

Chapter Title: THREATS OF VIOLENCE: REFUSING THE THIRTY METER TELESCOPE AND DAKOTA ACCESS PIPELINE

Chapter Author(s): David Uahikeaikalei'ohu Maile

Book Title: Standing with Standing Rock

Book Subtitle: Voices from the #NoDAPL Movement

Book Editor(s): NICK ESTES, JASKIRAN DHILLON

Published by: University of Minnesota Press. (2019)

Stable URL: <https://www.jstor.org/stable/10.5749/j.ctvr695pq.30>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



University of Minnesota Press is collaborating with JSTOR to digitize, preserve and extend access to *Standing with Standing Rock*

JSTOR

THREATS OF VIOLENCE

REFUSING THE THIRTY METER TELESCOPE AND DAKOTA ACCESS PIPELINE

David Uahikeaikalei'ohu Maile

This is an expanded version of an essay that was originally published December 22, 2016, on the Cultural Anthropology website as part of the Hot Spots series.

What is a threat of violence? Who gets to say who is threatening violence? In particular, how are protectors of Indigenous life, land, and water labeled violent threats? These are central and pressing questions. In this essay, I investigate how the discursive formation “threats of violence” is produced and dispersed by the U.S. settler state across two struggles: the Thirty Meter Telescope (TMT) on Mauna a Wākea in Hawai‘i and Dakota Access Pipeline (DAPL) at the Mni Sose in Standing Rock. I explore the ways in which the U.S. settler state, with its multiple institutional forms, geographic locations, and individual agents, talks about violence when Kānaka Maoli (Native Hawaiians) refuse construction of TMT and when the Oceti Sakowin (Great Sioux Nation) refuses development of DAPL. As Kia‘i (guardians and protectors) of Mauna a Wākea and Water Protectors of Mni Sose defend Indigenous life, land, and water, their actions and mere presence have been called violent. Defense gets coded violent. The defensive position, against projects like the TMT and DAPL that are violent in the first place, is reconfigured as hostile, dangerous, and terrorizing. In this cacophony, stakes are high. What are the material consequences for Indigenous-centered movements for liberation when they are marked threats of violence? How does such a marking rationalize and defer concrete forms of violence? In what ways have Mountain and Water Protectors exposed the precariousness of U.S. settler-state sovereignty by collectively refusing TMT and DAPL?

I argue threats of violence is a discursive formation manufactured by the settler state with a dual function. First, suggesting protectors of Indigenous life, land, and water threaten violence, or simply are violent threats in and of themselves, justifies violent interventions against them by the settler state. In other words, (symbolic)

threats of alleged violence condone real (material) violence. Second, threats of violence tries to conceal not only the colonial violence animating the settler state, and its brutal interventions against protectors of Indigenous life, land, and water, but also how TMT and DAPL have always already been violent to Indigenous life, land, and water. Co-constitutive of settler colonial capitalism, TMT and DAPL perform diverse forms of violence, from the desecration of sacred sites to resource extraction, environmental racism, and ecological genocide. My thesis here is simple. I elaborate in this essay on threats of violence. I hope to demonstrate that threats of violence might be upended by Mountain and Water Protectors asserting radical Indigenous sovereignties to blockade the TMT and DAPL, which highlight and challenge the precariousness of U.S. settler sovereignty in performances of policing. I show how the refusals of TMT and DAPL articulate transoceanic alliances, forging solidarities in anticolonial and anticapitalist resistance. This is a crucial objective since the violence we experience as unique Indigenous peoples and nations is indeed similar. But rather than claim it to be universally the same, our specific refusals to similar structures of violence are, in fact, what binds us together. To conclude, I discuss that it is an aligned goal to end such violence that unites and strengthens us against the real threats: the settler state, settler colonialism, and capitalism. The intertwining futures of Mauna a Wākea, Mni Sose, and many others depend on this.

Kū Kia‘i Mauna

Mauna a Wākea—known also as Mauna Kea—is a sacred mountain to Kānaka Maoli that is located on Hawai‘i island. In her study of ho‘omana Hawai‘i (Indigenous beliefs and belief-related practices of Hawai‘i), Marie Alohalani Brown suggests the sacredness of Mauna a Wākea is a fundamental characteristic in the movement to protect the mountain from TMT. It is a movement organized around the call to Kū Kia‘i Mauna, which means stand and protect the mountain. Brown writes, “It is our kuleana (set of rights and responsibilities) to care for and protect our island world. We believe that upholding this kuleana is crucial to our physical, spiritual, and intellectual wellbeing. The struggle to protect Mauna a Wākea from further desecration is our kuleana.”¹ This responsibility to protect the sacred in Hawai‘i is tied to Kānaka Maoli (Native Hawaiian) epistemology and ontology. Because of our particular ways of knowing and being, we must defend Mauna a Wākea at any cost. For example, in “Hanau-a-Hua-Kalani,” the birth chant authored for Kamehameha III Kauikeaouli, Mauna a Wākea is the genealogical kin of Papahānaumoku and Wākea. Papahānaumoku is our Earth Mother, and her name translates to “foundation that births islands,” whereas Wākea is our Sky Father and can be translated as “expansive sky.” Examining Kānaka Maoli geographies of exploration, David A. Chang contends, “The birth chant of Kauikeaouli evokes an identification between the newborn chief and the land,” in which, “these

identifications sacralized the ali'i and also the land."² We come from and thus are intimately related to Mauna a Wākea. It is the piko (navel, umbilical cord, and blood relative) of our lāhui (people, nation, and nationhood). Leon Nō'eau Peralto aptly explains, "Born of the union between Papahānaumoku and Wākea, Mauna a Wākea is an elder sibling of Hāloa, the first ali'i [chief]. As such, both the Mauna and Kanaka are instilled, at birth, with particular kuleana to each other. This relationship is reciprocal, and its sanctity requires continual maintenance in order to remain pono, or balanced."³ This is why we stand to protect.

