



Looming Trade Deal Threatens Gulf Communities and our Climate

Across the Gulf coast, activists are organizing to protect their livelihoods amid soaring economic inequality and risky forms of fossil fuel exploitation that threaten their communities and climate.¹ But the Trans-Pacific Partnership (TPP) – a pending trade deal with 11 Pacific Rim countries – would accelerate job losses, exacerbate climate change, and empower private companies to sue the U.S. government over new environmental and community protections in private tribunals.

TransCanada, the corporation behind the Keystone XL pipeline, illustrated this threat in June 2016 by using NAFTA to sue the U.S. for \$15 billion in a private tribunal for the decision to reject the pipeline.² TransCanada's case could be just the beginning of such corporate challenges to our community and climate protections if Congress were to pass the TPP.

Extreme Rights for Corporate Polluters

The TPP would empower more than 1,000 multinational corporations, including major polluters, to follow TransCanada's example and sue the U.S. government in tribunals not accountable to any domestic legal system, in which corporate lawyers act as "judges."³ There, the corporations could use the TPP's broad corporate rights to demand compensation for restrictions on dangerous fossil fuel projects, claiming interference with their expectations.

Fossil fuel corporations are increasingly using this private tribunal system – called "investor-state dispute settlement" (ISDS) – in existing trade and investment pacts to demand payment for environmental protections and to deter policymakers from enacting environmental policies. ISDS cases have targeted a fracking moratorium in Quebec, a court order to pay for oil pollution in Ecuador, and new restrictions on a coal-fired power plant in Germany. Indeed, half of the new cases launched in 2014 targeted policies affecting oil or gas extraction, mining, or power generation. The TPP would dramatically expand this threat to climate and environmental protections. If approved by Congress, the TPP would:

- Empower 24 of the 50 biggest climate-polluting corporations in history to use ISDS to challenge climate policies, and
- Increase by over 40 percent the number of fossil fuel firms able to challenge U.S. policies in unaccountable ISDS tribunals. That includes Australia-based BHP Billiton, a major player in fracking and offshore drilling in the Gulf.

A Lifeline for Offshore Drilling

BP's 2010 Deepwater Horizon disaster killed 11 workers and discharged 4.9 million barrels of oil into the Gulf, damaging coastal communities over 1,000 miles of coastline.⁴ Many Gulf residents are still sick or have been economically hurt by the offshore oil spill – the largest in U.S. history. To avoid such disasters and protect our climate, Gulf communities, local organizations, and national groups like the Sierra Club are calling for a halt to all new offshore drilling leases.⁵

But the TPP would empower 11 multinational fossil fuel corporations that are currently drilling in the Gulf to sue the U.S. in private tribunals if we enacted such protections against offshore drilling. These corporations have leases for oil and gas drilling across almost one million acres of Gulf seafloor – an area twice the size of De Soto National Forest in Mississippi.⁶ The corporations that would gain this ability include BHP Billiton, Japan-based Marubeni Corporation (a partner of BP in the Gulf),⁷ and Japan-based Mitsui Oil Exploration (which paid \$1 billion to BP to settle claims related to the Deepwater Horizon disaster).⁸ While the Environmental Protection Agency temporarily barred BP from obtaining new

¹ Zahra Hirji, "[Climate Activists Disrupt Gulf Oil and Gas Auction in New Orleans](#)," Inside Climate News, March 23, 2016.

² *TransCanada Corporation & TransCanada PipeLines Limited v. The Government of the United States of America*, [Request for Arbitration](#), June 24, 2016.

³ Citations and further details for all facts in this section can be found in Sierra Club's new report: Ben Beachy, "[Climate Roadblocks: Looming Trade Deals Threaten Efforts to Keep Fossil Fuels in the Ground](#)," The Sierra Club, March 2016.

⁴ "[Deep Water: Report to the President](#)," National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, January 2011, at 167.

⁵ [Letter from the Keep It in the Ground Coalition to President Obama](#), September 15, 2015.

