

This NAFTA Lawsuit over Keystone XL Proves “Free Trade” Deals Kill Democracy

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Canadian pipeline company TransCanada [announced](#) Wednesday afternoon it is suing the Obama administration under [NAFTA](#) provisions for the U.S. decision last November to reject the unpopular Keystone XL pipeline.

The climate justice movement that successfully pressured the president to reject the mammoth pipeline project responded on Thursday by characterizing the move as “[pathetic](#)” and saying the legal argument being deployed by the company underscores the undemocratic nature of so-called “free trade” deals.

“This isn’t going to get the pipeline built, and it is going to remind Americans how many of our rights these agreements give away,” Bill McKibben, 350.org co-founder, said in [a statement](#). “The idea that some trade agreement should force us to overheat the planet’s atmosphere is, quite simply, insane. But the oil industry is so used to always winning that I fear this kind of tantrum is predictable. Corporate power is truly out of control.”

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–Bill McKibben, 350.org

The corporation said it has filed a “filed a Notice of Intent to initiate a claim” under the Investment Chapter of NAFTA—on the grounds that “the denial was arbitrary and unjustified.” Investor-state dispute settlement (ISDS) provisions, which are in thousands of free trade deals, allow corporations to circumvent national legal systems to levy lawsuits in parallel tribunals if state actions threaten their profits.

“TransCanada has been unjustly deprived of the value of its multibillion-dollar investment by the U.S. administration’s action,” said the firm, announcing it is seeking a stunning \$15 billion in damages.

“With a single press release, TransCanada has proven what concerned citizens have argued for decades—that the primary purpose of ISDS is to subvert democratic processes and the public interest, in the name of private profit,” Carroll Muffett, president of the Center for International Environmental Law, [said](#) on Thursday. “It has demonstrated to the citizens of the United States, and the world, why these provisions have no place in new trade agreements.”

“We encourage the Obama administration to share a copy of TransCanada’s notification with every member of Congress and every US state legislator as evidence of just what the TransPacific Partnership and the Trans-Atlantic Trade and Investment Partnership have to offer them,” Muffett continued. “Millions of people were galvanized into action to stop the Keystone XL pipeline and to say, clearly and loudly, that it is not in the national interest. TransCanada demonstrates why ISDS demands the same response.”

What’s more, TransCanada also announced on Wednesday that it has filed a separate lawsuit in the U.S. Federal Court in Houston, Texas, “asserting that the President’s decision to deny construction of Keystone XL exceeded his power under the U.S. Constitution.”

Climate campaigners say the movement will only be galvanized by TransCanada’s latest stunt.

“The fight against Keystone XL fired up the climate movement like never before,” said Jason Kowalski, policy director for 350.org. “We’re more than happy to keep thrashing it out with the likes of TransCanada—it will only bring more people into the struggle to keep fossil fuels in the ground.”

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