



**FIRST PEOPLES WORLDWIDE**  
**CORPORATE MONITOR**  
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## **Trans Mountain Pipeline Denied Approval**

The Tsleil-Waututh Nation (TWN) continues to oppose Kinder Morgan's proposed expansion of the Trans Mountain Pipeline. The TWN recently published an assessment of the pipeline concluding that it is "inconsistent with [their] stewardship obligations which include the responsibility to maintain and restore conditions in [their] territory to allow for the environmental, cultural, spiritual, and economic foundation for [their] nation to thrive." In May 2015, a TWN representative attended the company's annual meeting to inform its shareholders that the pipeline cannot happen without their consent.

In an interview with *Alberta Oil Magazine*, Bill Gallagher, a former oil and gas lawyer and federal regulator, stressed that the TWN's sentiments should not be taken lightly, citing 207 Canadian court rulings upholding Aboriginal rights. This trend is especially prevalent in BC, where First Nations have won 90 percent of resource sector lawsuits in the last fifteen months. According to Gallagher, Kinder Morgan "is taking the wrong approach...in strictly relying on the rule of law, because the law is changing. Social license is a huge factor."

Sources: [Alberta Oil Magazine](#), [Tsleil-Waututh Nation](#)

## **Line 9 Challenged**

Canada's eastbound pipelines are also embroiled in disputes with First Nations. In April 2015, the Chippewas of the Thames First Nation (COTTFN) appealed the National Energy Board's decision to approve Enbridge's reversal of Line 9 without consulting the 18 Aboriginal communities along its route. Because the company appears ready to operationalize the reversal before the results of the appeal are announced, the COTTFN also filed an application to stay

order, claiming that they “will suffer irreparable harm as a result of losing [their] opportunity to reasonably participate in consultations regarding their constitutionally protected Aboriginal and treaty rights if the stay is not granted.”

Sources: [Rabble](#)

## **The Costs of Ignoring FPIC**

Barrick Gold’s shareholders are filing a \$6 billion class action lawsuit against the company for allegedly misleading them about the costs of delays at the Pascua Lama Mine in Chile. The mine was suspended in 2013 for violating environmental regulations, after the Supreme Court of Chile upheld a complaint filed by Diaguita communities. Barrick’s shareholders claim that the company deceived them about the mine’s environmental problems and fraudulently inflated its market value. Barrick’s bid to dismiss the lawsuit was thrown out by a judge who wrote that the plaintiffs “have sufficiently alleged strong circumstantial evidence of conscious misbehavior or recklessness.”

The root cause of the mine’s environmental problems is its lack of a social license from Indigenous Peoples, who filed the complaint in the first place and continue to oppose the project. The absence of ample disclosure requirements for social risks enables companies to omit information that is critical to accurately assessing their viability.

Sources: [Now Toronto](#), [Reuters](#)

## **The Importance of Industry Standard Setting**

Forest Peoples Programme (FPP) alleges that “industry noncompliance with the Roundtable on Sustainable Palm Oil (RSPO) is ubiquitous, bringing its credibility to the brink.” FPP says that the RSPO’s standards look good on paper, but points to a certified plantation in Liberia owned by Golden Agri Resources where the company’s “procedures give it a license to shortcut Free, Prior, and Informed Consent...The company is acquiring community land (potentially permanently) in return for a handful of often casual jobs, and other vague and unenforceable benefits. The practical outcome is the loss of valuable productive land in return for what on

occasions amounts to little more than a few school benches and some zinc roofing.”

Community complaints “exposed critical weaknesses in the RSPO’s enforcement capacity” as the company “was given a central role in determining how its performance was to be investigated.”

Industry certification bodies can provide companies with valuable operational guidance and tangible incentives for adhering to best practices. However, their usefulness is only as good as their credibility with non-industry stakeholders, especially communities. It is in their best interest to ensure a fair and independent process for handling accusations of noncompliance.

Sources: [Forest Peoples Programme](#)

## **Barro Blanco Blockade**

In June 2015, residents of the Ngobë Buglé reservation blocked construction of the Barro Blanco Dam in Panama to protest its negative social and environmental impacts. Their grievances—which include displacement of 36,000 people, environmental damage, and flooding of sacred sites—have gone unaddressed since the dam’s inception in 2006, prompting them to resort to physical blockades on numerous occasions. With the dam nearly 95 percent complete, the situation appears to be intensifying.

The dam is being developed by a Honduran energy company called Generador del Itsmo SA, with financing from the Dutch and German Investment Banks. A report by the German Investment Bank’s Independent Complaints Mechanism revealed “significant issues related to [the dam’s] social and environmental impact and, in particular, issues related to the rights of Indigenous Peoples were not completely assessed.”

Sources: [Telesur](#)

## **The Importance of Inclusive Engagement**

In June 2015, Weatherby Energy acquired 8,261 acres of oil and gas leases in Kay County, Oklahoma near the Chilocco Indian School, a Native American boarding school that operated from 1884 to 1980. Native American boarding schools were agents of the federal government's "assimilation through education" policy in which students were seized from their families, forced to abandon their language and culture, and subjected to widespread mistreatment and abuse.

The leases are within the boundaries of the Kaw Nation, but may be considered sensitive by tribes across the country. They are close to burial sites of more than 100 children from dozens of tribes who died while at the school. It is unclear whether consultation has taken place. In this case, the company should be engaging not only the Kaw Nation, but all tribes with potential ties to the land.

Sources: [Marketplace](#)

## **Changing Legal Landscape in Canada**

Tahoe Resources is asking the Supreme Court of BC to dismiss a lawsuit filed by seven Guatemalan citizens who were allegedly injured by security forces during protests against the Escobal Mine, which is operated by the company's Guatemalan subsidiary Minera San Rafael. The plaintiffs are pursuing the lawsuit in Canada because "it offers the better opportunity to have their cases heard." According to [Human Rights Watch](#), 98 percent of violent crime goes unpunished in Guatemala due to corruption and witness intimidation. Tahoe contends that the case should be heard in Guatemala because Minera San Rafael is a "separate entity" with "very limited connecting factors" to its parent company.

In 2013, Hudbay Minerals brought a similar challenge to a lawsuit related to a separate incident in Guatemala, but voluntarily withdrew it. A judge later dismissed Hudbay's argument that it is not liable for the actions of its overseas subsidiaries, and the case is currently moving forward in Canada. Since then, several other Canadian companies have been brought to court

domestically over their activities abroad. Besides Tahoe and Hudbay, Nevsun Resources is on trial for alleged human rights abuses in Eritrea, and Joe Fresh is being sued for its alleged responsibility in last year's deadly garment factory collapse in Bangladesh.

Sources: Canadian Lawyer