



The Kalamazoo River oil spill occurred in July 2010 when a pipeline operated by Enbridge burst and flowed into Talmadge Creek, a tributary of the Kalamazoo River. A 6-foot break in the pipeline resulted in one of the largest inland oil spills in U.S. history.

PHOTO: USEPA

# WHO'S BANKING LINE 3 AND KEYSTONE XL: TAR SANDS PIPELINES BEING RAMMED THROUGH IN A PANDEMIC

December 2020

## INTRODUCTION: Two Tests on Indigenous Rights, Environment and Climate

In October 2020, forty Indigenous women leaders wrote to more than seventy CEOs of banks and other financial institutions calling on them to end support for the expansion of the tar sands oil industry via pipeline financing, in light of its Indigenous rights, environmental, and climate impacts.<sup>1</sup>

Now, during a global pandemic that is entering its deadliest phase, and the final weeks of the Trump presidency, two massive tar sands pipeline projects are being rammed through: Enbridge's Line 3 and TC Energy's Keystone XL. Both pipelines will force global banks to make clear choices in the coming weeks and months:

- **Enbridge** secured final permits for **Line 3** from Minnesota and the federal government in November 2020. Official construction commenced in December 2020, despite COVID risks and regardless of outstanding legal challenges and sustained Indigenous-led opposition to the project. Without any project finance associated with the pipeline construction, the banks providing Enbridge's general corporate financing are the supporters of this destructive project. Will they step away from this high-risk project by not renewing any of Enbridge's \$12.87 billion in credit facilities when they come to maturity, with an initial opportunity to cut ties coming as soon as March 2021?<sup>2</sup>
- **TC Energy** is in the process of securing a \$4.2 billion project loan to finance construction of Keystone XL beginning in January 2021,<sup>3</sup> ahead of the inauguration of a new U.S. presidential administration that has promised to veto the pipeline.<sup>4</sup> Which banks will join the project loan syndicate, despite the strong political winds against it? Will TC Energy's current bankers endorse ramming through Keystone XL?

This briefing outlines the impacts of these projects and details bank support for the companies behind them. At upcoming decision points these banks will decide whether they will sink their money into potential stranded assets, support infrastructure that will ignite a carbon bomb, back projects that will lead to severe reputational risk akin to the Dakota Access Pipeline, and endorse a disregard for Indigenous rights — or cut ties with these projects.

## TAR SANDS Overview

The tar sands (also known as oil sands) of Alberta, Canada are infamously dirty oil reserves, whose resource-intensive extraction and transportation threatens the climate and ecosystems, pollutes local communities, and violates Indigenous rights. Canadian tar sands emit about 31% more greenhouse gases over their entire life cycle than the average North American crude.<sup>5</sup>

In particular before the COVID-19 pandemic, tar sands production has been restricted by a pipeline bottleneck, which means that the future of increased tar sands extraction depends on three proposed pipelines: Enbridge's Line 3, TC Energy's Keystone XL, and the Canadian government's Trans Mountain.<sup>6</sup> Investment in tar sands infrastructure now threatens to lock in production for decades, at a time when the sector should be in a managed decline on a path to a zero-carbon economy.

## LINE 3 Overview

Enbridge Inc., a Canadian energy infrastructure company operating across North America, has been pushing to replace its existing Line 3 pipeline with a larger pipe that would carry 760,000 barrels of tar sands oil per day from Edmonton, Alberta, through Minnesota, to Superior, Wisconsin.<sup>7</sup> Instead of safely decommissioning the existing Line 3, Enbridge wants to abandon it in the ground and build an entirely new \$7 billion pipeline.<sup>8</sup> Though the company refers to it as just a replacement project, it is no minor replacement of an existing pipeline — it is the largest project proposed in Enbridge's history.<sup>9</sup>

Despite fierce opposition, construction is complete in Wisconsin and Canada.<sup>10</sup> The Minnesota stretch of the pipeline is all that remains to be built. In November 2020, the Minnesota Pollution Control Agency approved the final permits for the pipeline.<sup>11</sup> Construction on this section of the pipeline has begun as of December 2020.<sup>12</sup>

Enbridge is also facing ongoing legal challenges, grassroots resistance, and opposition from impacted Tribal Nations due to the health and safety, environmental, climate, and Indigenous rights risks associated with the project.



