

California Public Employees' Retirement System

2018 Assembly Bill 20 Legislative Report

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CalPERS’ 2018 Legislative Report – G.C. § 7513.72 (Assembly Bill 20)

This report is provided by the California Public Employees’ Retirement System (CalPERS) pursuant to the requirements of California Government Code (G.C.) § 7513.72, also known as Assembly Bill 20 (AB 20), regarding the Dakota Access Pipeline (DAPL).

AB 20 was enacted and signed by the Governor on October 8, 2017. AB 20 requires CalPERS to file a report with the Legislature and the Governor on or before April 1, 2018, outlining (1) a list of CalPERS’ investments in companies constructing or funding DAPL; and (2) a list of the companies with which the Board has constructively engaged, including a detailed description of (A) staff’s engagement activities with each company, (B) the results of the engagement, and (C) an evaluation of the efficacy of the engagement. The new law also recites the intent of the Legislature that CalPERS review and consider factors related to tribal sovereignty and indigenous tribal rights as part of the Board’s investment policies related to environmental, social, and governance issues.

Background & Analysis

DAPL is a 1,172-mile underground pipeline that transports crude oil from the Bakken/Three Forks area in North Dakota, through South Dakota and Iowa, to an oil tank farm in Patoka, Illinois. During the construction of the final section of the pipeline in North Dakota, more than one route was considered, including a route 10 miles north of Bismarck, North Dakota, and another route approximately half of a mile upstream from the Standing Rock Sioux tribe’s reservation. Following concerns around the potential impact on drinking water quality around the town of Bismarck, the route near the Standing Rock Sioux tribe’s reservation was selected. This decision was met with protest by the Standing Rock Sioux and Cheyenne River tribes due to the selected route’s proximity to the tribes’ water supplies, sacred sites, and treaty territory. Following delays, the final construction was completed and the pipeline is currently in operation.

At the February 13, 2017 Investment Committee meeting, over 50 individuals – representing environmental organizations, first nations, and other groups – exercised their right to public comment regarding DAPL. CalPERS' Board respectfully honored all such requests. Following public comment, the CalPERS Investment Committee Chair directed Sustainable Investment Program staff to explore engagement options around the DAPL issues consistent with [CalPERS' Governance and Sustainability Principles \(Principles\)](#). The Principles related to DAPL are the following:

- Universal Human Rights¹: Express [our] the company's support for universal human rights, and particularly, those of our employees, the communities within which we operate, and parties with whom we do business.
- Stakeholder Relations²: CalPERS believes that corporations should strive for active cooperation with stakeholders. This cooperation will be most likely to create wealth, employment, and sustainable economies.
- Environmental Management Practices³: Good practices include development of robust policies and practices to address both risk and opportunity arising from environmental issues.

CalPERS staff reviewed its total fund portfolio exposure to DAPL and conducted the following activities around DAPL.

- Engaged the pipeline operator known as Energy Transfer Partners (ETP) including its investors.
- Engaged the banks financing DAPL and helped develop an Investor Statement to banks financing DAPL.
- Convened a multi-stakeholder briefing with the leadership of the Standing Rock Sioux Tribe to engage with the banks and shareowners.
- Supported shareowner proposals requesting Indigenous Peoples' rights policies and a report on environmental and social risk due diligence processes.
- Engaged with labor unions regarding human capital concerns.
- Engaged the Equator Principles Association, an organization that provides banks with best practice guidelines for environmental and social risks in project finance.

CalPERS' engagements did not have an impact on the route chosen for the pipeline. We were constrained by the lack of voting rights due to ETP being a master limited partnership. Therefore, CalPERS had to follow an indirect route, by engaging as shareowners of the banks financing the pipeline. We also engaged the Equator Principles Association, which most of the banks support. And a statement issued by the United Nations Special Rapporteur on Rights of Indigenous Peoples' encouraged the United States government to adopt the principle of "free, prior, and informed consent" when consulting with indigenous tribes on projects that could affect their rights such as DAPL.