There are other examples of how the mountain is a wahi kapu (sacred place). At almost 14,000 feet in elevation, the northern summit is the wao akua (realm of the gods) that connects Papahānaumoku to Wākea. After all, Mauna a Wākea literally means Wākea's mountain. One mo'olelo (story and history) discusses that Poli'ahu, the snow goddess of the mountain, was sought after by the god Kū in his form of Kūkahau'ula, or Kū of the red-tinted snow.⁴ In this mo'olelo, Kūkahau'ula's pursuit is thwarted. His kinolau (physical manifestation) is the rising sun, and Poli'ahu, in her kinolau of frost, snow, and freezing rain, stops him from pursuing her. Eventually, Kūkahau'ula and Poli'ahu do embrace each other, and Poli'ahu's heart melts along with the snow on Mauna a Wākea. This mo'olelo elaborates on the sacredness of the mountain in two important ways. On the one hand, it describes the mountain as a wahi pana (celebrated place) not just where our more-than-human relatives reside but also where our akua (gods) dwell in the physical world. When development of TMT was slated to begin, construction crews attempting to ascend to the northern plateau were stopped in their tracks by frost, snow, and freezing rain.⁵ Refusing her consent to the project, Poli'ahu prevented construction. On the other hand, the mo'olelo illustrates how snow, creating and sustaining life for Hawai'i island, can accumulate and melt into water on Mauna a Wākea in terms of ho'omana Hawai'i. It is an account of the end of the ice age, which provides an alternative history to dominant and naturalized narratives from Westernized science. The point I am trying to make is that Mauna a Wākea is a wahi kapu, and it is our kuleana to protect it from being desecrated and destroyed.

The Thirty Meter Telescope International Observatory (TIO) organized in 2014, after having been the Thirty Meter Telescope Observatory Corporation, to construct an industrial telescope complex on Mauna a Wākea. Advanced by TIO, the TMT would be a wide-field, alt-az Ritchey-Chrétien telescope with a thirty-meter diameter segmented primary mirror. In turn, the complex to house it requires a significant amount of space and land. According to KAHEA: The Hawaiian-Environmental Alliance, proposals for TMT estimate that it would be eighteen stories tall at 184 feet in height, extend twenty feet down into the mountain, and create a construction footprint of eight acres with a final footprint of five acres. Furthermore, the development of TMT would excavate 64,000 cubic yards at the northern plateau and also add a 3,400-foot road.⁶ TIO suggests this would be the largest telescope in the world. With twenty-one telescopes and thirteen

complexes already built on Mauna a Wākea, TMT would add to growing amounts of waste by producing 120–250 cubic feet of solid waste every week, which will be stored, along with hazardous chemical materials, in a 5,000-gallon storage tank underground.⁷ Despite these pernicious ecological implications, constructing TMT at Mauna a Wākea is rationalized because of the mountain's scientific value.

For Westernized science and its industry to produce knowledge about astronomy, Mauna a Wākea is a preferred build site. The mountain offers “the best window on the universe.”⁸ TMT's General Information Brochure states, “To capture the sharpest images and produce the best science, astronomers need more than an extraordinary telescope; they also need an equally extraordinary location with just the right atmospheric qualities.”⁹ Our sacred mountain is an “extraordinary location” because of the value it adds to knowledge about science. Astronomers desire the mountain for its “atmospheric qualities,” as if akua like Poli‘ahu can be reduced to scientific commodity. The elevation, climate, and overall environmental conditions of the mountain are marked as ideal and exceptional, if not quantifiably perfect. Consider the terms in which TIO delineates rationale for selecting Mauna a Wākea:

After a rigorous five-year campaign that spanned the entire globe, TMT scientists found such a site, Mauna Kea, a dormant volcano in Hawaii that rises nearly 14,000 feet above the surface of the Pacific Ocean. This site, which is above approximately 40 percent of Earth's atmosphere, has a climate that is particularly stable, dry, and cold. All of which are important characteristics for clear seeing. This mountain in Hawaii is also home to some of today's most powerful telescopes, including the Gemini North Telescope, the Canada-France-Hawaii Telescope, the Subaru Telescope, and TMT's forerunners the twin Keck telescopes.¹⁰

Additionally, the passage suggests that since there are other telescopes already built at the northern plateau of Mauna a Wākea, the newer, larger, and more powerful TMT ought to be manufactured. The goal and promise is to “unlock new frontiers.”¹¹ This conjures up an allegedly successful conquest of Hawai‘i—an old frontier, they allude. But it also imagines the potential to open new frontiers in the universe. It is a timeworn logic and trope of Euro-American exploration that Jodi A. Byrd names “imperial planetarity,”¹² or what we might refer to as planetary imperialism. Such a promise invokes Fredrick Jackson Turner's infamous “frontier thesis”—published in 1893, which happens to be the same year as the illegal U.S. military overthrow of the Hawaiian Kingdom, to encourage settlement of the American Southwest—that has been weaponized for the dispossession, elimination, and replacement of Native American peoples and nations.¹³ Transiting U.S. empire,¹⁴ frontier violence extends from the American continent to Hawai‘i at Mauna a Wākea and against Kānaka Maoli. “We're searching for truth and knowledge, the kinds of things that have motivated countries for centuries,”

opines professor of astronomy at California Institute of Technology Richard Ellis. He proclaims, "We don't need to apologize."¹⁵ This is the environmental impact, astronomy industry development, and science we are up against.