PHOTO: March on Enbridge

## The Risks of LINE 3

### Climate:

The construction of Line 3 would be catastrophic for the climate. It is estimated that the proposed project would add 193 million tons of greenhouse gases to the atmosphere annually, which would have the equivalent impact of yearly emissions from 50 new coal-fired power plants or 38 million additional vehicles on the road.<sup>13</sup>

### Spills:

The existing Line 3 pipeline has had numerous ruptures and spills since it was built in 1961 and is currently operating at reduced pressure due to severe corrosion.<sup>14</sup> The expanded Line 3 seeks to cut a new energy corridor through lakes, untouched wetlands, treaty-protected wild rice beds, and the heart of Ojibwe territory.<sup>15</sup>

### Indigenous rights:

This project violates the treaty rights of the Anishinaabeg by endangering critical natural and cultural resources in the 1842, 1854, and 1855 treaty areas.<sup>16</sup> The Red Lake Band of Chippewa and White Earth Band of Ojibwe have been steadfast in their opposition to the project and are currently engaged in ongoing legal challenges.<sup>17</sup> Projects like Line 3 are also linked to violence against and trafficking of Native American women due to the installation in rural areas of temporary housing facilities for mostly male construction workers, known as "man camps."<sup>18</sup>

### Construction during a pandemic:

In the midst of a pandemic, the construction of Line 3 raises serious public health and safety concerns. In November 2020, cases of COVID-19 reached record levels in Minnesota, as did virus-related hospitalizations.<sup>19</sup> Tribal leaders and residents in northern Minnesota have warned that a mass influx of workers could spread COVID-19 in rural areas that lack adequate medical infrastructure to handle a surge in cases.<sup>20</sup>

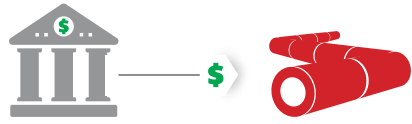
### Legal:

Enbridge has begun construction in Minnesota while the overall legality of the pipeline is being contested in the courts. With multiple pending lawsuits, the legal challenges are not expected to be resolved until spring 2021:

- In 2017, the Minnesota Department of Commerce found that "Enbridge has not established a need for the proposed project in Minnesota" and concluded that Minnesota would benefit from Enbridge ceasing operations of the existing Line 3 altogether.<sup>21</sup> As the project progressed, in 2020 the Minnesota Department of Commerce brought a suit challenging its fellow state agency, the Minnesota Public Utilities Commission (PUC), over the PUC's claim that the project is needed.<sup>22</sup>
- In May 2020, the Red Lake Band of Chippewa, White Earth Band of Ojibwe, Honor the Earth, Youth Climate Interveners, Friends of the Headwaters, and the Sierra Club also challenged the Minnesota PUC's approval of the Final Environmental Impact Statement, Routing Permit, and Certificate of Need for the pipeline.<sup>23</sup>

### Reputational:

Line 3 has faced sustained Indigenous-led opposition for many years. Following the recent permit decisions, Indigenous leaders and climate advocates across Minnesota and nationally have reiterated their commitment to fight the project.<sup>24</sup> At resistance camps along the route, Indigenous water protectors and allies are pledging to continue engaging in direct action to halt construction activities. Across Minnesota, political leaders are under immense pressure to intervene to stop the project,<sup>25</sup> and President-elect Biden is also facing demands for his administration to review federal permits for Line 3.<sup>26</sup>



## Who's Banking **LINE 3?**

While Enbridge continues to push the project forward, other actors are supporting the pipeline behind the scenes: big banks.

