

150 years after the transcontinental railroad, indigenous activists continue to battle corporate overreach

By Alessandra Link, Washington Post May 10

https://www.washingtonpost.com/outlook/2019/05/10/how-indigenous-activists-fought-transcontinental-railroad/?fbclid=IwAR1VVt9-QK9kVyc3ocyBTFSNfdiPq2QYiOEjtrRaadu3zfMTw7Y5ghqzawM&utm_term=.5b2943da0fe1

Today marks the 150th anniversary of the union of the Central Pacific and Union Pacific railroad tracks in Promontory, Utah. As celebrants gather among the sagebrush in Utah's Central Basin, a lawsuit making its way through a U.S. District Court exposes the darker underbelly of this [history](#).

The plaintiffs, a coalition of indigenous and environmental activists, filed a lawsuit against South Dakota Gov. Kristi L. Noem (R) after she signed the [Riot Boosting Act](#) in March. The South Dakota bill joins others — introduced in 15 states and passed in four — that increase penalties for trespassing on or altering a variety of facilities deemed “critical infrastructure.” The legislation goes a step further by empowering prosecutors to seek civil damages not only from protesters, but also from individuals who encourage, organize or support protests. South Dakota lawmakers [consulted](#) with TransCanada, owners of the Keystone XL pipeline, on the legislation.

The industry-backed push to pass laws targeting indigenous and environmental activists exposes how expanding corporate influence in American politics attacks indigenous sovereignty and chokes American democracy. But this is not surprising. The nefarious effects of these kinds of government-corporate alliances can be traced back to North America's first big businesses: the railroads. This part of the railroad story may not be celebrated today, but it holds important lessons about the consequences of unchecked corporate power.

For many Americans, the joining of iron and wood at Promontory, Utah, in 1869 symbolized the union of a nation recovering from the Civil War, a binding of disparate North American regions into an integrated whole. Artists, authors and orators marked the completion of the transcontinental railroad as the pinnacle of national unity, a triumph of American technological ingenuity and vision.

One year after the rail lines joined in Utah, Walt Whitman celebrated the achievement in "Passage to India." Thanks to the railroads, he crowed, "the distant" could be "brought near/ The lands to be welded together."

But for Native nations, the railroads were unwelcome industrial interlopers. The "lands" Whitman referenced were their homelands and hunting grounds, sacred sites and gathering places. These places were "welded" to the United States through force, political chicanery and legal fictions. To Arapahos, Choctaws, Navajos, Osages and others, the railroad meant more U.S. soldiers and land-hungry settlers. It is no wonder that some Cherokees criticized locomotives as "the introducers of calamities rather than blessings."

Corporate officials and government agents, for their part, considered railroads the "critical infrastructure" of 19th-century America, and they cloaked indigenous dispossession in the rhetoric of "public" service. Corporate acquisition of indigenous land took many forms. Treaties between the United States and Native nations often contained provisions granting the United States the right to build roads, railroads and telegraph lines through reservation lands. Some stipulated that railway corporations could build through reservations so long as the president deemed it necessary for "public interest."

Such was the case on the Southern Ute reservation in 1880, when President Rutherford B. Hayes handed over a 40-mile stretch of Ute territory to the Denver and Rio Grande Railroad (D&RG) because, he stated, "the public interests require the construction of such branches and extensions." For the D&RG, "public" interests aligned closely with corporate interests, at the expense of Ute territorial sovereignty.

This "public good" brought tremendous wealth to railroad corporations. In addition to federal bonds, the United States handed over 130 million acres in land grants to several railroad companies, the Union Pacific and Central Pacific among them.

In other instances, corporate agents brazenly trespassed on tribal lands without regard to the legal, political and economic consequences. The Utah and Northern Railway built and operated a line for several years on 2,000 acres of Shoshone-Bannock land without the tribe's consent. The Northern Paiutes granted the Carson and [Colorado](#) Railroad a right of way through their Nevada reservation in 1882, under the condition that the company transport their agricultural goods to market free of charge. The company not only failed to comply, but also partnered with state and local officials to promote a bill that would have removed Northern Paiutes from their land so the company would not have to fulfill its shipping obligations.

Indigenous opposition to these measures was swift and far-reaching. During the late 1800s, Native Americans dug up rail ties, stymied [survey](#) crews, taxed railroad companies and petitioned the U.S. government. In 1881, Spotted Horse (Crow) blocked Northern Pacific Railroad surveyors from entering Crow lands. A year before, Little No Heart (Miniconjou Lakota) wrote directly to Hayes after agents of the Chicago, Milwaukee, St. Paul and Pacific Railroad arrived on the Cheyenne River reservation. "I would like the Great Father to say," he wrote, "just what rights the white men has on that road." Across Indian Territory, an intertribal council circulated pamphlets challenging "the sale

or grant of any lands directly or contingent upon the extinguishment of Indian title to any railroad company or corporation.”

When these strategies failed, Native peoples turned to U.S. courts. The Carson and Colorado Railroad began transporting Paiute [products](#) after Indians threatened to sue. The Cherokee Nation’s lawsuit against the [Southern Kansas Railway Company](#) reached the U.S. Supreme Court in 1890. The Cherokees did not win, but their case set a precedent. Throughout the 20th century, indigenous communities challenged corporate interests in court. In 1941, the [Hualapai Nation won a landmark Supreme Court case](#) against the Santa Fe Pacific Railroad, which resulted in the return of corporate lands to the tribe.

The transcontinental anniversary provides an opportunity for a deeper reckoning with the corporation in North America, one that moves away from the sanguine portraits espoused by Whitman and others. Corporate rapacity was at the core of railroad expansion — rapacity realized through a destructive alliance between the U.S. government and corporations. This union resulted in the seizure of indigenous lands and the erosion of indigenous sovereignty.

Corporations are once again forming alliances with state and federal governments and seeking unprecedented powers through the political system. Indigenous activists today, like their ancestors in the railroad age, are calling attention to the threat of corporate overreach. Their work defends their homelands and political autonomy, while also challenging the energy regimes that threaten our environment.

Indigenous and non-indigenous climate activists point us to the most critical of infrastructures: our planet. [Recent studies](#) conclude that indigenous peoples hold 25 percent of the earth’s land surface, but protect 80 percent of the global biodiversity. “Preventing climate catastrophe has to start with defending indigenous rights,” Cherokee writer Rebecca Nagle aptly concludes. Industry-backed laws such as the Riot Boosting Act aim to silence indigenous and environmental activism and undermine tribal sovereignty. They should be challenged at every turn.