

090716-Democracy Now Report on The Dakota Access pipeline. “(The line) is also facing legal resistance in Iowa, one of four states through which it passes. We go to Des Moines to speak with Bill Hanigan, an attorney representing 15 Iowa landowners who are contesting the project’s use of eminent domain under the guise that it would provide a public service, even as it threatens to pollute the state’s farmland and water supplies.

TRANSCRIPT

This is a rush transcript. Copy may not be in its final form.

AMY GOODMAN: Well, we wanted to turn now, go sort of down the pipeline. The Dakota Access pipeline is also facing legal resistance in Iowa. The pipeline goes from North to South Dakota through Iowa to Illinois. In Iowa, about 30 people were arrested last week in an effort to block construction. For more, we’re going to Des Moines, where we’re joined by Bill Hanigan, an attorney representing 15 Iowa landowners who are contesting the use of eminent domain by the Dakota Access pipeline.

Welcome to *Democracy Now!*, Bill Hanigan. Isn’t the Dakota Access pipeline a private company?

BILL HANIGAN: Dakota Access is absolutely a private company. It’s a multibillion-dollar corporation owned by about five other multibillion-dollar corporations.

JUAN GONZÁLEZ: So, how, then, were they—was the company able to get access to the land of the folks that you are representing?

BILL HANIGAN: Dakota Access is using in Iowa the power of eminent domain. The power of eminent domain is the authority of the state to take real estate and other assets for public purposes. And Dakota Access has applied to and obtained the power of eminent domain from our Iowa Utilities Board. So they have represented to the state that they are a public pipeline that is providing a common carriage service for the benefit of Iowans and the nation, and therefore they should be entitled to use the power of eminent domain. And about that, we very much disagree.

AMY GOODMAN: Can you talk about the connection between the protests in North Dakota and what’s happening to you downstream, if you will, from North Dakota, South Dakota—now you’re in Iowa—those connections?

BILL HANIGAN: Well, the legal arguments are different, but the purpose and the power behind Dakota Access is the same. In North Dakota, they’re arguing about Native American artifacts. In Iowa, we’re arguing about the application of the Constitution. And what’s common between those two things is, first of all, we’d like Dakota Access to stop what they’re doing until everybody gets their day in court, so we can make our arguments before it’s too late, before it’s a moot point. Now, the commonality among it, in addition to seeking this stay, the commonality is the issue of the great economic disparity. So, you’ve got, again, these multibillion-dollar companies who have combined this joint effort to build this pipeline across Iowa and across North Dakota and Illinois and South Dakota. And the commonality is that great economic force behind those billions of dollars pushing this through, both with law firms and both with the power of politics and the money of politics, to get this thing on a fast track in all of these places, before Iowans and South Dakotans and North Dakotans and Native Americans have an opportunity to even get to the court to get the court to review this and say it’s not fair.

JUAN GONZÁLEZ: And how do you hope to prevail in court, given, of course, the infamous *Kelo* decision of the Supreme Court some decades back, where, in essence, the court allowed private interests to be able to use eminent domain in commercial—in commercial projects? And interesting, as I recall, it was the, quote, "liberals" on the Supreme Court who backed the *Kelo* decision and the, quote, "conservatives" who opposed it.

BILL HANIGAN: That's correct. And we think that even the *Kelo* majority—in that case, the so-called liberals—would apply the *Kelo* case and rule in our favor. And what the majority in *Kelo* said—and it was a bare 5-4 majority—what the majority in *Kelo* said is that we're going to leave it up to the states to determine what a public purpose is for the purposes of using the power of eminent domain. However, they also said that public purpose does not include and can't be a shill for a true private purpose. And so, in *Kelo*, that was a comprehensive community redevelopment plan, and the court said that, in that context, where there would be some public assets, including streets and sidewalks and sewers, that they would allow there to be a using of the power of eminent domain to help repair a blighted community. And in that context, economic development was a legitimate consideration.

AMY GOODMAN: You know—

BILL HANIGAN: Here, in Iowa, we don't have—we don't have economic development to repair a blighted community. We've got—we've got farmland that doesn't need repair.

AMY GOODMAN: You know, when I was in North Dakota this weekend, I was speaking to an oil trucker, who trucked Bakken oil around the area and said it was precipitous how low the demand had gone in this last year. You could conceivably set up this pipeline, the Dakota Access pipeline could be set up—it's built through Illinois—and the demand gets lower and lower. And they have just destroyed these sacred sites along the way. And then, eventually, you see the abandonment of the pipeline.

BILL HANIGAN: We feel the same way about our farmland. See, in Iowa, in the Midwest, our strategic and competitive advantage is our black soil, that from the black soil and the earth, that's where we grow our crops. That's how we feed our families. That's how we fuel our cars.

And so, what they've done is they plow this trench that is eight, 10, 12 feet deep, and they put the soil out, and it rains on the soil. And they put their pipe in there. Then they put the soil back in. And it's just not the same as it was. And on top of that, there's the risk of this oil leaking into our water supply, and there's this risk of this oil leaking into the soil and making the fertility of it much less than it was before.

So, the idea that a Texas company can take our land for its private purpose—you know, the argument that Dakota Access has made, that this is a somehow public purpose, is that they will take this oil off to the Gulf of Mexico through Iowa, and then they'll produce unleaded gasoline, and somehow some of that gasoline will splash its way back to Iowa. They can't prove it, they can make an estimate of it, and they can't tell us how much, but they think that is somehow our public use or public purpose.

JUAN GONZÁLEZ: And what's the—

BILL HANIGAN: Now, everyone has to remember that in—in December, Congress repealed the decades-old prohibition on exporting that crude oil. So what we think's going to happen, and what has already happened with the same-quality oil, is it's being prepared for export. So, the idea that there is a public purpose here and that we're all going to benefit from it, not only can they not prove that this oil is not coming back to Iowa, they really can't prove or demonstrate that it's even going to be for the U.S. market. So I think that the state of Iowa and the other states are being played for suckers, if you will, and this is all going to accrue to Texas profits and foreign export.

AMY GOODMAN: Because the pipeline that goes to Illinois would then link up with a pipeline down to the Gulf. Bill Hanigan, thanks so much for being with us, attorney representing 15 Iowa landowners who are contesting the use of eminent domain by the Dakota Access pipeline. And again, if you want to see the coverage of the security of Dakota Access pipeline, if you can call them security, unleashing dogs and pepper spray on the protesters, the [full report](#), go to democracynow.org.