Enbridge has billions of dollars in loans provided by dozens of big banks that it can use for its “general corporate purposes.” These credit facilities provide Enbridge with crucial liquidity, including for the funds which regulators require pipeline companies to have on hand in the event of an oil spill.<sup>27</sup>

Enbridge has not sought project-specific financing for the Line 3 pipeline; its banks are facilitating other ways to access the money needed to build the project. Big banks have facilitated Enbridge's efforts to raise funds by selling off unwanted parts of its business — including some of its renewable energy assets<sup>28</sup> — and by issuing new bonds, which banks buy from the company and then resell to investors.<sup>29</sup>

From underwriting, to advising, to lending, the Line 3 tar sands pipeline would not happen without the support of Enbridge's banks. “Without the direct financing and services provided by its bankers, Enbridge would have little choice but to abandon its plans to expand the Line 3 pipeline,” according to Sightline Institute.<sup>30</sup>

Enbridge and its relevant subsidiaries have seven active credit facilities as of November 2020, totaling \$12.87 billion.<sup>31</sup> Additionally, Enbridge and its relevant subsidiaries have issued three bonds in 2020, totaling \$2.14 billion.<sup>32</sup> Without project-specific financing for Line 3, these banks behind Enbridge are the banks funding the pipeline.

RANK	BANK	COUNTRY	FOSSIL FINANCING FOR ENBRIDGE (2016 through Sept. 30, 2020)	PARTICIPATION IN RELEVANT CURRENTLY ACTIVE LOANS (out of 7) AND BONDS ISSUED IN 2020 (out of 3)	RANK	BANK	COUNTRY	FOSSIL FINANCING FOR ENBRIDGE (2016 through Sept. 30, 2020)	PARTICIPATION IN RELEVANT CURRENTLY ACTIVE LOANS (out of 7) AND BONDS ISSUED IN 2020 (out of 3)
1	TD	Canada	<b>\$13.59 B</b>	Lead bank on 5 loans totalling \$9.45 B, maturing in 2021, 2022, and 2024. Lead agent on 3 of these loans. Underwriter of 1 bond issuance.	11	JPMorgan Chase	U.S.	<b>\$1.80 B</b>	Participant in 4 loans. Lead underwriter of 2 bond issuances.
2	Bank of Montreal	Canada	<b>\$10.06 B</b>	Lead bank on 2 loans totalling \$4.05 B, maturing in 2021 and 2024, and participant in 2 others. Lead underwriter of 1 bond issuance.	12	Mizuho	Japan	<b>\$1.73 B</b>	Lead bank on 2 loans totalling \$2.62 B, maturing in 2022, and participant in 4 others. Lead agent on 1 of these loans. Lead underwriter of 1 bond issuance.
3	Scotiabank	Canada	<b>\$9.84 B</b>	Lead bank on 3 loans totalling \$6.34 B, maturing in 2021 and 2024, and participant in 1 other. Lead agent on 1 of these loans. Lead underwriter of 1 bond issuance.	13	Deutsche Bank	Germany	<b>\$1.53 B</b>	Participant in 5 loans. Underwriter of 2 bond issuances.
4	RBC	Canada	<b>\$7.98 B</b>	Lead bank on 4 loans totalling \$6.98 B, maturing in 2021, 2022, and 2024, and participant in 1 other. Underwriter of 1 bond issuance.	14	Barclays	U.K.	<b>\$1.32 B</b>	Participant in 3 loans. Lead underwriter of 1 bond issuance.
5	CIBC	Canada	<b>\$6.98 B</b>	Lead bank on 2 loans totalling \$4.36 B, maturing in 2021 and 2024, and participant in 3 others. Lead underwriter of 1 bond issuance.	15	BNP Paribas	France	<b>\$1.32 B</b>	None.
6	Citi	U.S.	<b>\$5.15 B</b>	Lead bank on 1 loan totalling \$1.87 B, maturing in 2021, and participant in 5 others. Lead underwriter of 1 bond issuance.	16	SMBC Group	Japan	<b>\$1.18 B</b>	Lead bank on 1 loan totalling \$1.00 B, maturing in 2022, and participant in 4 others. Lead underwriter of 1 bond issuance.
7	Wells Fargo	U.S.	<b>\$3.86 B</b>	Lead bank and lead agent on 1 loan totalling \$1.80 B, maturing in 2021, and participant in 2 others. Underwriter of 1 bond issuance.	17	Credit Suisse	Switzerland	<b>\$1.15 B</b>	Participant in 3 loans. Lead underwriter of 1 bond issuance.
8	Bank of America	U.S.	<b>\$3.16 B</b>	Lead bank on 2 loans totalling \$2.62 B, maturing in 2022, and participant in 4 others. Lead agent on 1 of these loans. Lead underwriter of 1 bond issuance and underwriter of 2 bond issuances.	18	Crédit Agricole	France	<b>\$902 M</b>	Participant in 3 loans. Underwriter of 1 bond issuance.
9	MUFG	Japan	<b>\$2.68 B</b>	Lead bank on 1 loan totalling \$1.80 B, maturing in 2021, and participant in 5 others. Lead underwriter of 1 bond issuance.	19	HSBC	U.K.	<b>\$410 M</b>	Participant in 3 loans. Underwriter of 2 bond issuances.
10	National Bank of Canada	Canada	<b>\$2.67 B</b>	Lead bank on 1 loan totalling \$2.22 B, maturing in 2021. Underwriter of 1 bond issuance.	20	Truist Financial	U.S.	<b>\$400 M</b>	Participant in 1 loan.



