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giant cardboard heads. If that wasn't unsettling enough, posters started to pop up all over town showing a sickly-looking Hales flanked by oil wells, covered with the text "Fossil Fuel Charlie for Mayor 2016." On May 7, the day after fossil fuel Tories were thrown out of office, the mayor finally dropped his support for the \$500 million project, and urged the company to leave Portland.

The activists who rattled the mayor are part of what they call "the thin green line" – a network of environmental activists in Oregon, Washington and British Columbia who are working to stop more than 29 fossil fuel expansion and export projects in the Northwest, citing damage to air quality, waterways, coastlines and the global climate.

And in front of that thin green line is a fierce red one, made up of Native Americans with deep spiritual connections to the local landscape. These Native Americans carry an intergenerational struggle to protect their lands from a style of development that is, by any historical standard, utterly foreign to the North American landscape.

#### Consultation and accommodation: A tale of two cultures

A glimpse of this cultural conflict over land can be seen in over-confident statements from Port Director Wyatt, who argued back in September that massive shipments of propane in the Columbia Gorge "add tremendous value to the river" by accelerating the transformation of the river through dredging and jetty expansion. Paul Lumley, executive director of the Columbia River Inter-Tribal Fish Commission, begs to differ. "Adding value to the river means restoration of natural resources for the benefit of all members of the public," he said. "Destroying the river, or even parts of it, does not add value."

Despite signing treaties of mutual accommodation, there is an obvious difference between the European and Native approach to making a living on the land. Too often, the story of European development in the U.S. has taken on the qualities of what environmental essayist Barry Lopez has called "a ruthless, angry search for wealth" – a religious crusade to mine commodities from landscapes instead of living within them, poisoning water and wrecking food sources in the process.

This situation has not changed nearly as much as we would like to believe. "Gold is excellent, gold is treasure, and he who possesses it does whatever he wishes in this life and succeeds in helping souls into paradise," wrote Christopher Columbus. "Energy is the lifeblood of America's economy," Fox News personality Sean Hannity said to a conference of Bakken oil executives last year. "What you have been able to show this country is nothing short of a miracle."

In May the Lummi Nation held a treaty rights conference in Seattle that gathered more than 150 people to strategize on how to support indigenous struggles, rather than talking past them, in the fight against fossil fuels and climate chaos. The Lummi told the audience that their fight to stop the biggest coal export project in the U.S. is crucial to mankind's survival. "Our resistance is your resistance. If we lose, you are lost," said councilmember Jay Julius.

Although we usually speak of Oregon and Washington as fossil fuel roadblocks, the westward shipment of fossil fuels would also cross the territory of at least 38 sovereign First Nations in Oregon and Washington, and many more in British Columbia. One of these is the Unist'ot'en Band of the Wet'suwet'en, which has blocked multiple pipelines for several years by occupying their unceded territory, and building traditional houses in the path of the pipeline. Affirming the rights of those nations to assert their sovereignty and to receive full recognition from government entities that owe it to them has become an increasingly loud demand in the fight for climate justice.

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PAUL LUMLEY  
EXECUTIVE DIRECTOR OF THE COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

#### Government-to-Government Relations (It's really not that hard!)

One way to estimate the extent of such recognition is through the official process of government-to-government consultation. Consultation is a necessary ingredient for any government entities that need to accommodate one another, including state agencies consulting each other, like the Department of Forestry and the Department of Fish and Wildlife. For tribal governments, any potential decision that can affect their treaty-reserved resources requires that the responsible government agencies enter into consultation with those tribes. This allows the affected government body to address and resolve the conflict early on, before a decision has been made, and long before any action has been taken – similar to relations between state agencies or city bureaus. Failure to do so risks violating federal treaty rights, state and local laws, federal statutes and international human rights law.

The city of Boardman, for instance, could have avoided last year's conflict over the Coyote Island coal export terminal if it had a local consultation policy in place. Instead, after years of planning, the Department of State Lands shot down the project last year after tribes told the state it was planned on top of a traditional fishing site.

However, it seems Oregon state agencies, and especially Portland city bureaus, are unsure about how to approach consultation with Native American tribes, and are particularly confused about the difference between desired and required. For instance, when DEQ altered the air quality permit at Port Westward in Clatskanie, they effectively legalized 1,000 oil trains coming through the Columbia Gorge every year. Did DEQ consult tribes before letting oil trains start crowding their fishing sites? According to DEQ's Tribal Liaison Christine Svetkovich, the answer is both yes and no. DEQ did tell tribes what was happening, but did not search for potential impacts to treaty rights, and did not acknowledge that their decision could trigger impacts to treaty-reserved resources. Instead, DEQ insisted that the

scope of their decision was very limited – an opinion that has actually landed them in court with environmental groups, who say they did not even estimate their air pollution impacts properly.