Set forth below are key results related to DAPL:

¹ CalPERS' Governance and Sustainability Principles, Section B (Board Quality), #16(a) (Human Capital Management Practices – Universal Human Rights) (pg. 22)

² CalPERS' Governance and Sustainability Principles, Section D (Corporate Reporting), #5 (Stakeholder Relations) (pg. 31)

³ CalPERS' Governance and Sustainability Principles, Section D (Corporate Reporting), #6 (Environmental Management Practices) (pg. 31)

- The United Nations Special Rapporteur on Rights of Indigenous Peoples' issued a statement calling on the United States government to adopt the principle of "free, prior, and informed consent" when consulting with indigenous tribes on projects that could affect their rights, such as DAPL.
- A U.S. federal judge ordered mandated spill reporting for Energy Transfer Partners, which includes input from the indigenous peoples to establish a response plan for Lake Oahe.
- The lead banks providing project finance for DAPL responded with the following:
 - Issued public statements to provide clarity on their DAPL involvement
 - Retained Foley Hoag to review the situation and provide recommendations for international industry best practices.
 - Engaged the Equator Principles Association requesting clarity on the application of the Equator Principles to projects that are in areas on the "designated country" list.
 - Wells Fargo reviewed its indigenous peoples' rights statement to ensure that its due diligence process includes a focus on indigenous communities, including whether they were properly consulted.
 - Several banks, such as BNP Paribas, DNB, and ING, sold their loans.
- The Equator Principles Association has opened a review of its guidelines to determine how it can provide better guidance for situations like this in the future.
- Significant vote support for shareowner proposals requesting disclosures on the due diligence process used to identify and address environmental and social risks, including risks associated with indigenous peoples' rights when reviewing potential acquisitions.

In addition, CalPERS staff is taking the opportunity to propose new language to the CalPERS Governance and Sustainability Principles (Principles) to make explicit that CalPERS' existing commitment to universal human rights includes the United Nations standards of "free, prior, and informed consent" being obtained ahead of projects having an impact on indigenous peoples.

CalPERS' Engagement Activities

Following the direction of the CalPERS Board related to DAPL, CalPERS staff reviewed the total fund portfolio exposure to DAPL and researched engagement options. At the CalPERS Investment Committee meeting on March 13, 2017, staff proposed a multi-stakeholder dialogue with the following to better understand the concerns relating to DAPL:

- Pipeline operator known as Energy Transfer Partners.
- Banks providing project finance.
- Stakeholders involved, such as the Standing Rock Sioux Tribe, labor unions, and other investors.

In addition, staff reviewed shareowner proposals related to DAPL at various companies focusing on indigenous peoples' rights and environmental risks. CalPERS supported shareowner proposals that were consistent with CalPERS' Governance and Sustainability Principles.

Pipeline Operator

Staff determined that the construction of DAPL was being undertaken primarily by Energy Transfer Partners and Sunoco Logistic Partners, L.P., two publicly traded master limited partnerships that merged on April 28, 2017 and are now one entity known as Energy Transfer Partners (ETP).

In addition to ETP, staff identified other corporate entities holding a minority ownership stake in DAPL, as follows:

- MarEn Bakken Company, LLC (MarEn): a joint venture between MPLX, L.P. and Enbridge Energy Partners, L.P.
 - MPLX, L.P. (MPLX) is a publicly traded master limited partnership formed in 2012 by Marathon Petroleum Corporation (MPC), a publicly traded company.
 - Enbridge Energy Partners, L.P. (EEP) is a publicly traded master limited partnership and subsidiary of Enbridge, Inc. (ENB), a publicly traded company.
- Phillips 66 (PSX): a publicly traded company.

Most of the entities with investments in DAPL are master limited partnerships (MLPs). This is significant for execution of an engagement strategy, as these MLP structures do not provide investors with voting rights and are not required to have a standard annual general meeting with the opportunity for shareowners to vote on the Board of Directors or auditors, or put shareowner proposals forward. Hence, the Sustainable Investment Program staff developed a strategy focused on engaging the banks providing the financing for DAPL.

CalPERS engaged with ETP and the other corporate entities holding a minority ownership stake in DAPL. Table 1 of the Appendix provides details of CalPERS' engagement activities and outcomes with each company involved in the construction of DAPL.

In addition, CalPERS supported shareowner proposals submitted to Marathon Petroleum Corporation and Enbridge requesting that the companies prepare a report relating to the due diligence processes used to identify the environmental and social risks, including the risks associated with indigenous peoples' rights, when reviewing potential acquisitions. These proposals received a high level of support of 30%.⁴ A similar shareowner proposal was submitted to Phillips 66, but later withdrawn in light of the company's commitment to provide additional information regarding its social policies and governance, including respect for human rights and indigenous peoples' rights.