**B** = Billion USD    **M** = Million USD



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TC Energy, formerly known as TransCanada, has been attempting to build the Keystone XL tar sands pipeline since 2008.<sup>33</sup> For well over a decade, a powerful coalition of First Nations, ranchers and farmers, environmentalists, youth fighting for their future, and people from all walks of life have resisted the construction of the 1,179-mile pipeline that would flow 830,000 barrels of oil per day from the Alberta tar sands to Nebraska, eventually heading to refineries on the Gulf Coast.<sup>34</sup>

The pipeline has faced massive hurdles, from lawsuits to major questions about its economic viability.<sup>35</sup> In fact, the pipeline is only starting to move forward after massive subsidies from the Government of Alberta, showing how financially questionable the project is on its own.<sup>36</sup> With the incoming Biden administration, Keystone XL is very likely to be canceled, but TC Energy is currently attempting to further construction progress.



## Political:

The project has become a referendum on climate action in the United States: President Obama rejected the project in 2015 on climate grounds, President Trump revived it with an executive order in 2017, and now President-elect Biden will take office in 2021 having declared that he would once again squash the project by reversing a key federal permit.<sup>37</sup>

## Climate:

Like Line 3, the Keystone XL pipeline would lock in the long-term expansion of the tar sands sector and release carbon pollution that the climate cannot afford.<sup>38</sup>

## Spills:

TC Energy's pipeline network in the U.S. has a concerning safety record, with at least 20 spills since 2010 that have released 696,276 gallons of oil and hazardous liquids into the environment.<sup>39</sup> This does not bode well for the Keystone XL pipeline, which crosses more than 770 waterways in the U.S. alone, including Nebraska's Ogallala Aquifer, which supplies drinking and irrigation water to millions of people.<sup>40</sup>

## Indigenous Rights:

Keystone XL would cross through tribal lands and sacred sites, and TC Energy has failed to secure consent from all of the tribes impacted along the route.

- The Great Plains Tribal Chairmen's Association (GPTCA), which represents the leaders of 16 sovereign Tribal Nations in South Dakota, North Dakota, and Nebraska, has called on financial backers to cut ties with TC Energy, as member tribes are actively withholding consent to Keystone XL and TC Energy engaging in any activities on their territories.<sup>41</sup>
- In November 2020, the Rosebud Sioux Tribe, one member tribe of the GPTCA, filed a federal lawsuit against the United States Department of Interior and the Bureau of Land Management over their issuing of the Keystone XL permit.<sup>42</sup>
- The Ponca Tribe of Nebraska raised concerns in September 2020 with the U.S. Department of State over TC Energy's inadequate historic and cultural resource surveys.<sup>43</sup>

## Construction during a pandemic:

TC Energy is starting preliminary construction on Keystone XL during a global pandemic, bringing in outside construction workers and endangering the health of rural communities along the pipeline's route, as well as the workers themselves. Despite not yet having all necessary permits, TC Energy is moving forward with man camp, pipe yard, and pump station construction along Keystone XL's route.<sup>44</sup>



## Who's Banking **KEYSTONE XL?**

On March 31, 2020, TC Energy made a positive Final Investment Decision on Keystone XL, confirming it would move forward with the project. This announcement gave details on how Keystone XL will be funded:

- The Government of Alberta will invest \$1.1 billion in the project, which "substantially covers planned construction costs through the end of 2020."
- TC Energy will invest \$2.7 billion of its own money in the project, via cash flow generated from its business activities, and new bonds and shares to be issued in 2021 and 2022.
- TC Energy expects to get a \$4.2 billion project finance loan to directly fund the project's 2021-22 costs. This loan will be fully guaranteed by the Government of Alberta, meaning that the Albertan government commits to pay back the loan if TC Energy is unable to.<sup>45</sup>

Recent reporting indicates that arrangement of the project finance loan is underway at the time of this paper's publication.<sup>46</sup> The biggest bankers of TC Energy are likely to be approached before 2021 about joining the syndicate of banks to directly fund Keystone XL. TC Energy's leading bankers are as follows.

RANK	BANK	COUNTRY	FOSSIL FINANCING FOR TC ENERGY (2016 through Sept. 30, 2020)	PARTICIPATION IN RELEVANT CURRENTLY ACTIVE LOANS (out of 3) AND BONDS ISSUED IN 2020 (out of 2)
1	Bank of Montreal	Canada	<b>\$20.38 B</b>	Lead bank on 3 loans totalling \$7.77 B, maturing in 2021, 2022, and 2024. Lead agent on 1 of these loans. Lead underwriter of 1 bond issuance.
2	JPMorgan Chase	U.S.	<b>\$18.14 B</b>	Lead bank on 2 loans totalling \$5.50 B, maturing in 2021 and 2022, and participant in 1 other. Lead agent on 2 of these loans. Lead underwriter of 1 bond issuance.
3	TD	Canada	<b>\$5.58 B</b>	Participant in 3 loans. Lead underwriter of 1 bond issuance.
4	RBC	Canada	<b>\$5.50 B</b>	Participant in 3 loans. Lead underwriter of 1 bond issuance.
5	Deutsche Bank	Germany	<b>\$4.92 B</b>	Participant in 3 loans. Underwriter of 1 bond issuance.
6	CIBC	Canada	<b>\$3.46 B</b>	Participant in 3 loans. Underwriter of 1 bond issuance.
7	Wells Fargo	U.S.	<b>\$1.73 B</b>	Participant in 3 loans. Underwriter of 1 bond issuance.
8	Citi	U.S.	<b>\$992 M</b>	Participant in 3 loans. Lead underwriter of 1 bond issuance.
9	MUFG	Japan	<b>\$625 M</b>	Participant in 3 loans. Underwriter of 1 bond issuance.
10	Scotiabank	Canada	<b>\$352 M</b>	Participant in 3 loans. Lead underwriter of 1 bond issuance.

» **B** = Billion USD **M** = Million USD



PHOTO: Joe P. Dick/ Shooting Stars Inc.

## In the Shadow of the **DAKOTA ACCESS PIPELINE**

Global banks' destructive funding of Energy Transfer Partners's Dakota Access Pipeline (DAPL), despite the project's grave impacts on Indigenous rights, water, and the climate, triggered a massive crisis for those lenders. Participants in the DAPL project loan from August 2016 suffered the greatest damage to their reputations. Mike O'Neill, Citi's board chairman at the time, told Casey Camp-Horinek, elder of the Ponca tribe of Oklahoma (and signatory of the October 2020 tar sands letter), that he wished the bank "could have a do-over on this."<sup>47</sup>

Line 3 and Keystone XL look ominously similar to DAPL: serious impacts on Indigenous rights, water, and the climate, and facing fierce Indigenous-led opposition, with a broad range of allies standing in solidarity. Many of the very same banks are again implicated.

### **PARTICIPANTS IN THE \$2.5 BILLION LOAN TO BUILD THE DAKOTA ACCESS PIPELINE AND THE ENERGY TRANSFER CRUDE OIL PIPELINE<sup>48</sup>**

August 2016

<b>LEADING BANKS</b>	<p>Citi (U.S.)                      Mizuho (Japan)                      MUFG (Japan)                      TD (Canada)</p>
<b>OTHER PARTICIPANTS</b>	<p>BayernLB (Germany)                      BBVA (Spain)                      BNP Paribas (France)                      Crédit Agricole (France)                      DNB (Norway)                      ICBC (China)                      ING (Netherlands)                      Intesa Sanpaolo (Italy)                      Natixis (France)                      SMBC Group (Japan)                      Société Générale (France)                      SunTrust Robinson Humphrey (U.S., now Truist Financial)                      Wells Fargo (U.S.)</p>

## **TAR SANDS** Policies

Best practice among global banks includes restrictions on financing for tar sands.