The total cost to build TMT is estimated at \$1.5 billion, and funding has been pledged worldwide.¹⁶ The Gordon and Betty Moore Foundation, California Institute of Technology, University of California, National Astronomical Observatory of Japan, National Astronomical Observatories of the Chinese Academy of Sciences, Indian Astronomy Research Institutes, and Canadian government are all financing the project. This motley crew of funders, from U.S.-based universities to national astronomy organizations and even the Canadian crown, are paying the expenses to construct TMT. Ironically, some claim the financing will benefit Kānaka Maoli via expenditures, jobs, and educational scholarships.¹⁷ The claim has also been used to argue alleged benefits to Hawai'i and thus Kānaka Maoli to prove that TMT does not contribute to colonization: "From my vantage," Kelly Dickerson writes, "colonialism is a separate issue from TMT."¹⁸ Dickerson's analysis is shortsighted and condescending, emblematic in the title of her article: "This Giant Telescope May Taint Sacred Land. Here's Why It Should Be Built Anyway." Frankly, her argument simply is not true. If my readers take anything away from this essay, I hope you will see that TMT is a project structured by and reifying settler colonial capitalism. For instance, the international funding of TMT demonstrates how global capital finances the desecration and destruction of Mauna a Wākea in a process that furthers the dispossession of Hawai'i and elimination of Kānaka Maoli. It is a form of settler capitalism that brings together U.S. and Canadian settler states as well as Japan, China, and India. Colonialism and capitalism are core issues of TMT.

Financial support for TMT is aided by legal advocacy from the U.S. settler state. In 1968, Hawai'i's state land board issued a general lease to the University of Hawai'i (UH) for the purpose of building only one telescope complex at Mauna a Wākea. After receiving this initial lease, multiple telescope complexes began developing, and public protest emerged with claims that new development violated terms of the general lease. In 2011, the UH submitted an application for a Conservation District Use Permit (CDUP) in order to acquire the proper permitting to build TMT. A petition was filed then with the Board of Land and Natural Resources (BLNR) for a contested case hearing. However, the BLNR steamrolled ahead and approved the CDUP before holding the contested case hearing. But on December 2, 2015, the Hawai'i Supreme Court ruled this violated due process by "putting the cart before the horse."¹⁹ The decision invalidated the building permit and remanded the case back to the BLNR to hold a new contested case hearing. The new contested case hearing concluded on July 26, 2017, with the hearing's officer recommending that the BLNR approve TMT's building permit.²⁰ On September 28, 2017, the BLNR voted in favor of granting a CDUP for TMT.²¹ Although the supreme court ruled against TMT, this brief legal history shows how the U.S. settler state in Hawai'i has played a significant role in authorizing land leases and

building permits for the project. The settler state mediates and facilitates astronomy industry development while simultaneously being produced from it. On this point, Byrd contends:

Transit refers to a rare astronomical event, the paired transits of Venus across the sun, that served in 1761 and again in 1769 as global moments that moved European conquest toward notions of imperialist planetarity that provided the basis for Enlightenment liberalism. The imperial planetarity that sparked scientific rationalism and inspired humanist articulations of freedom, sovereignty, and equality touched four continents and a sea of islands in order to cohere itself.²²

In the pursuit to track the transit of Venus and universalize Enlightenment science, astronomy industry development emerged through the dispossession and elimination of Indigenous people by imperial nation-states. When the so-called fiftieth state of the union sanctions the TMT, it does not just mark how the state entity constitutes itself on stolen lands. It also demonstrates that advocacy of astronomy industry development proliferates settler colonial power so as to secure its institutionalization in the formation of Hawai'i as a U.S. settler state.

Although legal actions have proved to be a successful strategy for stalling development of TMT, the corporeal blockades directly stopped construction of TMT on the 'āina (land, that which feeds). Currently, legal authority to begin building is still wrapped up in court. But the threat is not over. This is abundantly true since the Supreme Court's main reason to invalidate TMT's building permit was premised on due process. If the court recognizes that due process subsequently is followed, there is concern that authorization may be granted for TMT to proceed with construction, once and for all. It is the U.S. settler state that maintains so-called power in Hawai'i to deny or grant these projects—a prescient reminder. And it is also the settler state producing and dispersing discourses that suggest Kia'i protecting Mauna a Wākea are threats of violence.

Kia'i protecting Mauna a Wākea have halted TMT from being built but, in doing so, been labeled violent. On July 14, 2015, Hawai'i governor David Ige signed an emergency rule passed by the BLNR to criminalize and remove Kia'i. Settler-state officials argued in favor of the emergency rule by claiming that Kia'i “harassed” visitors and staff and even perpetrated numerous “hostile incidents,” “other threats of violence,” and a bomb threat.²³ However, no evidence has come forth to substantiate these claims. This is an echo chamber the settler state shouts into. Furthermore, their arguments referenced a June 24, 2015, blockade of TMT construction crews in order to suggest the rocks, boulders, and ahu (altars) placed on the road to the northern plateau caused “hazardous conditions.” Ige insisted, “We cannot let some people put others at risk of harm or property damage.”²⁴ The language that he uses here argues that Kia'i who placed rocks in the road, so that construction crews could not ascend to begin building the TMT, risked harming state workers