Energy Transfer Partners filed a federal racketeering lawsuit in August 2017 against Greenpeace International, Earth First!, and other groups alleging that their actions increased the cost of constructing DAPL by at least \$300 million and damaged ETP's "relationships with the capital markets . . . impairing access to financing and increasing [ETP's] cost of capital and ability to fund future projects at economical rates."

Banks Financing the Dakota Access Pipeline

Seventeen U.S. and international banks provided financing for the construction of DAPL. During initial due diligence staff determined that investors, led by Boston Common Asset Management, were coordinating an [Investor Statement to the Banks Financing DAPL](#). The investor statement requested that banks address or support the tribe's request for a peaceful solution. CalPERS supported the investor statement and encouraged other investors to do so. The statement has been supported by 130 global investors, representing approximately \$1.2 trillion in assets under management. Signatories to the statement include Storebrand Asset Management, Calvert

⁴ According to Glass Lewis, "2017 Season Review of U.S. Shareholder Proposals", these shareowner proposals received the highest support of any human-rights-related proposal in 2017.

Research and Management, and The Office of New York City Comptroller. The statement highlighted the following:

- “Banks with financial ties to DAPL may be implicated in these controversies and may face long-term brand and reputational damage resulting from consumer boycotts and possible legal liability. As major shareowners of these banks, we are very concerned about the financial risks this poses to the investments we oversee and to those whom we serve as fiduciaries.”
- “We call on the banks to address or support the Tribe’s request for a reroute and to utilize their influence as a project lender to reach a peaceful solution that is acceptable to all parties, including the Tribe.”

Many of the banks issued public statements highlighting their involvement in DAPL. The banks retained Foley Hoag LLP to provide a report, using DAPL as a case study, that considered international industry good practices (IIGP) for community engagement in the development of pipelines, specifically focused on indigenous peoples’ rights. In May 2017, Foley Hoag released a summary of its [final report](#) and was asked to keep the full report confidential. The final report included recommendations for project sponsors on steps they can take above and beyond U.S. legal requirements. The final report also included general guidance to (1) assist companies building future pipelines in the U.S. in incorporating IIGP and (2) potentially help banks in evaluating whether to finance those projects. The public version of the Foley Hoag report highlighted the following:

- “Although U.S. law is generally robust, international law – and related IIGP – has developed rapidly in the recent years, particularly in the area of indigenous rights. U.S. law is less stringent than international standards in at least two vital ways.
 - First, IIGP offers more detailed guidance than U.S. law on what constitutes company-tribal consultation and offers a solid foundation for companies and potentially impacted tribes to develop strong working relationships, regardless of the government’s level of involvement.
 - Second, IIGP calls for company-tribal consultation and even free, prior and informed consent (FPIC) in a significantly wider range of circumstances than under U.S. federal law. Under U.S. federal law, if a project is not sited on Indian country, tribal consent is almost never required.”

In addition, the banks’ public statements referenced the [Equator Principles](#) (EP) as their project-finance risk framework for evaluating the DAPL project, which for developed countries do not require FPIC. Fourteen of the 17 banks financing DAPL are EP signatories. The EP are a financial industry credit-risk framework for determining, assessing, and managing environmental and social risks in projects. The EP advise that “projects [in developing countries] with adverse impacts on Indigenous Peoples will require their FPIC.” For developed (or “designated”) countries, the requirement is for consultation. In addition, the EP require that the environmental impact assessments and stakeholder consultations be embedded into covenants for loans.

However, interpretation of the EP “designated country” provision led to the standards not being consistently applied. The “designated country” provision states these “countries deemed to have comprehensive environmental and social governance, legislation systems and institutional capacity designed to protect people and the natural environment.” Therefore, according to the EP, projects located in a “designated country” could rely on domestic laws as an acceptable substitute for adhering to the requirement of FPIC. Since the United States is listed as a

“designated country,” banks providing financing to DAPL adhered to U.S. law, which requires consultation instead of FPIC.

