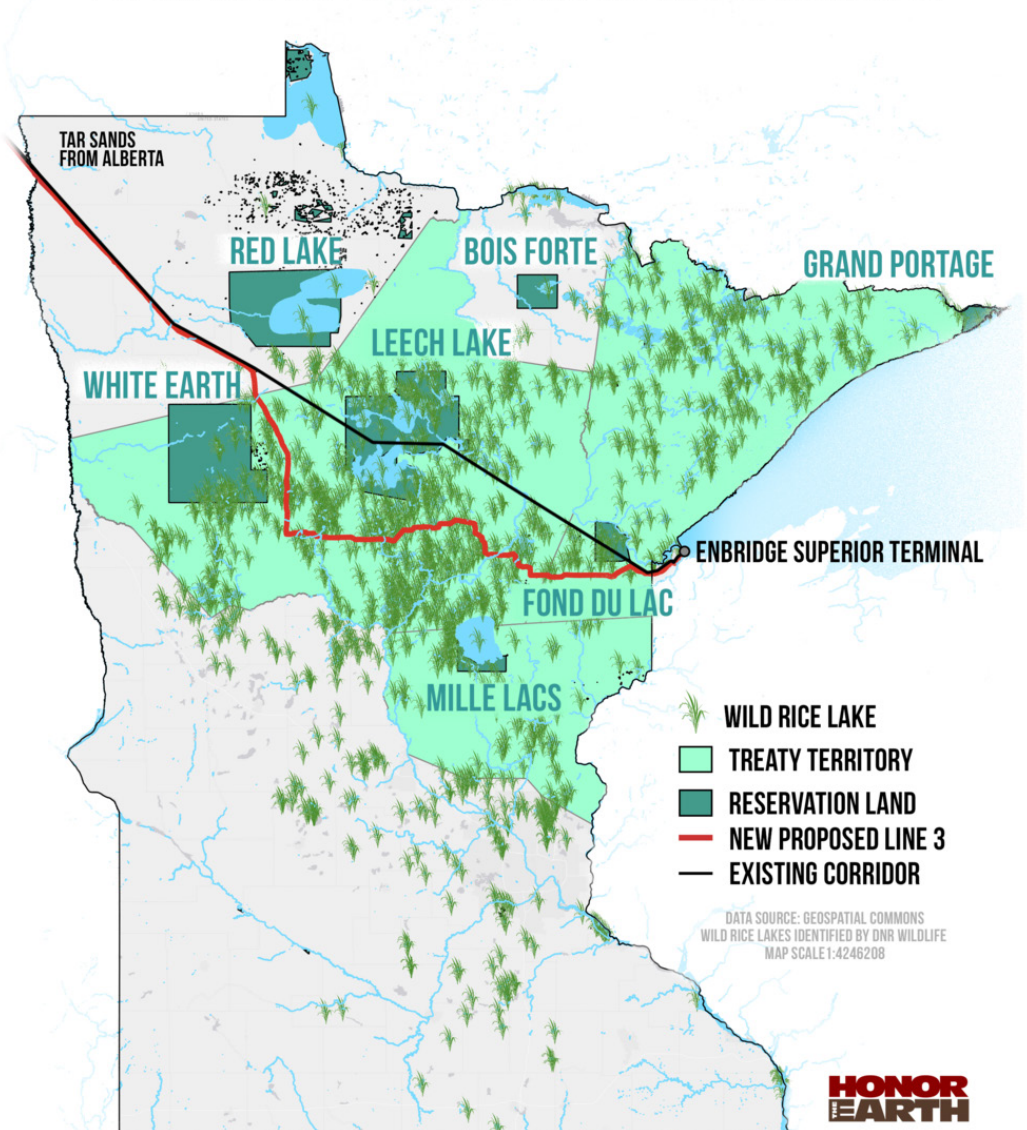
The Line 3 pipeline will have profound impacts on the climate. Based on the amount of carbon in the oil that Line 3 would move, water protectors calculate that building it is equivalent to building 50 new coal-fired power plants². Tar sands are among the dirtiest, costliest, and most carbon-intensive fuel sources on the planet. A gallon of gasoline made from tar sands produces about 15 percent more carbon dioxide emissions than one made from conventional oil³. Tar sands also have major impacts on water supplies and produce toxic pollution.