and tourists and risked damaging settler property. When BLNR passed the emergency rule, Kia'i were called an "imminent peril to the public health or natural resources."²⁵ Perhaps this discursive maneuver is not simply ironic but something more. This is how flagging Kia'i as threats of violence does work to grant and defer violence exacted by the settler state as well as TMT. A few weeks after passing the emergency rule, in the early morning of July 31, 2015, on a Hawaiian national holiday celebrating Lā Ho'ihō'i Ea (Sovereignty Restoration Day), police from the Division of Conservation and Resource Enforcement crept up the mountain and arrested seven Kia'i who were reoccupying Mauna a Wākea. The administrative power of the emergency rule provided executive authority to make these arrests, passed by the BLNR and signed into law by the governor. Therefore, accusing Kia'i of violence allowed the settler state to do two things: (1) criminalize, detain, and incarcerate Kia'i and (2) conceal the desecration and destruction of Mauna a Wākea by TMT. This is the work that threats of violence performs. Since 2015, it has operationalized fifty-nine different arrests of Kia'i protecting the mountain, practicing and taking care of our kuleana to guard what we hold sacred.

Another example illuminates the imaginative speculation in threats of violence. On June 7, 2015, reports alleged that a bullet hole was found on a door at the Subaru Observatory, one of the many telescope complexes already erect upon Mauna a Wākea.²⁶ Police investigated the claim, and Kia'i were quickly blamed for the incident. Mountain Protectors reoccupying that wahi kapu haunted observatory employees and their telescope complexes, and their relatively close proximity was reason enough to place blame. What is interesting about this case is the allegation was immediate, as if the threat of such violence—a loaded gun fired at an observatory—was unsurprisingly expected. Ben Gutierrez and Chelsea Davis noted, "Mauna a Wakea protector Kahookahi Kanuha said he has no idea where the damage came from. 'We do not condone that kind of action by anybody for any reason at any time, especially on Mauna a Wakea, the place that we know is sacred,' Kanuha said."²⁷ In a follow-up report a few days later, an observatory spokesperson clarified that the hole was not caused by a bullet but, instead, damage from an adjacent bolt fixture. Another plot twist, police confirmed that "the damage had been there for about six months."²⁸ The bullet hole was only reported, and its image circulated through news media, during a time when blockades amped up. Tom Callis observed, "TMT opponent Kaho'okahi Kanuha said he was glad to see the matter resolved but also was disappointed that protesters, a few of whom remain camped on the mountain, were being accused on social media of being responsible."²⁹ In what should be in clearer focus, the depiction of Kia'i as violent is a racist fabrication that sidesteps and attempts to erase the violence of TMT and its champion the settler state. It is a colonial violence enacted through the settler state's existence, advocacy of TMT, and exercise of force against Kia'i.

Whether it is the imagined threat of violent acts or violent bodies, threats of violence rationalizes police brutalization of Kia'i. David Correia and Tyler Wall

posit, “Declaring *something* or *someone* a threat is one of the most normalized of all powers internal to the police function.”³⁰ When Kia’i defending a different mountain sacred to Kānaka Maoli blockaded development, this became abundantly clear. On August 2, 2017, more than one hundred Kia’i attempted to block the delivery of a three-ton primary mirror for the Daniel K. Inouye Solar Telescope (DKIST) upon Haleakalā on Maui island. Applying new techniques for detainment and removal, adapted from lessons learned on Mauna a Wākea, police arrested six Kia’i. Settler-state policing is not unique to the case of TMT. Astronomy development is an industry, not one telescope. In fact, on July 30, 2015—the night before emergency rule arrests on Mauna a Wākea—heavily militarized police arrested twenty Kia’i demonstrating against the DKIST on Haleakalā. David “Kai” Prais was arrested then. Subsequently, on August 2, 2017, he was arrested again, but this time in a spectacular display of violence. Prais was viciously detained and lost consciousness while in custody. A police officer pressed his knee into Prais’s skull. He shrieked in pain for help, but the cop “continued to keep his knee on his head.”³¹ The knee jammed into his skull, says Kaukaohu Wahilani who was next to Prais during the blockade, “was overkill.”³² Kāko’o Haleakalā, a coalition organizing the blockade, commented that they called an ambulance while police “just stood there and did not assist.”³³ The coalition and Kia’i claim police used excessive force, whereas police suggest Prais “resisted arrest” and “officers did what they’re trained to do.”³⁴ Labeling Kia’i as threatening acts of violence and violent threats rationalizes and defers this visceral violence.

From Mauna a Wākea to Haleakalā, the discursive formation I have tracked here justifies police brutality to secure settler capital for astronomy industry development in Hawai’i. Conversely, settler capital bolsters the policing of our Mountain Protectors, especially in a recent moment wherein former Hawai’i attorney general Douglas Chin compared Kia’i to the fascist, alt-right white supremacists that marched on Charlottesville in the Unite the Right rally to request \$2.5 million from the state legislature for “respond[ing] to potential mass violence or civil disobedience, possibly atop Mauna a Wākea.”³⁵ Although threats of violence is conjured in an abstract realm, the implications drawn are dangerously concrete.

