

ING and the Dakota Access pipeline

Updated 19 May 2017

ING has reached an agreement for the sale of its loan to the Dakota Access pipeline. The sale follows a constructive dialogue between ING and representatives from the Standing Rock Sioux Tribe and has the [full support](#) of the Tribe. Read our full statement on page 3.

How did ING get involved in the Dakota Access pipeline?

ING was one of 17 banks financing this project. When presented with the funding request, we carefully screened the project according to laws and regulations as well as ING's environmental and social risk policy framework. We do this with all projects we finance.

The US government had issued all necessary permits, an independent legal review confirmed the project complied with all laws and regulations, and an independent contractor hired to do further due diligence also gave us a green light.

How much money did we lend to the project?

The syndicate of 17 banks, led by Citibank, has provided a USD 2.5 billion credit facility. ING's share was USD 120 million.

What did ING do after learning the Standing Rock Sioux Tribe was against the pipeline?

We learned that the Standing Rock Sioux disagreed with the processes utilised in the granting of licenses/permits. In response, we:

- Publicly expressed our concerns about the project and the violence used against the protesters.
- Requested an independent human rights expert to review matters related to the permitting process (together with the other banks).
- Publicly expressed our disagreement with the lack of constructiveness and respect shown by the companies, our clients.
- Sold the shares we had in the parent companies, as this kind of investment is not contractual and can be terminated (approximately USD 220 million).
- Decided to stop doing any new business with the companies, not renewing credit facilities that expire, effectively ending the relationship.
- Continually tried to use our influence to resolve this issue in a way that all parties could be satisfied with.

- Met with members of the Standing Rock Sioux Tribe on 10 February 2017, where we shared our willingness to either continue trying to positively influence the course of the project, or to distance ourselves by selling our stake in the loan.
- Signed an agreement to sell the loan. Under the terms of the agreement with the buyer ING retains a potential risk in case of non-payment under the loan.

Why didn't ING sell earlier when ING could still influence the project?

We're not able to halt the project, and we never were. Our role as a bank is indirect. Being a lender to the project, we first tried to engage and use any influence we may have to encourage a satisfactory outcome for all parties involved.

However, there was even less room for lenders to positively influence the project after construction had been resumed by the client once the permits had been granted. So there were basically two options left: to either continue monitoring developments closely and continue trying to positively influence the course of the project or to distance ourselves from the project by selling the loan.

We discussed both options with the Tribe, after which we decided to continue to pursue the sale of the loan. They are fully supportive of the sale.

How did ING exert its influence?

One way was by engaging with our client. Another was by commissioning additional research to be conducted by an external independent human rights expert (along with the other banks in the syndicate) and by closely monitoring developments. We also engaged with the Standing Rock Sioux Tribe, sharing our willingness to either continue trying to positively influence the course of the project, or to distance ourselves by selling our stake in the loan.

On 21 March 2017 we announced that we have sold our stake in the Dakota Access pipeline loan.

Follow-up

This case has been challenging because local laws outlining the requirements for engaging with indigenous communities are not always aligned with international best practice. Therefore ING, as member of the Steering Committee of the Equator Principles, supports the initiation of a [Designated Countries Working Group](#) to review options to improve the due diligence process.

ING has sold its stake in Dakota Access pipeline loan

21 March 2017

ING has reached an agreement for the sale of its loan to the Dakota Access pipeline. The sale follows a constructive dialogue between ING and representatives from the Standing Rock Sioux Tribe and has the [full support](#) of the Tribe.



ING's head of Business Ethics Arnaud Cohen Stuart (left) and Chad Harrison from the Standing Rock Sioux Tribe shortly after their meeting in New York on 10 February.

In our meeting with the Standing Rock Sioux Tribe on 10 February, we discussed the Tribe's concern regarding the pipeline's proposed routing. The Tribe made its belief clear that its interests and position as a sovereign nation weren't properly recognised in the process by the government. Both ING and the Tribe acknowledged the general importance of respectful dialogue with groups potentially affected by large infrastructure projects.

In the meeting, we also shared with the Tribe our willingness to either continue trying to positively influence the course of the project, or to distance ourselves by selling our stake in the loan.

In response, the Standing Rock Sioux Tribe indicated it would appreciate ING selling its loan in the project, considering that there is less room for lenders to positively influence the project now that construction has resumed, and because it would be a valuable message supporting its call for respectful dialogue.

Today, ING has signed an agreement to sell the loan. Under the terms of the agreement with the buyer ING retains a potential risk in case of non-payment under the loan. The buyer of the loan supports the importance of a respectful dialogue with the Tribe and other affected groups. ING is grateful to the buyer for playing an important role in enabling a solution that allows ING to not to breach its contractual obligations under the loan while at the same time delivering a valuable message in support of the Tribe. The sale is expected to close in the coming days.

The Dakota pipeline: we've sold our loan





The financing:
 17 banks
 Total cost pipeline: USD 4.7 bln
Bank syndicate share: USD 2.5 bln
ING share: USD 120 mln

Before we got involved:


 We screened the project


 all permits issued by US government


 independent legal review gave OK


 independent consultant gave OK

After we got involved:


 Learned of major objections from Standing Rock Sioux


 Called on the client to work for a solution


 Denounced violence against the protestors


 Commissioned more research into permit process


 Sold our shares in the client (USD 220 mln)


 Stopped any new business with the client


 Met the Tribe, asked for their input


 Sold our stake in the loan


 Will advocate indigenous rights in project financing