⁶ Own calculation, based on data, compiled by the Rainforest Action Network, from the [Bureau of Safety and Environmental Enforcement](#), extracted in 2015.

⁷ Osamu Tsukimori and Risa Maeda, "[BP Sells Gulf Of Mexico Fields To Pay For Oil Spill](#)," *Reuters*, October 25, 2010.

⁸ "[BP Announces Settlement with Moex/Mitsui of Claims between the Companies Related to the Deepwater Horizon Accident](#)," BP, May 20, 2011.

drilling leases after the disaster,⁹ the TPP would empower BP's partners in the Gulf to respond to further leasing restrictions by asking a tribunal of three private lawyers to order compensation, paid for by U.S. taxpayers.

A Tool to Defend Fracking

Corporations are currently fracking for oil and gas across large swaths of Texas and Louisiana. Most recent studies show that the controversial practice threatens local communities' drinking water, air, and health.¹⁰ In recent years, 55 major fracking-related accidents have been reported in the Gulf, from well explosions to pipeline ruptures, the majority in Texas.¹¹ The fracking process also causes earthquakes and leaks of methane, a potent greenhouse gas.

While many communities and environmental organizations are pushing to restrict fracking, the TPP would nearly double the number of fracking corporations that could use private ISDS tribunals to challenge new U.S. fracking restrictions. The threat is real. A gas corporation named Lone Pine is using one of these tribunals under NAFTA to challenge a fracking moratorium in Quebec, demanding millions for its "valuable right to mine for oil and gas under the St. Lawrence River."¹²

The TPP would give this same power to 10 corporations that are fracking in Gulf states, notably BHP Billiton, "the largest foreign investor in U.S. shale."¹³ BHP Billiton owns about 1.1 million acres' worth of leases for oil and gas extraction, mostly via fracking, across Arkansas, Louisiana, and Texas.¹⁴ The corporation's U.S. fracking operations already have been cited for abuses ranging from the "discharge of oil to water" in Texas¹⁵ to the spurring of more than 1,000 small earthquakes in Arkansas, resulting in fines and lawsuits.¹⁶ Under the TPP, if Gulf communities were to try to restrict BHP Billiton's fracking operations, the corporation could sue the U.S. for the profits it might have made without the restriction.

What restrictions could be challenged? As one example, in May 2016, residents of Nordheim, Texas protested the permitting of a large fracking waste dump next to their community.¹⁷ Under the TPP, a refusal to grant such a permit could be challenged in unaccountable ISDS tribunals. Under NAFTA, one such tribunal ordered Mexico to pay nearly \$17 million to a company after a community refused to give it a permit for a hazardous waste site that threatened their water.¹⁸

More Invasive Gas Pipelines and Terminals

Under U.S. law, the Department of Energy is required to determine whether exports of liquefied natural gas (LNG) – a fossil fuel with high climate emissions – are in the public interest. But if the TPP were to take effect, the Department of Energy would be required to automatically approve all exports of LNG to all TPP countries – including Japan, the world's largest LNG importer. Not only would this facilitate greater global dependence on a climate-polluting fuel – a TPP-facilitated increase in LNG exports would pose direct threats to communities in the Gulf by encouraging:

- More fracking, leading to greater air, water, and health risks for families in Louisiana and Texas;
- Higher energy bills, as an increase in LNG exports is projected to drive up domestic gas prices; and
- More fossil fuel infrastructure, forcing Gulf communities to confront more invasive gas pipelines and terminals.¹⁹

Twenty-four of the U.S.'s 28 approved and proposed LNG export terminals, which can be as large as 500 football fields, are slated for the Gulf coast.²⁰ U.S. government investigations have found that proposed LNG terminals pose environmental, economic, health, and safety risks to Gulf communities:

- Construction of the Corpus Christi LNG terminal in Texas would lead to dredging, ballast water discharge, and increased ship traffic, negatively impacting commercial and recreational fisheries (including shrimp and catfish).²¹

⁹ Steven Mufson, "EPA Suspends BP from New Federal Contracts in Wake of Oil Spill," *The Washington Post*, November 28, 2012.