Mni Wiconi

Over 3,500 miles away from Hawai’i, the discursive formation threats of violence has been deployed at Oceti Sakowin (the Great Sioux Nation) against Water Protectors of the Mni Sose (Missouri River) to build DAPL. The parallels between how these movements are cast are no coincidence. They are Indigenous-centered struggles for liberation against projects of settler capitalism that the United States deeply desires. I contend that both movements—one protecting the mountain, one protecting the water—encounter this discursive formation as a transit of empire. Put differently, threats of violence transfers across these sites in order to cohere

U.S. control over Indigenous people and nations. For instance, whereas chants of Kū Kia'i Mauna have been policed at Mauna a Wākea, at the Standing Rock Sioux Indian Reservation police have attempted to quell cries of Mni Wiconi. A Lakotayapi phrase, Mni Wiconi means “water is life.” More accurately, according to Jaskiran Dhillon and Nick Estes in the introduction to this volume, it means water is alive. Animate and alive, Mauna a Wākea and the Mni Sose are our more-than-human relatives and sacred, storied places. Relations with them, in fact, are responsibilities to refuse their desecration and destruction. In this volume and elsewhere, folks other than myself are expertly positioned to speak on #NoDAPL and criticize the political economy of DAPL. In this section, I am interested in examining how discourses of violence circulate when Water Protectors guard the Mni Sose from DAPL. As a Kānaka Maoli scholar, I launch my analysis of the threats of violence from Hawai'i. But, as I aim to show, what has been taking place in my ancestral homeland shares unfortunate similarities with what is occurring in the territories of other Indigenous peoples and nations. These are relationships that cross oceans, mountains, and rivers. In my writing here, I hope to cultivate such relations not just in solidarity but with ethical sincerity.

On June 1, 2017, Energy Transfer Partners (ETP) completed construction of DAPL.³⁶ Almost 1,200 miles in length, this gargantuan pipeline begins in the Bakken fields of North Dakota, drags down through South Dakota and Iowa, and empties into a depot in Patoka, Illinois. The Energy Transfer Crude Oil Pipeline then moves oil from Patoka to storage farms in Nederland, Texas. There is big money in this. It is a \$3.8 billion project, but \$2.5 billion are financed through loans. Capital has been lent by seventeen banks, such as TD Securities, the Bank of Tokyo-Mitsubishi UFJ, and Mizuho Bank who are primary lenders of the key DAPL loan.³⁷ At the time of writing this, DAPL is transporting approximately 470,000 barrels of crude oil each day, with promises that it could reach up to 520,000 barrels per day.³⁸ Half a million barrels of oil pass every day underneath the Mni Sose, specially at Lake Oahe reservoir in Cannon Ball, North Dakota, where the Standing Rock Sioux Indian Reservation is located. Notably though, Amy Dalrymple reported, “an early proposal for the Dakota Access Pipeline called for the project to cross the Missouri River north of Bismarck, but one reason that route was rejected was its potential threat to Bismarck’s water supply.”³⁹ In a blatant display of environmental racism, the possibility for contaminating water supplies of the Standing Rock Sioux was a risk worth taking by the U.S. settler state and corporations to protect the lives and water of Bismarck, the capitol city of North Dakota with an overwhelming white majority population—putting the white supremacy of settler capitalism on full display. So, the Standing Rock Sioux and Cheyenne River Sioux Tribes sued the U.S. Army Corps of Engineers. They brought suit on the basis that the corps granted permits for DAPL before sufficiently considering the project’s environmental impact. On June 14, 2016, District Court Judge James Boasberg ruled in favor of the tribes, arguing under the premise of the National

Environmental Policy Act (NEPA), “Although the Corps substantially complied with NEPA in many areas, the Court agrees that it did not adequately consider the impacts of an oil spill on fishing rights, hunting rights, or environmental justice.” Despite stalling DAPL, the decision did not erode its easement. Months later on October 11, Boasberg made another ruling, which authorized that DAPL could continue operations, pending an environmental review by the corps. Later in December, he imposed interim measures for spill response plans at Lake Oahe, in the wake of a 210,000 gallon oil leak from the Keystone Pipeline in South Dakota.⁴⁰

Judicial and corporate powers, the settler state and finance capital, and law and oil have congealed in favor of DAPL at the expense of the Mni Sose and Oceti Sakowin. Sharing affinities with TMT in Hawai‘i, DAPL is conditioned through settler colonial capitalism while also contributing to it. In unique yet overlapping operations of violence, settler capitalism permeates telescopes and pipelines. But they are forms of violence that have been refused steadfastly.

When construction approached Lake Oahe in the beginning of 2016, thousands upon thousands of people gathered in Standing Rock to stop DAPL and protect the Mni Sose. Multiple camps formed, and Water Protectors organized their refusal on-the-ground. However, talk began to surface that Water Protectors were planning violent actions. Morton County Sheriff Kyle Kirchmeier played a substantial role in proliferating these ideas. For example, Kirchmeier in particular “has been largely responsible for law enforcement at the site and he has accused protesters of shooting guns, carrying weapons and even threatening to use pipe bombs against his officers.”⁴¹ He once alleged, “We have had incidents and reports of weapons, of pipe bombs, of some shots fired.”⁴² However, Jon Eagle Sr., the Tribal Historic Preservation Officer for the Standing Rock Sioux Tribe, responded to accusations of pipe bombs being constructed in camps near the Mni Sose. He exclaimed, “When we say we’re loading our pipes, that’s our chanupa. That’s a sacred object that we carry to communicate with everything within creation. It’s not a weapon.”⁴³ Discussing this with Eagle, Kate Grumke added, “Eagle thinks law enforcement misinterpreted what people were saying on social media. He said they were talking about sacred pipes, not pipe bombs.”⁴⁴ Reports about crafting and detonating bombs, much like those circulating about protectors of Mauna a Wākea, were yet another speculative fiction. They are imagined for symbolic maximization with minimal material evidence. Yet, such accusations were produced by agents of the U.S. settler state as a way of establishing threats of violence.