The Line 3 pipeline could continue to transport harmful tar sands oil into 2070, way beyond the date when countries should achieve carbon neutrality⁴. Additionally, new fossil fuel infrastructure opens the door for new extraction projects: “Pipelines are the keys that open up untapped reserves, by giving producers an affordable, reliable means to get oil to market.”⁵ When pipeline capacity is limited, oil production is curtailed⁶. To combat climate change, we need to stop building infrastructure that perpetuates our reliance on fossil fuels.

The construction of Line 3 is incompatible with the Biden administration’s climate goals. The U.S. delegation to the Climate Change Conference (COP 26), led by Special Envoy John Kerry, has met with world leaders and advocated for more

ambitious climate commitments that allow faster decarbonization of the economy. However, the impacts of Line 3 for the climate and the violations of Indigenous communities’ rights associated with the construction of the project clash with the ambitious climate action commitments that the Biden administration was calling for in the lead up to COP 26.

ENBRIDGE LINE 3 IMPACT ON TREATY RESOURCES



LEARN MORE AT STOPLINE3.ORG

Map courtesy: StopLine3.org



Photo by: Ben Hoffman

Climate defenders around the world are experiencing violations of their rights to freedom of expression, association, and assembly.

Worldwide, individuals, communities, and organizations exercising their rights to freedom of peaceful assembly and association to support and advance climate justice are experiencing repression and violence⁷. In the case of Line 3, Indigenous-led water protectors and those associated with them have faced substantial repression at the hands of public security forces (county sheriffs), including surveillance, harassment, intimidation, pretextual stops, and criminalization.

Private companies, as well as government officials, have used civil and criminal laws to stifle and silence opposition to climate-damaging projects⁸. The U.S. has been at the forefront of a regressive trend where countries adopt legislation to curtail the right to protest around “critical infrastructure,”

which often includes specific references to oil and gas pipelines⁹.

According to the U.S. Protest Law Tracker, 16 states passed “critical infrastructure”-related legislation between 2016 and 2021¹⁰. Some of these laws impose heavy sanctions for disruptive protests near pipelines and other infrastructure. The UN Special Rapporteur on Freedom of Assembly and Association has highlighted that “reliance on overly broad terms such as “critical infrastructure,” “vital installations,” and “national interests” is an attempt to shield particular economic ventures from protests.”¹¹

Water protectors face criminalization because of their opposition to Line 3.



Water protectors opposing Line 3 engaged in marches, demonstrations, sit-ins, hunger strikes, and organized artistic performances as part of their protests against Line 3. In response, more than 900 water protectors were arrested, and many of them are still facing criminal charges¹². Many water protectors are criminalized just for engaging in lawful protest activities to demonstrate their opposition to Line 3. Most protesters are being cited with misdemeanors. But some of them have been charged with gross misdemeanors and even face felony charges. Months later, the cases are escalating, and water protectors now face disproportionate charges suggestive of an intent to intimidate them, dissuade free speech, and deter future protests.

Photo by: Audrey Schreiber

The use of pain compliance techniques to deter climate defenders protesting Line 3.

As the resistance to Line 3 grew, so does the repression against water protectors. Line 3 water protectors have denounced the escalation of the use of police force around Line 3 demonstrations. In early August, police used so-called “pain compliance” to remove those who had locked themselves to construction equipment. Pain compliance is the use of painful stimulus to control a person; once compliance is achieved, the pain is reduced or removed. Water protectors have called these measures torture. Some of them have publicly denounced through videos on social media how they have sustained possibly permanent injuries in their bodies because of the pain compliance inflicted by the Minnesota police¹³. Under international law, States have an obligation to allow peaceful assemblies to take place without unwarranted interference. The UN Special Rapporteur on Freedom of Assembly and Association has specifically said that in the case of a business that engages in harmful activities,

such as fossil fuel companies, they should accept a reasonable level of economic loss caused by the disruption of their business activities due to protests to oppose their activities¹⁴. States also have an obligation to facilitate the exercise of the right to freedom of peaceful assembly and to protect the participants in such assemblies¹⁵.