To address this disparate treatment in terms of the application of FPIC, 10 banks sent a [letter](#) to the EP Association expressing concerns regarding the reputational damage to banks and the EP due to the “designated country” provision being applied to the DAPL project. The banks requested that the EP Association consider revisions to the EP to avoid similar situations in the future. The banks included BBVA, BNP Paribas, Credit Agricole, Intesa Sanpaolo, Natixis, and Société Générale.

The response from some of the banks was to sell their DAPL loans. Banks such as BNP Paribas, DNB, and ING decided to sell their respective loans in view of the reputational concerns associated with their involvement in a project that lacked adequate consultation with stakeholders such as indigenous peoples.

Investors also submitted a shareowner proposal in connection with Wells Fargo’s 2017 proxy statement, requesting that the company adopt a global policy regarding the rights of indigenous peoples, including respect for the FPIC of indigenous communities affected by the company’s financing activities. CalPERS had multiple conversations with Wells Fargo regarding the requests in the shareowner proposal and the company’s current indigenous peoples’ rights policy. In April 2017, CalPERS had multiple discussions with the bank regarding the requests in the shareowner proposal and the company’s existing indigenous peoples’ rights [statement](#). Wells Fargo communicated that it had:

- Published [frequently asked questions](#) to provide clarity concerning its investment in DAPL.
- Enhanced its related policies to ensure its due diligence process included a focus on the impact on indigenous communities and whether they have been properly consulted.
- Reviewed its indigenous peoples statement with tribal leaders and other indigenous stakeholders to help guide its decision-making for projects that may affect indigenous communities.
- For projects that impact Indigenous Peoples, established a new requirement that customers must demonstrate alignment with the objects and requirements of International Finance Corporation Performance Standard 7 on Indigenous Peoples, including requiring free, prior, and informed consent.

CalPERS was encouraged of the significant progress made by the company, however we decided to vote for the shareowner proposal, which received 16% support. CalPERS has continued to monitor and engage with Wells Fargo to track further progress, and expects another shareowner proposal related to indigenous peoples’ rights to be submitted with the company’s 2018 proxy statement.

Table 2 in the Appendix provides details of CalPERS’ engagement activities and outcomes with each bank that financed DAPL.

Indigenous Peoples

On March 1, 2017, CalPERS cohosted – with Boston Common Asset Management, The Office of New York City Comptroller, and First Peoples Worldwide – an investor briefing for leaders of the Standing Rock Sioux tribe. The briefing was focused on the investment risks at stake and how the concept of “social license to operate” is challenging the business landscape for extractive and infrastructure industries using DAPL as a case study. The purpose was to provide the Standing Rock Sioux tribe an opportunity to express their concerns and

perspectives directly to investors. The Standing Rock Sioux tribe informed attendees they support the pipeline construction to foster economic development, energy security, and independence. However, the tribe's concerns with the pipeline construction were specific to the final section's proximity to their water supplies, sacred sites, and treaty territories.

Labor Unions

CalPERS also engaged with the Laborers' International Union of North America (LIUNA), which issued a statement in support of the project. LIUNA shared concerns regarding environmental activists creating hostile working conditions for their members. LIUNA also participated in the CalPERS multi-stakeholder meeting with the Standing Rock Sioux tribe.

Equator Principles Association

To address the concern over the disparate application of the EP, on October 23, 2017, CalPERS and other investors representing approximately \$2.67 trillion in assets under management signed an [Investor Statement to the EP Association](#) ahead of the 2017 Annual Meeting in Brazil. The statement requested a reroute of DAPL, highlighted issues that came to investors' attention during the DAPL controversy, and requested that these be addressed.

In addition, CalPERS wrote to the EP Association's Chair and Secretariat explaining our request that the EP be made consistent globally. CalPERS' letter highlighted the following:

- CalPERS' strong support for the integration of environment, social, and governance risks into investment strategy to foster sustainable investment that underpins the returns we rely upon as fiduciaries to pay pension benefits over the long term.
- CalPERS' request for the two-tier country designation to be retired. Harmonizing the requirements would provide clarity and consistency across markets.
- CalPERS' request that the EP Association establish a forum to facilitate a voluntary resolution of matters where there appeared to be a variety of interpretation regarding application of the EP.
- CalPERS' request for a more consistent approach to reporting by signatory banks regarding their use of the EP.

We were pleased to see that, in response to requests from members and others, the EP Association decided to review the EP following a stakeholder consultation. In the meantime, the EP Association will provide a clarification note on some aspects such as the "designated country" provision. CalPERS plans to contribute its comments to the consultation.