Threats of violence exacted physical damage to the Water Protectors. On September 4, 2016, Water Protectors rallied to a construction site adjacent to Lake Oahe where bulldozers, making room for the pipeline, dug up sites sacred to the Oceti Sakowin. A private security force was contracted by ETP to manage the situation. Trained dogs and dog handlers from Frost Kennels in Ohio were employed and present during this time. After seeing DAPL crews tear up the earth, Water Protectors broke through a wire fence and attempted to shut down bulldozers. Six

bulldozers pulled back from the site, and additional security arrived to push back Water Protectors. Security forces then deployed pepper spray as well as dogs. Some handlers charged Water Protectors, releasing their hold on dogs so that they could attack freely without restraint. A modern version of Deborah Miranda's "dogs of conquest,"⁴⁵ large German shepherds sank their teeth into the bodies of Water Protectors to the point at which blood could be seen dripping from the dogs' mouths.

However, the story told by private security and local police forces centered on how escalating protester violence needed to be subdued. "It started out peaceful," said Frost Kennel owner Bob Frost, "but as soon as you tear a fence down, come in charging and screaming and throwing stuff, that's not peaceful."⁴⁶ Representatives from the security detail identified "there were no intentions of using the dogs or handlers for security work. . . . However, because of the protest events, the dogs were deployed as a method of trying to keep the protesters under control."⁴⁷ In other words, these were tactics necessitated because Water Protectors were allegedly not peaceful and acting lawlessly. The Morton County Sheriff's Department observed that "within five minutes the crowd of protestors, estimated to be a few hundred people became violent. They stampeded into the construction area with horses, dogs and vehicles."⁴⁸ Not lacking irony, the statement by the Morton County Sheriff's Department flags that Water Protectors attacked with dogs, before private security did. Sheriff Kirchmeier suggested the action "was more like a riot than a protest."⁴⁹ The language of protest became supplanted by more inflammatory rhetoric: rioting. Therefore, the U.S. settler state fashioned ideas that Water Protectors of Mni Sose were not protectors or even protesters. For the settler state, they were rioters who represented threats of violence.

The following month, in October, police presence increased, as did their vicious interventions. Road blocks on highways strengthened. Police from outside of Morton County were called in for back-up. The National Guard also arrived. Sheriff Kirchmeier continued to speak, in press conferences and media interviews, about the absolute danger of protestors and their camps. On October 26, days after Water Protectors created a new frontline treaty camp, claimed from sovereign territorial authority detailed in the 1851 Treaty of Fort Laramie, police ameliorated their rationale to intervene. The sheriff of Cass County in Minnesota, Paul Laney, noted live to press, "We don't want a confrontation . . . we're having our hand forced." On that same day, Kirchmeier was interviewed by the press where he stated a large group of police and military forces gathered to "end this peaceful." Reminiscent of earlier dog attacks by private security, police at Standing Rock carefully forged a narrative that suggested violent confrontation was desired by Water Protectors and that militarized police response was forced, as a result, in order to promote peace and manifest resolution. This was a cunning rhetorical strategy that promulgated threats of violence as a form of gaslighting, an institutionalized practice whereby the settler state weaponizes uneven relations of racialized colonial power to manipulate material realities for abusive ends that prop up its own legitimacy and free

the flow of capital. It is clear that the U.S. has sought to bind and trap Indigenous peoples and nations within such an abusive relationship.

What happened next on October 27 was nothing short of spectacularly violent. Upward of three hundred officers from various law enforcement agencies, more than 30 percent of which came from outside of North Dakota, descended on the frontline treaty camp.⁵⁰ Settler-state police collaborated with ETP's private security, with reports indicating sniper teams were positioned in various locations using all-terrain vehicles operated by security.⁵¹ Accompanied by a fleet of Humvee vehicles, police forces advanced on Water Protectors at two barricades of the frontline treaty camp, at North Dakota highways 1806 and 134. They were equipped with assault rifles, sound cannons, concussion grenades, rubber bullets, bean bag rounds, tasers, pepper spray, tear gas, and batons, and used them in shocking force. Purposed to remove and detain Water Protectors, the massive battalion broke through barricades and invaded the camp, arresting 142 people. Many of those arrested were drawn on with identification numbers, stripped of their clothes, and crammed into dog kennels. At least one Water Protector had a hood placed over their head.⁵² Afterwards, the United Nations special rapporteur on the rights of freedom of association and assembly, Maini Kiai, claimed, "Law enforcement officials, private security firms and the North Dakota National Guard have used unjustified force to deal with opponents of the Dakota Access pipeline."⁵³ "This is a troubling response," he went on to say, "to people who are taking action to protect natural resources and ancestral territory in the face of profit-seeking activity. . . . The excessive use of State security apparatus to suppress protest against corporate activities that are alleged to violate human rights is wrong." Kiai's statement powerfully illustrates, quite explicitly, that police and private security forces combined to mete out spectacular forms of violence against Water Protectors in an unjustified and flagrant manner, demonstrating clear violations of human rights that functioned in the name of ongoing colonialism and capitalism.