According to Lumley, "These trains would be going right by our traditional fishing sites, right by our river-side communities. The risk of an explosion, particularly for a propane train, or of an oil spill and derailment, would be very devastating. The loss of life is not something we want to risk, and my member tribes have expressed serious concern about this."

In the run up and immediate aftermath of the April 7 Portland Sustainability Commission's vote, Tom Armstrong and the

mayor's staff effectively said that sending unread e-mails to tribal representatives is consultation enough, and gave no indication that they searched for potential impacts to cultural resources.

This was likely the source of rumors that bothered CRITFC. In a brief interview after the hearing, Armstrong told this writer that "there are no established protocols" for tribal consultation in Portland – information he left out in his PSC testimony to Commissioner Gray.

Paradoxically, both state and city officials contended that they were engaged in a sort of consultation, but in an ad-hoc manner that they apparently hoped would end as quickly as possible. "I testified before the PSC that consultation has not occurred," explains Lumley. "You would think the one message they couldn't take away was that they did consultation, but they did. People who know better wanted to just check the box and say consultation happened because I spoke. That's not how consultation works."

One belief leading to this confusion was the perception that tribes only have influence with the federal government. However, according to Gabe S. Galanda, a practicing attorney in Washington state who specializes in defending tribes and Indian-owned interests.

"In the Pacific Northwest, the consequences to a local government for failing to honor the normative tenet of inter-governmental consultation could include significant liability for violation of guaranteed federal Indian Treaty rights or destruction of tribal historic or cultural properties. Beyond that, it is simply a best governmental practice to consider whether the rights of sister governments might be implicated by local government action."

Paul Lumley highlighted the absurdity of the city assuming tribal support for Pembina's project prior to the April hearing. "Would the city e-mail the state, then assume they've signed off on a project because they don't respond? It's the same with tribes – we are sovereign governments just like the state of Oregon."

#### "Free Trade" vs Indigenous Rights

At the April 7 PSC hearing, Cathy Sampson-Kruse attempted to emphasize that point, but Chair Baugh cut her off quickly, saying his staff would look into the matter. In a push to support Pembina, he would later describe barriers to free trade as a form of colonization, after distracting commissioners from the indigenous concerns that were actually in the room. "We industrialized this nation over the indigenous people here and told them the same thing and polluted this planet," Baugh intoned. "Now we're gonna sit here and say 'no?'"

In reality, it is Pembina Pipeline Corp. that currently stands accused of industrializing Canada on the backs of indigenous peoples by polluting their water and ruining their hunting grounds, and now indigenous peoples are saying "no."

In early March a first-of-its-kind lawsuit was filed by the Blueberry River First Nations in British Columbia, aiming to stop all new oil and gas developments in their territory, where Pembina gets its fracked gas. The tribes say these operations are a violation of their treaty from 1900, which promised natives they could continue their traditional ways of life in exchange for opening up their lands to European settlement. Instead they've seen over 16,000 oil and gas wells, and over 28,000 kilometers of pipelines, with depressing impacts on water quality, fish and wildlife.

It's worth remembering that two weeks before planners voted on its pipeline, Pembina abruptly promised a \$3 million "community investment fund" to help the city implement its Climate Action Plan – a kindly gesture to offset its carbon emissions.

In 2008, Pembina also consulted with the Canadian indigenous environmental group REAC, promising off-sets to a pipeline right-of-way through Alberta, Canada for the Nipisi and Mitsue pipelines, carrying diluent and tar sands. It promised REAC directors extensive restoration of caribou habitat, representing five times the footprint of the right-of-way: a forest that would be permanently clear cut to make way for the pipeline. The promise was exciting enough for REAC to drop its opposition to the new pipeline, despite fears that another pipeline could push the caribou herds into extinction.

What came next? According to REAC director Julie Asterisk, "The area they re-planted was miniscule and far less than we agreed to. We were left with the sickening feeling that we got suckered."

According to Doug Badger, another director of REAC, Pembina prefers to avoid consultation altogether and regularly gives out cash envelopes to tribal members instead.

"Pembina is not to be trusted," Badger said. "This is a company that thinks money can buy them anything – except restoration for the habitat they destroyed."

Doug and other indigenous activists of Alberta remain cautiously optimistic that the new NDP government can restore respectful relations with indigenous peoples and provide redress for habitat destruction through the Declaration on the Rights of Indigenous Peoples.