Engagement Results and Efficacy

CalPERS believes managing risk through corporate engagement is key to long-term performance, and serves as the foundation of our fiduciary duty to members and stakeholders. Engagement helps change behavior that we believe can affect a portfolio company's financial performance. When staff engages with portfolio companies and votes proxies, it has the potential to affect the portfolio's risk-return profile in a real and positive way.

Our engagements with the companies involved in the DAPL controversy were very informative and constructive. They highlighted the limitations of engagements under the MLP structures, where investors do not have voting rights. Staff was disappointed that the company constructing the pipeline did not select a route that was acceptable to all parties. However, we were encouraged to see the increased awareness of how sustainability is factored into bank finance, which may affect future project financing. The below highlights key results related to DAPL.

- The United Nations Special Rapporteur on Rights of Indigenous Peoples' statement encouraging the United States government to adopt FPIC principles when consulting with indigenous tribes on projects that could affect their rights, such as DAPL.
- Multi-stakeholder dialogue to discuss the various issues around DAPL that included indigenous peoples, project financiers, laborer unions, and other companies involved in DAPL.
- The proactive response of the banks providing project finance for DAPL, which included:
 - Issuance of public statements to provide clarity on their DAPL involvement.
 - Retention of Foley Hoag to review the situation and provide recommendations for international industry best practices.
 - Engagement of the EP Association requesting consistent application of the EP to projects that are in areas on the "designated country" list.
 - A review by Wells Fargo of its indigenous peoples' rights statement to ensure that its due diligence process includes a focus on indigenous communities and whether they were properly consulted.
 - The sale, by some banks, such as BNP Paribas, DNB and ING, of their DAPL loans.
- The commitment of the EP Association to conduct a review of the EP to harmonize their application across all markets.
- Court-ordered spill reporting for Energy Transfer Partners, which included input from the involved indigenous peoples to establish a response plan for Lake Oahe.
- Significant vote support for shareowner proposals requesting disclosures relating to the due diligence process used to identify and address environmental and social risks -- including the risks associated with indigenous peoples' rights -- when reviewing potential acquisitions.

CalPERS' Governance and Sustainability Principles

In response to the DAPL controversy and engagement findings, staff reviewed CalPERS' Governance and Sustainability Principles, which are the fundamental principles guiding our proxy voting and corporate engagement efforts. During this review, staff recommended inclusion of the principle of FPIC in the universal human rights section. These are expected to be considered by the CalPERS Investment Committee in March 2018.

Appendices

Table 1: Companies in which CalPERS has invested that have been involved in the construction of the Dakota Access Pipeline

Table 1		
	Company Name	Engagement Activity and Outcome
1	Energy Transfer Partners (ETP)	<p>On February 15, 2017, investment staff initiated contact with ETP's VP of Investor Relations team via email requesting a conference call to discuss the DAPL situation. After multiple calls were rescheduled by ETP, staff spoke with the VP of Investor Relations on March 7th. The purpose of the conversation was to understand the process ETP undertook during its environmental and social risk assessment and its next steps for DAPL. The company stated the following:</p> <ul style="list-style-type: none"> • The company undertook all consultations and assessments required by federal and state law. • The company considered the current route to be a passage that would cause less disturbance to sacred sites than alternate routes. • The company expected the pipeline to receive the necessary approvals from regulatory agencies for operations to start. <p>On April 17, 2017, staff spoke to ETP's VP of Investor Relations regarding the merger with Sunoco Logistics Partners. The company explained the merger would strengthen its balance sheet and improve its credit profile. As of June 2017, ETP announced the DAPL was fully operational.</p> <p>In February 2018, CalPERS sent follow-up correspondence requesting a meeting with the company regarding the recommendations from the Foley Hoag report, and specifically whether the company planned on updating its policies in response to the DAPL controversy.</p>
2	Enbridge, Inc.	<p>On April 20, 2017, staff spoke with Enbridge, Inc.'s Director of Investor Relations and Chief Sustainability Officer to discuss the company's response to the recent DAPL situation. In addition, staff discussed a shareowner proposal on the 2017 proxy statement requesting the company to prepare a report relating to the due diligence processes used to identify environmental and social risks, including risks associated with indigenous peoples' rights, when reviewing potential</p>