Transoceanic Solidarities

Although the discursive formation threats of violence has been utilized by settler-state forces to rationalize and defer concrete violence against protectors of Indigenous life, land, and water from Mauna a Wākea to the Mni Sose, collectively sustained refusals of TMT and DAPL expose the precariousness of U.S. settler sovereignty. In both movements, the policing of Mountain and Water Protectors, fighting in Indigenous-centered movements for liberation, is a performance. The settler state attempts to perform territorial control and juridical authority to counter claims that lands have been stolen and laws and policy are actually unlawful—claims that Kānaka Maoli and Oceti Sakowin have made in and out of courts. In this equation, policing offers a unique function. The institution of police and techniques for policing try to concretize U.S. settler sovereignty. When Kia'i

reoccupied Mauna a Wākea to defend it from the desecration and destruction of TMT, the BLNR and governor of Hawai'i institutionalized emergency rules to criminalize and remove Kia'i. When Water Protectors established the frontline treaty camp premised on the 1851 Treaty of Fort Laramie, the Morton County Sheriff's Department mobilized a massive militarized police force to break up barricades and dismantle the camp. These were performances that, in and of themselves, demonstrated a lack of control. When Kia'i were blamed for a hole in the door of the Subaru Observatory atop Mauna a Wākea, it was confirmed that the hole was not a bullet hole but, instead, pierced from an adjacent bolt fixture. When Water Protectors were accused of making bombs, it was confirmed that police mistook sacred chanupa pipes for what they imagined to be pipe bombs. These were performances of speculation proven to be untrue.

The imperfections and limits of U.S. settler sovereignty have unraveled. The assault at Standing Rock clarifies, as Byrd laments, "in the United States, the Indian is the original enemy combatant."⁵⁴ For Lisa Ford, the criminalization of Indigenous populations, from America to Australia, is an original feature of settler sovereignty. She suggests, "The exercise of jurisdiction over indigenous crime performs the myth of settler sovereignty over and over."⁵⁵ What Ford refers to as legal myth, Mark Rifkin calls an empty sign of settler sovereignty,⁵⁶ which, when performed over and over again, reveals a hollowness in settler-state power to be antagonized.

The refusals of TMT and DAPL have amplified the power of Indigenous-centered movements for liberation to antagonize real threats of violence to our mountains and lands, to our rivers and water, to our people and nations. What these collective refusals have been forged in are transoceanic solidarities. "For all the differences between American Indians and Kānaka," Chang reflects, "the most important force that made them like one another was the problem of American colonialism."⁵⁷ I would add that it is the problems of the U.S. settler state, settler colonialism, and capitalism. Kānaka Maoli and Oceti Sakowin have shown solidarity against both DAPL and TMT in the profoundly anticolonial, anticapitalist philosophies of Kū Kia'i Mauna and Mni Wiconi. Indeed, Water Protectors have guarded Mauna a Wākea and Kia'i have defended the Mni Sose. These are struggles shared against real, material, and visceral forms of violence structured in the colonialism and capital championed by the U.S. settler state. Such relationships must be sustained and cultivated so that our collective refusals of TMT and DAPL may work in concert toward unseating settler states and overturning settler capitalism, once and for all.

NOTES

1. Marie Alohalani Brown, "Mauna Kea: Ho'omana Hawai'i and Protecting the Sacred," *Journal for the Study of Religion, Nature and Culture* 10, no. 2 (2016): 164.

2. David A. Chang, *The World and All the Things upon It: Native Hawaiian Geographies of Exploration* (Minneapolis: University of Minnesota Press, 2016), 203.
3. Leon Nōeau Peralto, "Mauna a Wākea: Hānau Ka Mauna, the Piko of Our Ea," in *A Nation Rising: Hawaiian Movements for Life, Land, and Sovereignty*, ed. Noelani Goodyear-Ka'ōpua, Ikaika Hussey, and Erin Kahunawaika'ala Wright (Durham, N.C.: Duke University Press, 2014), 234.
4. "The Story of Kukahau'ula and Poli'ahu," Mauna Kea—from Mountain to Sea, accessed August 30, 2017, <http://www.mauna-a-wakea.info>.
5. Tom Callis, "Icy Conditions Delay TMT Work," *Hawaii Tribune-Herald*, March 10, 2015, <http://www.hawaiitribune-herald.com>.
6. "Fact Sheet: Massive 18-story Telescope Complex Proposed for Mauna Kea," KAHEA: The Hawaiian-Environmental Alliance, accessed August 30, 2017, <http://www.kahea.org>.
7. "Fact Sheet," KAHEA.
8. "Building the Gateway to the Universe," Thirty Meter Telescope, accessed August 30, 2017, <http://www.tmt.org>.
9. "Building the Gateway to the Universe," Thirty Meter Telescope.
10. "Building the Gateway to the Universe," Thirty Meter Telescope.
11. "Building the Gateway to the Universe," Thirty Meter Telescope.
12. Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism* (Minneapolis: University of Minnesota Press, 2011), xx.
13. Fredrick Jackson Turner, "The Significance of the Frontier in American History," *Report of the American Historical Association* 1, no. 1 (1893): 199–227.
14. Byrd, *The Transit of Empire*, xxi.
15. Usha Lee McFarling, "Science, Culture Clash over Sacred Mountain," *Los Angeles Times*, March 18, 2001, <http://www.latimes.com>.
16. Korey Haynes, "Hawaii Supreme Court Revokes Permit for Massive Telescope," *Astronomy Magazine*, December 3, 2015, <http://www.astronomy.com>.
17. John Stickler, "Thirty Meter Telescope Could Boost Hawaii Island's Economy," *Hawaii Business*, September 16, 2013, <http://www.hawaiibusiness.com>.
18. Kelly Dickerson, "This Giant Telescope May Taint Sacred Land. Here's Why It Should Be Built Anyway," *Business Insider*, November 18, 2015, <http://www.businessinsider.com>.
19. Catherine Bauknight, "Hawaii Supreme Court Invalidates Thirty Meter Telescope's Permit for Mauna Kea," *Huffington Post*, December 14, 2015, <http://www.huffingtonpost.com>.
20. "Judge: Thirty Meter Telescope Should Be Given OK to Move Forward," *Hawaii News Now*, July 26, 2017, <http://www.hawaiinewsnow.com>.
21. Jennifer Sinco Kelleher, "Telescope on Land Sacred to Native Hawaiians Moves Forward," *Washington Post*, September 28, 2017, <http://www.washingtonpost.com>.
22. Byrd, *The Transit of Empire*, xx–xxi.