Photo by: Kate Fried

Extensive surveillance is used to deter people from participating in the climate justice movement.

Extensive surveillance by law enforcement is another angle of the criminalization of environmental and climate protesters and their organizations. Line 3 water protectors have experienced constant harassment, baseless pullovers by sheriffs, and 24-hour surveillance. Water protectors are usually pulled over by the police and interrogated and are sometimes accused of committing small traffic infractions¹⁶. Activists believe this is a tactic to gather people's private information.

These types of surveillance tactics have been used around the world to obtain information to frustrate protesters and to deter people from participating in the climate justice movement¹⁷. On many occasions, private companies have hired surveillance companies to monitor the movements of climate activists¹⁸. In the Line 3 case, however, public police forces have largely taken on this role. Media investigations have shown that the company meets daily with police to discuss intelligence gathering and patrols¹⁹.

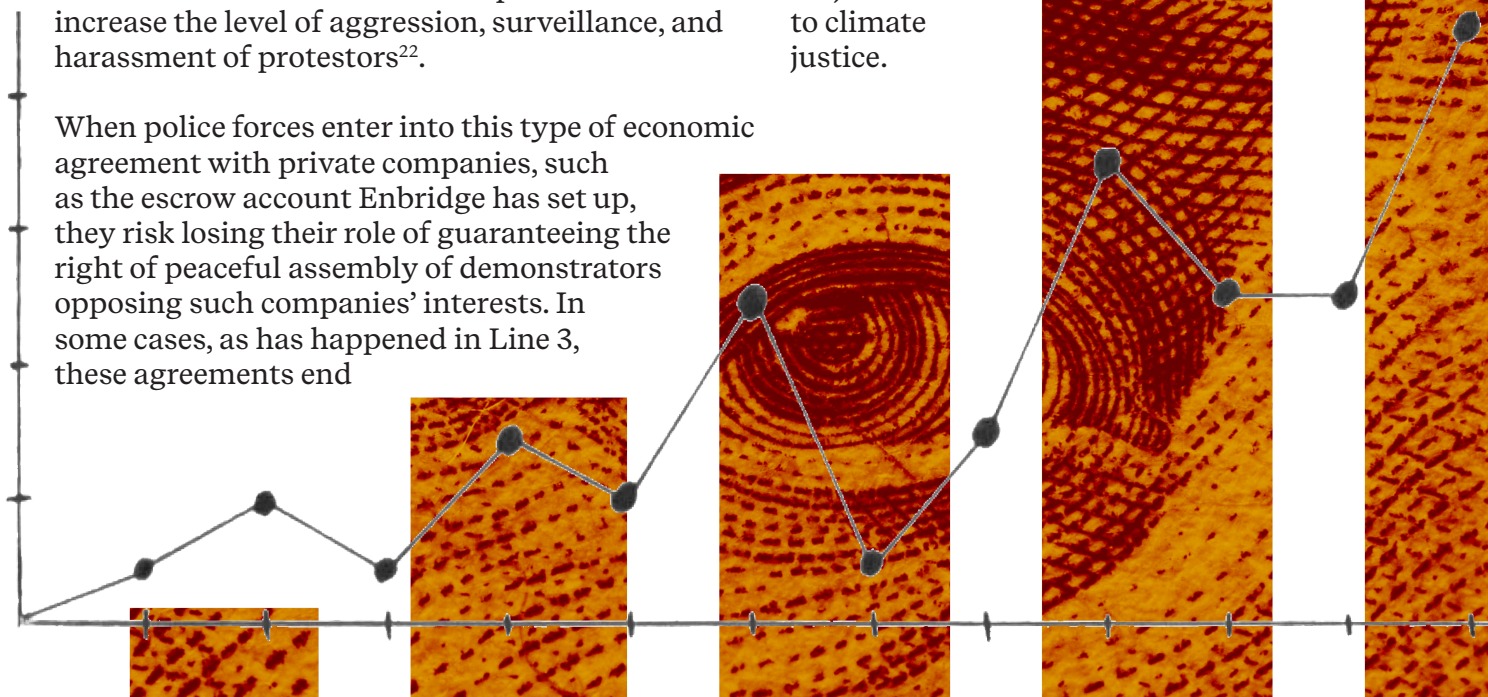
Privatizing the use of police force: Enbridge's escrow trust to fund Line 3 policing.