### **Banks with restrictions or prohibitions on financing for tar sands projects and/or companies<sup>49</sup>**

<b>PROJECTS AND COMPANIES</b>	<p>BNP Paribas (France)                      Caixabank (Spain)                      Crédit Agricole (France)                      ING (Netherlands)                      KBC (Belgium)                      Natixis (France)                      Rabobank (Netherlands)                      Société Générale (France)                      UBS (Switzerland)                      UniCredit (Italy)                      Westpac (Australia)</p>
<b>PROJECTS ONLY</b>	<p>ABN Amro (Netherlands)                      BBVA (Spain)                      Commerzbank (Germany)                      Commonwealth Bank (Australia)                      Deutsche Bank (Germany)                      HSBC (U.K.)                      National Australia Bank (Australia)                      NatWest (U.K.)                      Standard Chartered (U.K.)                      U.S. Bancorp (U.S.)</p>

Notably, many of the world's largest funders of tar sands are missing from this list as they do not have tar sands funding restrictions, but rather only promise to do enhanced due diligence for relevant transactions. This is the case for the Canadian banks TD and RBC (the top two tar sands funders over 2016-2019), the U.S. banks JPMorgan Chase, Citi, Bank of America, Wells Fargo, Morgan Stanley, and Goldman Sachs (the 3rd, 8th, 10th, 17th, and 18th biggest tar sands funders, respectively), and Japanese banks MUFG, Mizuho, and SMBC Group (ranked 12th, 15th, and 19th, respectively).<sup>50</sup> The other Canadian banks making up the top bankers of the sector — CIBC, Bank of Montreal, and Scotiabank — don't even have these minimal due diligence procedures.

## OUR CALLS

We urge the banking sector to avoid the reputational and financial risks of supporting these destructive pipeline projects and all tar sands expansion and extraction infrastructure.

- No new financing for either TC Energy's Keystone XL pipeline or Enbridge's Line 3 pipeline. In particular and most immediately, this means:
  - Refrain from participating in the new Keystone XL project loan, projected to be finalized in December 2020.
  - Decline to participate in Enbridge's upcoming credit facility renewals, including a \$2.11 billion Enbridge Inc. revolver set to mature on March 31, 2021.
- If Enbridge and TC Energy continue to ram through Line 3 and Keystone XL, cut ties with the companies.
- Immediately stop financing projects and companies that fail to respect human and Indigenous rights, including Indigenous peoples' treaty rights to their water and lands, and the right to free, prior, and informed consent. This includes ensuring that rights standards are applied to projects that are funded via general corporate finance, such as Line 3.
- End support for all additional tar sands expansion projects and companies expanding tar sands, as a step toward ending support for all fossil fuel expansion projects and companies.
- Commit to phase out business relations with the entire tar sands sector, as a step toward phasing out support for fossil fuels overall.

## NOTES

All dollar amounts are in U.S. dollars, unless otherwise indicated.

In the charts of Enbridge's and TC Energy's leading bankers, fossil financing figures come from *Banking on Climate Change: Fossil Fuel Finance Report 2020*, with the data extended through September 30, 2020 using the same methodology.<sup>51</sup> This includes lead banks' financing for all subsidiaries in each company's corporate family, adjusted by each subsidiary's fossil fuel intensity.

With regards to each bank's participation in relevant currently active loans and bonds issued in 2020, this information is sourced from Bloomberg Finance L.P. and accurate as of November 18, 2020. This information excludes subsidiaries irrelevant to tar sands transportation, such as Enbridge Gas Inc. In this column of each chart, "Lead bank" on a loan names banks in the role of joint bookrunner. "Participant" on a loan names banks in any of the following roles: co-lead arranger, documentation agent, syndication agent, lender, participant, left lead, swingline lender, or letter of credit lender. "Lead underwriter" of a bond issuance names banks acting as joint lead managers-books, while "underwriter" refers to the bond's co-managers.

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