Table 1

Table 1	
Company Name	Engagement Activity and Outcome
	<p>acquisitions.</p> <p>Enbridge stated the following:</p> <ul style="list-style-type: none"> • They were aware of the DAPL situation and were monitoring it closely. • They will provide additional information regarding their environmental and social risks procedures and processes, specifically related to indigenous peoples' rights. • They will conduct research to develop a set of principles on indigenous peoples' rights. This information is expected to be included in their next Corporate Social Responsibility Report anticipated to be released in 2018. <p>Consistent with CalPERS' Governance and Sustainability Principles, CalPERS supported the shareowner proposal, which received 30.3% support. Enbridge has committed to keeping CalPERS informed of progress being made.</p>
3	<p>MPLX, L.P. (MPLX) is a publicly traded master limited partnership formed in 2012 by Marathon Petroleum Corporation, a publicly traded company.</p> <p>On April 7, 2017, staff spoke with Marathon Petroleum Corporation (MPC) Corporate Secretary and Director of Investor Relations to discuss the company's response to the recent DAPL situation. In addition, staff discussed a shareowner proposal on the company's 2017 proxy statement requesting that the company prepare a report relating to the due diligence processes used to identify environmental and social risks, including risks associated with indigenous peoples' rights, when reviewing potential acquisitions. MPC challenged the shareowner proposal with the Securities and Exchange (SEC) asking for it to be excluded from the ballot at the annual general meeting. The SEC ruled the proposal should be included in the 2017 proxy statement giving shareowners the ability to vote on the proposal.</p> <p>The company stated the following:</p> <ul style="list-style-type: none"> • Their involvement in DAPL is through a master limited partnership, MPLX, that they established in 2012. MPLX owns a minority interest in DAPL with an approximately 9% stake through a joint venture investment. • They ensured that rigorous planning, permitting, and adherence to mandated U.S. federal,

Table 1		
	Company Name	Engagement Activity and Outcome
		<p>state, and local laws related to human, cultural, and legal rights were carried out for DAPL.</p> <ul style="list-style-type: none"> • When they make investment decisions in projects constructed by third parties, they employ subject matter expertise to review the permitting records and other available information for projects they are interested in. • They are aware of multiple consultations conducted by the U.S. Army Corp of Engineers, which included consultation with the Standing Rock Sioux tribe. Therefore, MPC felt the interests of the affected indigenous peoples and the environment were protected in relation to the DAPL project. <p>Consistent with CalPERS' Governance and Sustainability Principles, CalPERS supported the shareowner proposal, which received 32% support. We expect the proponent of the shareowner proposal to re-file the proposal on the company's 2018 proxy statement.</p>
4	Phillips 66	<p>During the 2017 proxy season, staff monitored Phillips 66 for a potential shareowner proposal that was expected to be included in their 2017 proxy statement related to DAPL. The shareowner proposal was to request that the company prepare a report to identify environmental and social risks, including risks associated with indigenous peoples' rights. However, the shareowner proponent withdrew the proposal due to the company addressing their requests. Phillips 66 agreed to continue robust dialogue towards disclosing information regarding social policies and governance, including respect for human rights and indigenous peoples' rights.</p> <p>On November 7, 2017, staff spoke with the Investor Relations General Manager and Manager of Policy and Emerging Issues to discuss the DAPL situation and the company's commitment to review its policies regarding human rights, specifically indigenous peoples' rights.</p>

Table 2: Companies in which CalPERS has invested that financed the construction of the Dakota Access Pipeline

Table 2		
	Company Name	Engagement Activity and Outcome
1	Bank of Tokyo	Bank of Tokyo Mitsubishi received a copy of the Investor Statement to Banks Financing the