¹⁰ Jake Hays and Seth B.C. Shonkoff, "Toward An Understanding Of The Environmental And Public Health Impacts Of Shale Gas Development: An Analysis Of The Peer-Reviewed Scientific Literature, 2009-2015," PSE Healthy Energy Working Paper, June 2015.

¹¹ "Fracking across the United States," EarthJustice, accessed August 3, 2016.

¹² *Lone Pine Resources Inc. v. The Government of Canada*, ICSID Case No. UNCT/15/2, [Notice of Arbitration](#), September 6, 2013.

¹³ Jordan Blum, "BHP Takes \$2.8 Billion Write-Down in Texas Shale," *Houston Chronicle*, July 15, 2015.

¹⁴ "Resourcing Global Growth: Annual Report 2015," BHP Billiton, 2015, at 23, 36, and 72.

¹⁵ "Responsibly Managing Hydraulic Fracturing," BHP Billiton, September 22, 2015, at 7.

¹⁶ Mica Rosenberg, "Arkansas Homeowners Settle Suit Charging Fracking Wastewater Caused Quakes," *Reuters*, August 28, 2013.

¹⁷ Jim Malewitz, "Eagle Ford Town's Residents Disgusted by Waste Site's Approval," *The Texas Tribune*, May 3, 2016.

¹⁸ *Metalclad Corporation v. The United Mexican States*, ICSID Case No. ARB(AF)/97/1, [Award](#), August 30, 2000, at para. 131.

¹⁹ Ilana Solomon and Ben Beachy, "A Dirty Deal: How the Trans-Pacific Partnership Threatens our Climate," *The Sierra Club*, updated July 2016, at 9-12.

²⁰ "LNG: Existing and Proposed Terminals," Federal Energy Regulatory Commission, accessed August 3, 2016.

- The Environmental Protection Agency is concerned that risks associated with the construction of the Corpus Christi LNG terminal, and any accidental leaks, could disproportionately impact minority communities.²²
- Constructing LNG export terminals is also dangerous – two workers died in separate accidents in less than a month at Cheniere’s Sabine Pass LNG terminal in Louisiana in November 2015.²³ Most of the jobs associated with LNG terminals are temporary, often-dangerous construction jobs, undercutting the promise that more terminals would mean more good jobs. The corporation behind a British Columbia-based LNG terminal project, for example, estimated it would use up to 3,500 workers to construct the terminal, but only offer 200 to 300 permanent jobs afterwards.²⁴

Increased Coastal Wetlands Destruction

Wetlands play critical roles in Gulf states: they protect coastal communities from storms and flooding, purify water, provide a unique habitat for wildlife, and support the region’s seafood and ecotourism industries. Gulf wetlands are under serious threat – 80 percent of the wetland loss in the U.S. is occurring in Louisiana alone. One significant cause of the destruction is the dredging of canals for fossil fuel production and commercial shipping.²⁵ Since the TPP includes terms to encourage both fossil fuel production (as noted above) and commercial shipping, the deal likely would increase pressure for dredging in Louisiana, exacerbating the risks to wetlands.²⁶ While increased shipping may help some people in the ports industry, the economic, environmental, and cultural costs of wetlands loss would be large, broadly shared, and permanent.²⁷ The TPP also would spur increased climate emissions, as explained below, contributing to the growing threat that severe storms and rising sea levels pose to wetlands in Louisiana and Florida.²⁸

Gulf Seafood Economy Threatened by Safety Concerns

The marine economy supports about 21 million full- and part-time jobs in the Gulf, with the seafood catch valued at \$1 billion in 2014.²⁹ But the TPP would pose new threats to seafood jobs in the Gulf. First, by encouraging increased fossil fuel infrastructure and making it more difficult to restrict offshore drilling, as explained above, the deal would increase the risk of oil spills, wetlands dredging, and other environmental damage that could impair the Gulf’s seafood industries.

