

Dakota Access Pipeline 2017 – Phillips 66

WHEREAS: The construction and operation of energy infrastructure in North America requires respect for rigorous standards of environmental review and practice, and impacted Indigenous Peoples.

Environmental and human rights due diligence are essential to assessing the full risk of an asset acquisition. Where such risks are not adequately considered, decisions can be made that lead to reputational, regulatory and financial loss.

The UN Declaration on the Rights of Indigenous Peoples sets out international standards for Indigenous Peoples' rights including the right to Free, Prior, and Informed Consent prior to the approval of any projects affecting their traditional territory. Human rights due diligence expectations are outlined in principles 17 to 21 of the UN Guiding Principles on Business and Human Rights.

Phillips 66 has made a significant investment in the Bakken Pipeline Project consisting of the Dakota Access Pipeline (DAPL) and Energy Transfer Crude Oil Pipeline via a subsidiary of Phillips 66 that owns 25% of the Bakken Pipeline Project.

Phillips 66's investment pales, however, in the face of potential environmental liability and loss of reputation from a catastrophic pipeline failure. The pipeline's operator, Energy Transfer Partners (ETP), has a poor environmental record, with pending water contamination lawsuits in New Jersey, Vermont, Pennsylvania, Louisiana, and Puerto Rico.

The agreement to acquire its ownership in DAPL was reached on August 2, 2016, five days after the project was approved by the US Army Corps of Engineers and eight days before the Standing Rock Sioux Tribe (SRST) began its blockade to stop construction.

However, in the months preceding this agreement, the SRST, as well as three federal agencies, raised concerns about the lack of tribal consultation and the inadequacy of the environmental impact review. At the time of this agreement, proponents believe that Phillips 66 and its shareholders should have been aware of the risks posed by these concerns.

Since August, the conflict has escalated as DAPL construction continued despite the Obama Administration's request that ETP voluntarily pause construction within 20 miles of Lake Oahe. The alleged use of force towards peaceful protesters is generating negative media coverage while further jeopardizing DAPL's social license to operate. ETP reports losses of \$1.4 billion in a year if delays continue.

RESOLVED: Phillips 66 prepare a report to shareholders, at reasonable cost and omitting proprietary information, that describes the due diligence process used to identify and address environmental and social risks, including Indigenous rights risk, in reviewing potential acquisitions. Such a report should consider:

- Which committees, departments and/or managers are responsible for review, oversight and verification;
- How environmental and social risks are identified and assessed;
- Which international standards are used to define the company's due diligence procedures;
- How this information informs and is weighted in acquisition decisions;
- If and how risks identified were disclosed to shareholders;
- Whether the company has an exit option in DAPL;
- Whether Phillips 66 will adjust its policies and practices so as to not become entangled with such situations in the future.