In May of 2020, the Minnesota Public Utilities Commission (PUC) issued a decision granting Enbridge's pipeline routing permit subject to a series of conditions. Under the terms of the permit, Enbridge established a "Public Safety Escrow Trust" from which police can seek reimbursement for Line 3-related activities and made an initial deposit of \$250,000. By August, through the Public Safety Escrow Trust, Enbridge had reimbursed the police for \$2.4 million of effectively private security services²⁰. For activists, the escrow account arrangement essentially privatizes the use of police force to crack down on the protestors opposing Line 3²¹. Water protectors allege that the reimbursements incentivize the police force to increase the level of aggression, surveillance, and harassment of protestors²².

up incentivizing repression and human rights violations against those who oppose the projects, as police forces have economic incentives to arrest protestors.

Like the Anishinaabe peoples in Northern Minnesota, many Indigenous groups worldwide are living through increased repression and violence linked to their climate activism and the demand for the protection of their rights. These growing violations of freedom of assembly of Indigenous climate activists are a major obstacle to climate justice.

When police forces enter into this type of economic agreement with private companies, such as the escrow account Enbridge has set up, they risk losing their role of guaranteeing the right of peaceful assembly of demonstrators opposing such companies' interests. In some cases, as has happened in Line 3, these agreements end



Timeline

On July 16, 2021, EarthRights International; the Center for Protest Law and Litigation, a project of the Partnership for Civil Justice Fund; and local counsel Jason Steck **filed a lawsuit on behalf of Indigenous water protectors at Line 3.** The groups requested a temporary restraining order against Hubbard County for unlawfully blockading access to a camp on private property that serves as a convergence space and home for Indigenous-led organizing, decolonization, treaty rights trainings, and religious activities by water protectors seeking to defend the untouched wetlands and the treaty territory of Anishinaabe peoples. **On July 23, the Court granted the restraining order.** The groups continue their efforts to vindicate the rights of Indigenous water protectors and their allies to oppose the construction of Line 3 free from unlawful and discriminatory policing.

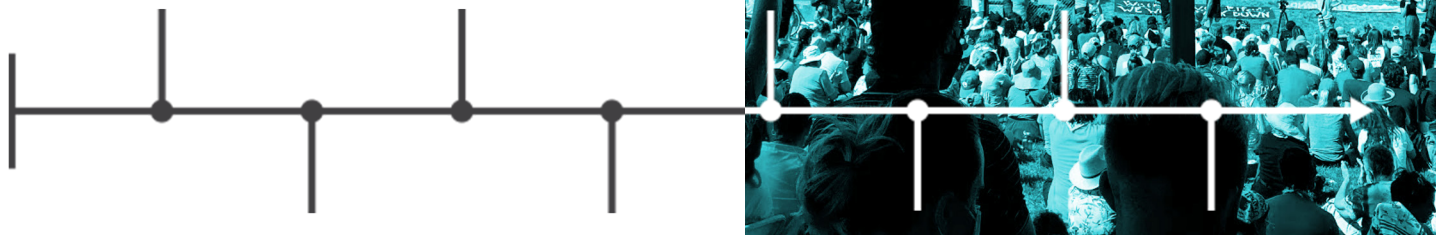


Photo by: Audrey Schreiber

Call to Action

We call on allies to join us in supporting Indigenous water defenders by urging President Joe Biden to cancel the permit for Line 3. Dial 888-724-8946 to connect to the White House switchboard or the public liaison office. Ask them to #STOPLINE3