Second, the TPP could threaten the safety of imported shrimp and catfish, which, if it led to more disease outbreaks, could undermine the reputation of Gulf seafood. Today U.S. government inspectors, despite inspecting a small share of seafood imports, are finding contamination of seafood imported from TPP countries. For example:

- In the first half of 2016, the Department of Agriculture stopped two shipments of Vietnamese catfish due to the presence of carcinogens and banned antibiotics.³⁰
- In April 2016, the Food and Drug Administration issued an alert on shrimp and prawns imported from Malaysia due to the detection of antibiotic residues in one-third of imports.³¹
- The Food and Drug Administration currently restricts seafood imports from 186 fisheries in Vietnam where salmonella contamination has been found.³²

The TPP would undermine U.S. safety inspections for imported shrimp, catfish, and other seafood by giving foreign exporting countries new powers to challenge the U.S. government when it detains seafood imports due to suspected health risks.³³ Such challenges could lead to more imports from TPP countries of contaminated catfish or shrimp. This not only would threaten the health of U.S. consumers, but the business of the Gulf seafood industry, as any resulting disease outbreaks from catfish or shrimp would spur negative publicity that could hurt sales.

²¹ “[Corpus Christi LNG Project: Final Environmental Impact Statement](#),” Federal Energy Regulatory Commission, October 2014, at 4-40 to 4-45.

²² “[Detailed Comments on the Federal Energy Regulatory Commission Draft Environmental Impact Statement for the Corpus Christi LNG Project](#),” U.S. Environmental Protection Agency, August 4, 2014, at 2-3.

²³ Jennifer Larino, “[Worker Killed In Cheniere LNG Terminal Accident in Cameron Parish, TV Station Reports](#),” *NOLA.com*, November 10, 2015.

²⁴ “[Pacific Northwest LNG: Project Description](#),” Pacific Northwest LNG and Stantec Consulting, July 2013, at 20.

²⁵ “[Louisiana Coastal Wetlands: A Resource at Risk](#),” U.S. Geological Survey, accessed August 3, 2016.

²⁶ Richard Rainey, “[Pacific Trade Deal A Win For Louisiana, If It Can Keep Its Rivers Clear](#),” *NOLA.com*, January 19, 2016.

²⁷ Anand Chandrasekhar, “[How Effective Is Restoration at Recreating Wetlands?](#)” *The Economics of Ecosystems and Biodiversity*, December 24, 2013.

²⁸ “[Climate Change and Sea-Level Rise in Florida](#),” The Florida Oceans and Coastal Council, December 2010.

²⁹ “[Fisheries Economics of the United States 2014](#),” U.S. Department of Commerce, May 2016, at 151-153.

³⁰ Kate Fried and Patrick Woodall, “[Curious Catfish Shipments Highlight Need to Stop the TPP](#),” Food and Water Watch, June 7, 2016.

³¹ “[FDA Issues Import Alert on Imported Shrimp and Prawns from Peninsular Malaysia](#),” U.S. Food and Drug Administration, April 18, 2016.

³² “[Import Alert 16-81](#),” U.S. Food and Drug Administration, July 8, 2016.

³³ “[The TPP Assault on Food Safety](#),” Food and Water Watch, April 2016, at 1.

More Manufacturing Job Losses, Increased Income Inequality

The TPP would exacerbate a “race to the bottom” that harms workers around the world by helping multinational corporations offshore jobs in search of lower wages. By eliminating tariffs, or taxes on traded goods, the TPP would make it easier for manufacturing firms to offshore U.S. production to low-wage TPP countries like Malaysia or Vietnam, where the average minimum is just 70 cents per hour.³⁴ Indeed, the official U.S. government study on the TPP, by the International Trade Commission (ITC), projects that the deal would spur a decline in U.S. manufacturing employment.³⁵

Several industries in the Gulf would be particularly vulnerable to manufacturing job losses under the TPP. Texas has the second largest manufacturing workforce in the country,³⁶ and Alabama and Mississippi are among the U.S. states with the highest percentage of their workforce in manufacturing.³⁷ The ITC projects manufacturing losses in key sectors, such as:

- **Electronic Equipment:** The ITC projects that U.S. electronics production would fall \$3.7 billion under the TPP. This is bad news for Texas, which specializes in electronics.³⁸
- **Steel:** While a significant number of steel plants are located in Gulf states like Alabama,³⁹ the ITC projects that the TPP would cause a \$3.7 billion decline in U.S. production of metals and metal products.