23. Mileka Lincoln, "Ige Signs Emergency Rule Restricting Mauna Kea Access," *Hawaii News Now*, July 14, 2015, <http://www.hawaiinewsnow.com>.
24. Lincoln, "Ige Signs Emergency Rule."
25. Lincoln, "Ige Signs Emergency Rule."
26. Ben Gutierrez and Chelsea Davis, "Police Investigating Possible Bullet Hole in Mauna Kea Observatory," *Hawaii News Now*, June 7, 2015, <http://www.hawaiinewsnow.com>.
27. Gutierrez and Davis, "Police Investigating Possible Bullet Hole."
28. Tom Callis, "Hole in Door Not Caused by Bullet, Subaru Says," *Hawaii Tribune-Herald*, June 9, 2015, <http://www.hawaii-tribune-herald.com>.
29. Callis, "Hole in Door Not Caused by Bullet."
30. David Correia and Tyler Wall, *Police: A Field Guide* (Brooklyn: Verso, 2018), 232, emphasis mine.
31. Wendy Osher, "Police Force Questioned during Injury to Demonstrator at Kākoʻo Haleakalā Protest," *Maui News*, August 3, 2017, <http://www.mauinews.com>.
32. Mileka Lincoln, "Maui Police Deny Claims Officer Used Excessive Force during Haleakala Protest," *Hawaii News Now*, August 4, 2017, <http://www.hawaiinewsnow.com>.
33. Wendy Osher, "Kākoʻo Haleakalā Protest: Police Force Questioned during Injury to Demonstrator," *Maui News*, August 1, 2017, <http://www.mauinews.com>.
34. Lincoln, "Maui Police Deny Claims Officer Used Excessive Force during Haleakala Protest."
35. Nanea Kalani, "Attorney General Seeks \$2.5 Million for Security," *Honolulu Star-Advertiser*, January 11, 2018, <http://www.staradvertiser.com>.
36. Ali Stratton, "Dakota Access Pipeline Starts Shipping Oil," *Wall Street Journal*, June 1, 2017, <http://www.wsj.com>.
37. "Banks Funding DAPL," Defund DAPL, accessed June 6, 2018, <http://www.defunddapl.org>.
38. Blake Nicholson, "\$3.8 Billion Dakota Access Oil Pipeline Begins Service," *Chicago Tribune*, June 1, 2017, <http://www.chicagotribune.com>.
39. Amy Dalrymple, "Pipeline Route Plan First Called for Crossing North of Bismarck," *Bismarck Tribune*, August 18, 2016, <http://www.bismarcktribune.com>.
40. Mitch Smith and Julie Bosman, "Keystone Pipeline Leaks 210,000 Gallons of Oil in South Dakota," *New York Times*, November 16, 2017, <http://www.nytimes.com>.
41. "Sheriff Mistook Sacred Pipes for Pipe Bombs at Pipeline Protest," *Indianz*, August 23, 2016, <http://www.indianz.com>.
42. Kate Grumke, "American Indians Stand Together to Shut Down Pipeline Project," *Newsy*, August 21, 2016, <http://www.newsy.com>.
43. Grumke, "American Indians Stand Together to Shut Down Pipeline Project."
44. Grumke, "American Indians Stand Together to Shut Down Pipeline Project."
45. Deborah Miranda, "Extermination of the Joyas: Gendercide in Spanish California," *GLQ: A Journal of Gay and Lesbian Studies* 16, no. 1–2 (2010): 257.

46. Sam Allard, "How Did an Ohio Kennel Get Involved in Dakota Access Pipeline Security?" *Scene*, September 20, 2016, <http://www.cleverscene.com>.
47. Sam Levin, "Guards for North Dakota Pipeline Could Be Charged for Using Dogs on Activists," *The Guardian*, October 26, 2016, <http://www.theguardian.com>.
48. Eyder Peralta, "Dakota Access Pipeline Protests in North Dakota Turn Violent," National Public Radio, September 4, 2016, <http://www.npr.org>.
49. Peralta, "Dakota Access Pipeline Protests in North Dakota Turn Violent."
50. Alleen Brown, Will Parrish, and Alice Speri, "The Battle of Treaty Camp: Law Enforcement Descended on Standing Rock a Year Ago and Changed the DAPL Fight Forever," *The Intercept*, October 27, 2017, <http://www.theintercept.com>.
51. Brown, Parrish, and Speri, "The Battle of Treaty Camp."
52. Rene Rougeau, "Mass Arrests at Standing Rock," *Socialist Worker*, October 27, 2016, <http://www.socialistworker.org>.
53. "Native Americans Facing Excessive Force in North Dakota Pipeline Protests—UN Expert," United Nations Human Rights Office of the High Commissioner, November 15, 2016, <http://www.ohchr.org>.
54. Byrd, *The Transit of Empire*, viii.
55. Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836* (Cambridge, Mass.: Harvard University Press, 2010), 208.
56. Mark Rifkin, "Indigenizing Agamben: Rethinking Sovereignty in Light of the 'Peculiar' Status of Native Peoples," *Cultural Critique* 1, no. 73 (2009): 88–124.
57. Chang, *The World and All the Things upon It*, 248.