Table 2		
	Company Name	Engagement Activity and Outcome
	Mitsubishi UFJ	<p>Dakota Access Pipeline (Statement).</p> <p>The company did not respond to the Statement or make any public comments related to DAPL.</p>
2	BayernLB	<p>BayernLB received a copy of the Statement.</p> <p>BayernLB issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> • They are closely monitoring the DAPL situation. • They will use their influence where possible to reach an outcome that is accepted by all parties involved. • They will engage with German and international environmental and human rights organizations <p>BayernLB also announced its decision to exit the financing at the earliest date possible under the loan agreement and to not participate in any future rounds of financing related to DAPL.</p>
3	BancoBilbao Vizcaya Argentaria (BBVA)	<p>BBVA received a copy of the Statement.</p> <p>BBVA issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> • BBVA's commitment to evaluating projects social and environmental risks before making a finance decision. • The company ensured the DAPL project finance transaction was evaluated under the Equator Principles guidelines, and in compliance with applicable laws and regulations. • Met with the Standing Rock Sioux tribe to hear their concerns. • They will continue to proactively review the DAPL situation to help resolve this matter in a respectful way that encourages ongoing dialogue. <p>BBVA was a signatory to a letter to the EP Association.</p>
4	BNP Paribas	<p>BNP Paribas received a copy of the Statement.</p> <p>BNP Paribas announced its decision to sell its loan in DAPL. The company stated its decision to</p>

Table 2		
	Company Name	Engagement Activity and Outcome
		<p>sell its loan was made following a comprehensive review of the project including consultation with all relevant stakeholders involved. BNP Paribas explained that the sale signals their commitment to full and detailed stakeholder consultations on projects.</p> <p>BNP Paribas was also a signatory to a collaborative letter to the Equator Principles Association organized by some of the banks.</p>
5	Citigroup	<p>Citigroup received a copy of the Statement.</p> <p>Citigroup sent the investors that were signatories to the investor statement a letter regarding their involvement in DAPL. The letter was made public on their website and highlighted the following:</p> <ul style="list-style-type: none"> • The project was reviewed by their Environmental and Social Risk Management Policy and the EP. • During the due diligence phase the company hired an independent consultant to review the permitting and approval process to confirm the project was compliant with U.S. laws. • The company met with a variety of stakeholders including human rights academics, non-governmental organization communities, and the Standing Rock Sioux tribe. • The company hired a third-party consultant to advise on strengthening their internal due diligence on social risk.
6	Credit Agricole	<p>Credit Agricole received a copy of the Statement.</p> <p>Credit Agricole issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> • The process they took in evaluating the DAPL project. • The project was in compliance with all relevant laws and regulations, which allowed the loan to move forward, and limited their ability to voice any requests or changes to the pipeline route. • The company met directly with the representative from the Standing Rock Sioux tribe and tried to work with the borrowers to find an amicable solution. • They are committed to further researching the issue, not increasing its contributions to DAPL, and continuing to call for a peaceful solution.

Table 2		
	Company Name	Engagement Activity and Outcome
		<ul style="list-style-type: none"> They will engage with the EP Association to expand to all countries the principle of FPIC with affected community members. <p>Credit Agricole was a signatory to a letter to the EP Association.</p>
7	DNB	<p>DNB received a copy of the Statement.</p> <p>DNB issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> They reviewed various options for their investment in the project financing of DAPL and decided to sell its share of the loan. They hope the sale of their stake will signal the importance of affected indigenous population is involved and their opinions are heard. During their review, they met several interest groups including representatives from the Standing Rock Sioux tribe and the company building the pipeline. They are committed to continue to try to influence the process, call for a lower level of conflict and conduct an independent investigation on how indigenous peoples' rights are being safeguarded.
8	Industrial and Commercial Bank of China (ICBC)	<p>ICBC received a copy of the Statement.</p> <p>The company did not respond to the Statement or make any public comments related to DAPL.</p>
9	ING	<p>ING received a copy of the Statement.</p> <p>ING issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> The company reached an agreement to sell its loan related to DAPL, which followed a productive dialogue with the Standing Rock Sioux tribe. The tribe responded to the sale positively and encouraged ING to encourage the buyer to support a respectful dialogue with the tribe and other affected groups. The company is committed to advocating for indigenous peoples' rights in project financing.
10	Intesa Sanpaolo	Intesa Sanpaolo received a copy of the Statement.