A TPP-spurred loss of U.S. manufacturing jobs also would mean increased U.S. income inequality, according to recent studies of the deal.⁴⁰ Manufacturing jobs tend to be higher-skilled and higher-paying than many jobs in the service sector. By forcing more manufacturing workers to compete for lower-paying service sector jobs, the TPP would contribute to broad-based downward pressure on middle class wages. This would exacerbate the already high inequality in the Gulf – Louisiana, Florida, Texas, and Mississippi are all in the top fifth of U.S. states for income inequality.⁴¹ Shifting even more wealth from workers to multinational corporations is not something that the middle class can afford.

Increased Climate Change Threats

Though trade can significantly increase climate-disrupting emissions, the TPP text fails to even *mention* the words “climate change.”⁴² The omission is particularly alarming given that the TPP would spur greater emissions by:

- **Offshoring Manufacturing:** As noted, the TPP would shift U.S. manufacturing to other countries. This not only would cost U.S. jobs, but also would increase climate emissions, as manufacturing in some TPP countries is two to six times as carbon-intensive as in the U.S. Plus, many of those goods would be shipped to the U.S., spurring more emissions.
- **Escalating Tropical Deforestation:** In TPP member Malaysia, new oil palm plantations are a major cause of climate emissions from deforestation. The TPP’s elimination of tariffs on palm oil would encourage wider oil palm expansion.

Increased climate disruption from the TPP is particularly concerning for the Gulf, given the region’s acute vulnerability to climate change. Low-lying coastal areas – including Miami, Tampa, Mobile, Biloxi, Houston, and New Orleans – are highly exposed to sea level rise, stronger hurricanes, and storm surges. Increased average temperatures are expected to impact outdoor workers and residents struggling to pay cooling bills. New heat extremes are also expected to increase wildfires and the spread of disease while reducing agricultural yields.⁴³ Ocean acidification from carbon emissions will also cause further bleaching of Florida’s coral reefs, a natural wonder that is vital for tourism.

Let’s Replace these Toxic Deals with Gulf-Friendly Trade

Opposition to toxic trade deals like the TPP is broad and growing. It’s time to create a new model of trade that protects communities and the environment, not the bottom lines of corporations. Join us at www.sierraclub.org/trade.

³⁴ Decree 122/2015/ND-CP, Government of Vietnam, at WageIndicator.org, accessed August 3, 2016.

³⁵ “[Trans-Pacific Partnership Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors](#),” International Trade Commission, May 2016, at 76.

³⁶ “[State Manufacturing Data Table](#),” National Association of Manufacturers, accessed August 3, 2016.

³⁷ “[Manufacturing Employment by State](#),” National Association of Manufacturers, accessed August 3, 2016.

³⁸ Mark Crawford, “[The States Leading the U.S. Manufacturing Resurgence](#),” *Area Development*, Winter 2013.

³⁹ “[Steel Plants of North America](#),” American Iron and Steel Institute, accessed August 3, 2016.

⁴⁰ Jeronim Capaldo and Alex Izurieta, “[Trading Down: Unemployment, Inequality and Other Risks of the Trans-Pacific Partnership Agreement](#),” Global Development and Environment Institute, Working Paper No. 16-01, January 2016, at 15.

⁴¹ “[Gini Index of Income Inequality](#),” U.S. Census Bureau, data from 2010, accessed August 3, 2016.

⁴² Citations and further details, including for the following bullet points, can be found in Sierra Club’s report: Ilana Solomon and Ben Beachy, “[A Dirty Deal: How the Trans-Pacific Partnership Threatens our Climate](#),” The Sierra Club, updated July 2016.

⁴³ “[Climate Impacts in the Southeast](#),” U.S. Environmental Protection Agency, accessed August 3, 2016.