Learn more here:

<https://earthrights.org/campaigns/frontlines-of-climate-justice/>

Endnotes

1. See Tara Houska, “A Letter From a Jailed Line 3 Water Protector”, Vogue Magazine, September 30, 2021. At <https://www.vogue.com/article/letter-from-a-jailed-line-3-water-protector>
2. See stop Line 3. At: <https://www.stopline3.org/issues/#climate>
3. See Union of Concerned Scientists. At: <https://www.ucsusa.org/resources/what-are-tar-sands>
4. See Timothy Donaghy, Greenpeace USA, “Dangerous Pipelines Enbridge’s History of Spills Threatens Minnesota Waters”, November 2018. At <https://static1.squarespace.com/static/58a3c10abebafb5c4b3293ac/t/5feb8b5b2a4ee65eb2cba0bd/1609272161420/Greenpeace-Report-Dangerous-Pipelines.pdf>
5. Adam Scott and Greg Muttitt, Oil Change International, “Climate on the Line: why new Tar Sands pipelines are incompatible with the Paris goals”, January 2017. At: http://priceofoil.org/content/uploads/2017/01/climate_on_the_line_FINAL-OCI.pdf
6. See the curtail in Alberta, Canada in 2019. Id.
7. See UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, “Exercise of the Rights to Freedom of Peaceful Assembly and of Association as Essential to Advancing Climate Justice,” 23 July 2021, A/76/222. At: <https://www.undocs.org/en/A/76/222>
8. Id.
9. See CIVICUS, “We will not be silenced: climate activism from the frontlines to the UN” (2019)
10. See UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, “Exercise of the Rights to Freedom of Peaceful Assembly and of Association as Essential to Advancing Climate Justice,” 23 July 2021, A/76/222. At: <https://www.undocs.org/en/A/76/222>
11. Id.
12. See Kirsti Marohn “Criminal cases against Line 3 protesters stress rural Minnesota legal system”, MPR news, September 23, 2021, at <https://www.mprnews.org/story/2021/09/23/criminal-cases-against-line-3-protesters-stress-rural-minnesota-legal-system>
13. See Twitter Resist Line 3: <https://twitter.com/ResistLine3/status/1441049479965253643?s=20>
14. See UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, “Exercise of the Rights to Freedom of Peaceful Assembly and of Association as Essential to Advancing Climate Justice,” 23 July 2021, A/76/222, paragraph 34. At: <https://www.undocs.org/en/A/76/222>
15. See Human Rights committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21)*, 17 September 2020, CCPR/C/GC/37, paragraph 15. At: <https://docstore.ohchr.org/SelfServices/FilesHandler>.
16. See Allen Brown “CORPORATE COUNTERINSURGENCY AGAINST LINE 3 PIPELINE RESISTANCE”, The Intercept, July7, 2021. At <https://theintercept.com/2021/07/07/intercepted-line-3-pipeline-minnesota/>
17. See UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, “Exercise of the Rights to Freedom of Peaceful Assembly and of Association as Essential to Advancing Climate Justice,” 23 July 2021, A/76/222, paragraph 34. At: <https://www.undocs.org/en/A/76/222>
18. Id.
19. See Allen Brown “CORPORATE COUNTERINSURGENCY AGAINST LINE 3 PIPELINE RESISTANCE”, The Intercept, July7, 2021. At <https://theintercept.com/2021/07/07/intercepted-line-3-pipeline-minnesota/>
20. See Hilary Beaumont, “Revealed: pipeline company paid Minnesota police for arresting and surveilling protesters”, The Guardian, October 5, 2021. At:
21. See Allen Brown “CORPORATE COUNTERINSURGENCY AGAINST LINE 3 PIPELINE RESISTANCE”, The Intercept, July7, 2021. At <https://theintercept.com/2021/07/07/intercepted-line-3-pipeline-minnesota/>
22. Id.

Photo by: Audrey Schreiber



if the wild rice and trees and water are gone
will you still love oil?