Table 2		
	Company Name	Engagement Activity and Outcome
		<p>Intesa Sanpaolo issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> • The company's commitment to social and environmental issues linked to the DAPL financing. • The DAPL project adhered to its Code of Ethics, which includes the Equator Principles and the UN Global Compact. <p>Intesa Sanpaolo was a signatory to a letter to the EP Association.</p>
11	Mizuho Bank	<p>Mizuho Bank received a copy of the Statement.</p> <p>Mizuho Bank issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> • The company's commitment to upholding their social responsibilities. • They are continuing to encourage all parties involved to communicate in a collaborative, safe, and respectful dialogue. • The company will continue to review the situation carefully.
12	Natixis	<p>Natixis received a copy of the Statement.</p> <p>The company was a signatory to the letter to the EP Association.</p>
13	Société Générale	<p>Société Générale received a copy of the Statement.</p> <p>Société Générale issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> • They support projects that are in compliance with all rules and regulations in the jurisdictions in which they operate and in accordance with the EP. • The company's decision to support the DAPL project was based on a comprehensive due diligence process. • The company had discussions with a representative of the Standing Rock Sioux tribe to better understand their concerns. • They will work with the EP Association to request to adapt the current risk assessment framework with regards to the rights of indigenous peoples in line with international best

Table 2		
	Company Name	Engagement Activity and Outcome
		<p>practices.</p> <p>Société Générale was a signatory to a letter to the EP Association.</p>
14	Sumitomo Mitsui Financial Group	<p>Sumitomo Mitsui Financial Group received a copy of the Statement.</p> <p>The company did not respond to the Statement or make any public comments related to DAPL.</p>
15	SunTrust Bank	<p>SunTrust Bank received a copy of the Statement.</p> <p>The company did not respond to the Statement or make any public comments related to DAPL.</p>
16	Toronto Dominion Securities	<p>Toronto Dominion Securities received a copy of the Statement.</p> <p>Toronto Dominion Securities issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> • The company works with industry and environmental stakeholders and Indigenous communities to actively encourage dialogue to manage issues related to resource development. • They recognize FPIC of Indigenous Peoples is an important factor in securing a social license. • They advocate for the development of practical guidance for implementation of FPIC at a project level. • The company helped secure a human rights expert to advise ETP on human rights practices moving forward. • They developed a due diligence process to ensure they only finance responsible resource development that balances environmental, economic, and social considerations. • The company is a signatory to UN Principles for Responsible Investment and the EP. • As a lender, the company is not an investor in DAPL and thus not able to divest but rather is contractually obligated to fulfill the project financing agreement. • They are currently reviewing their due diligence policies and making improvements where appropriate based on the Foley Hoag findings.

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	Company Name	Engagement Activity and Outcome
17	Wells Fargo	<p>Wells Fargo received a copy of the Statement.</p> <p>Wells Fargo issued a public statement highlighting the following:</p> <ul style="list-style-type: none"> • The company went through an extensive due diligence process including working with an independent engineer and the lenders’ legal counsel to ensure the project complied with all local, state, and federal laws and environmental and cultural impacts were addressed. • The company’s due diligence process identified compliance with the Equator Principles, which is the risk framework used for evaluating projects such as DAPL. • They enhanced their due diligence process in sectors subject to the company’s Environmental and Social Risk Management policy. • They developed an indigenous peoples statement to help guide the company’s decision-making for projects that may potentially impact indigenous communities. <p>A shareowner proposal was filed at the company’s 2017 annual general meeting requesting that the company adopt a global policy regarding the rights of indigenous peoples including respect for free, prior, and informed consent of indigenous communities affected by the company’s financing. In April 2017, ahead of Wells Fargo’s annual general meeting CalPERS staff had multiple teleconferences with the bank to discuss DAPL and the shareowner proposal. Wells Fargo communicated the following:</p> <ul style="list-style-type: none"> • The company published frequently asked questions to provide clarity on their investment in DAPL. • Enhanced their policies related to ensure their due diligence process to include a focus on the impact on indigenous communities and whether they have been properly consulted. • Reviewed their indigenous peoples statement with tribal leaders and other indigenous stakeholders to help guide their decision-making for projects that may have an impact on indigenous communities. • For projects having an impact on indigenous peoples, the company established a new requirement that customers must demonstrate alignment with the objects and requirements of International Finance Corporation Performance Standard 7 on Indigenous Peoples, including requiring free, prior, and informed consent.

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		<p>Though encouraged by the significant progress made by the company, CalPERS decided to vote for the shareowner proposal, which received 16% support.</p> <p>Wells Fargo's involvement in DAPL also prompted some Wells Fargo customers to reconsider their business with the company. For example, it was reported the City of Davis, San Francisco, Santa Monica, and Seattle voted to sever ties with Wells Fargo.</p>