

Indigenous-led report details new risks to Kinder Morgan pipeline

The Secwepemc Nation-led report shows that Kinder Morgan has not publicly accounted for a number of significant legal, financial and reputational risks facing its new pipeline, which seeks to cross unceded Indigenous territories.

16 October 2017 (Paris / Vancouver) — A new report commissioned by the Secwepemc Nation in British Columbia shows that Kinder Morgan's intention to build its *Trans Mountain Expansion* (TMX) pipeline through unceded Indigenous land carries significant risks for both the company and its investors.

The report, entitled "*Standing Rock of the North: The Kinder Morgan Trans Mountain Pipeline Expansion Secwepemc Risk Assessment*", was authored by academics working with the Indigenous Network on Economies and Trade.

"The specter of a 'Standing Rock of the North' looms large," says the report, which shows how the legal basis for Indigenous rights and on-the-land-resistance efforts pose significant legal, financial and reputational risks which don't appear to have been deeply considered by the company.

The key risks, identified from in-depth research into the pipeline's controversial history, an examination of legal precedents, financial and climate analyses, and Kinder Morgan Canada's prospectus for its May 2017 initial public offering (IPO), include:

- **Kinder Morgan has not legally and consensually cleared access or proprietary interest to construct the pipeline.** This includes 518 km of unceded Secwepemc land (the largest Indigenous territory on the route). The company has deals with only 3 of 17 Secwepemc bands and a [historic declaration](#) against the pipeline was adopted by an assembly of Secwepemc peoples in June 2017. The Secwepemc maintain inherent land rights and Aboriginal Title to their land, which the Supreme Court of Canada recognizes as a collective right held by the nation.
- **Financial risks associated with the pipeline are magnified by the likelihood of on-the-land resistance and assertions of their land rights.** Risks from commodity supply and demand, market volatility, capital access and corporate debt are magnified by the increased likelihood of conflict, delays and the possibility of outright cancellation that emerge from Secwepemc assertions of jurisdiction. It could make accessing capital more difficult and costly due to construction delays, increasing expenses, and premium borrowing costs. The company identifies only court and permitting challenges as possible sources of delay. There is no consideration of blockades, encampments or other types of direct action. Post-Standing Rock, with greater awareness of pipeline opposition, there is a high likelihood of such resistance to TMX and each month of delay has previously been stated to be likely to [cost the company](#) \$5.643 million.
- **Kinder Morgan Canada's IPO prospectus failed to fully consider reputational risks associated with Indigenous rights, in part because their assessment is based on a narrow definition of "Aboriginal relationships."** This calls into question the company's ability to manage the spectrum of these risks. As stated in the prospectus, the company's sole strategy for managing and mitigating the risks associated with Indigenous rights is to ensure "Aboriginal groups" derive "benefits" from the project. Yet, NoDAPL solidarity with Standing Rock has continued to build momentum and awaken people to Indigenous rights issues. Kinder Morgan is increasingly a household name where controversial pipelines are concerned, in Canada and internationally. This brings much greater scrutiny to all of its undertakings, and should be a major red flag for investors, lenders, and other financial backers.

Kanahus Manuel, a member of the Secwepemc Women's Warrior Society who helped spearhead the report, said: "We will never let this illegal pipeline be built on our territory. According to the UN Declaration on the Rights of Indigenous Peoples, this pipeline requires our free, prior and informed consent. This report shows that Kinder Morgan's failure to fully face my people's refusal of consent could have big consequences for pipeline funders. Banks like BNP Paribas and ING are already dropping pipelines from their pocketbooks. As Indigenous Peoples' resistance grows stronger post-DAPL, so do the risks for funders."

Troy Cochrane, an economist and post-doctoral researcher at York University's Osgoode Hall who co-authored the report, said: "It is becoming increasingly clear that there is no path forward for this pipeline. Kinder Morgan Canada's stated dividend can only be sustained if the pipeline is completed in a timely manner. Both legal challenges over jurisdiction and Indigenous direct action create significant risks of delays, if not outright cancellation. Kinder Morgan Canada could stand to lose millions and never see this pipeline get built."

The full report (see below for access) further details climate-related, regulatory, political and additional economic and resistance-related risks.

Last week, Kanahus met with French banks, including BNP Paribas, about pipeline financing. Joining her are Indigenous representatives from Standing Rock and Cedar George Parker of the Tsleil-Waututh Nation (who have been [fighting](#) Kinder Morgan in court over the past two weeks).

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Report: www.secwepemculecw.org

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Notes and context:

- BNP Paribas, [announced](#) on Wednesday Oct. 11, that it will no longer fund tar sands pipelines.
- The *Trans Mountain Expansion* pipeline would run 1,150 km from Alberta to the Westridge Marine Terminal in Burnaby, crossing Indigenous lands without consent from about [two-thirds](#) of impacted First Nations communities. There are 18 legal challenges, including six from First Nations, against the pipeline.
- Last month, Kanahus Manuel and a group composed of grassroots Secwepemc members founded the [Tiny House Warriors](#), which is currently building 10 tiny houses on the pipeline's intended path through Secwepemc territory.
- The Indigenous Network on Economies and Trade was founded by [the late Arthur Manuel](#), a renowned leader for Indigenous human and economic rights. Arthur Manuel is the father of Kanahus Manuel.
- Kinder Morgan Canada held its IPO on [May 30th, 2017](#). The debut, designed to help raise money around the new pipeline, fell below the \$17 per share target to as low as \$15.75 before closing at \$16.24, still falling below the mark. Following a challenge from Greenpeace Canada, Kinder Morgan [was forced to](#) revise the climate-related risks to investors in the prospectus to more adequately disclose the risks.
- On October 23rd, 92 of the world's largest banks will meet in São Paulo, Brazil to discuss policies on the climate and Indigenous People's rights to Free, Prior, and Informed Consent at the Equators Principles meeting. [Mazaska Talks](#) is leading global days of action against oil and tar sands pipelines and the banks funding them, given that these pipelines violate FPIC.