Complicit

BANK OF AMERICA'S ROLE in Fossil Fuel Expansion and the Violation of Human Rights

RAINFOREST ACTION NETWORK

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RAINFOREST ACTION NETWORK

INTRODUCTION

Climate change represents an existential threat to humanity and is a driver of human rights violations around the world. Companies deepening the climate crisis are by definition complicit in those rights violations. Institutions that take their human rights responsibilities seriously must take immediate action to stop the expansion of fossil fuels by aggressively phasing out fossil fuel financing in line with credible 1.5° C pathways. Anything less is an unacceptable abdication of leadership and puts financial institutions and their leaders squarely on the wrong side of history. Banks can no longer hide behind greenwashing and empty policies. The climate emergency has arrived, and its risks cannot be ignored, least of all by those profiting from it.

Bank of America is the 5th largest global bank by assets, and has provided $279.7 billion in financing (lending and underwriting) to fossil fuel companies since 2016, the year the Paris Climate Agreement went into effect.[1] This represents approximately 4% of its overall financing across the global economy. Bank of America committed to net zero emissions across its operations by 2050 in 2021, but to date has made inadequate progress towards their stated goals, leaving a long way to go to achieve that ambition.[2]

This report highlights Bank of America's financing for some of the worst companies developing fossil fuel expansion projects that by definition infringe on human rights. Bank of America's current policies and financing practices enable it to profit from climate chaos by leveraging the hard earned dollars of the individual customers it claims to care about, despite its stated commitment to respecting human rights and mitigating climate change.

"**Climate change threatens the effective enjoyment of a range of human rights** including those to life, water and sanitation, food, health, housing, self-determination, culture and development."

–Office of the High Commissioner for Human Rights, United Nations[3]

We have seen this inaction before from Bank of America. During the 2007-2008 financial crisis, the bank nearly failed because of its heavy exposure to toxic assets, particularly subprime mortgages.[4] Under chief executive **Brian Moynihan**, the company sought to rehabilitate its image from what *The Motley Fool* called “America’s Most Hated Bank” in 2013.[5] Bank of America subsequently embraced a strategy it calls “responsible growth,” rebranding to focus on responsibility and emphasizing the bank’s social justice commitments.[6] However, there is nothing responsible or just about financing fossil fuel expansion – in 2022 alone, Bank of America financed the top 100 companies expanding fossil fuels to the tune of $4.66 billion. Since 2016 those companies have received over $87 billion in financing from Bank of America.

> “**To the powerful, I can only repeat this question**: ‘What would induce anyone, at this stage, to hold on to power, only to be remembered for their inability to take action when it was urgent and necessary to do so?’”
>
> –His Holiness Pope Francis, *Laudate Deum*, October 2023[7]

Bank of America’s financing of toxic fossil fuel assets exposes the bank to a host of risks, including damages from increasingly urgent climate litigation, reputational risk from extraction-related human rights violations and charges of greenwashing, and credit and liquidity risks associated with fossil fuel firms.[8] Climate change poses a significant risk to stability of the financial system, which is exposed to at least $1 trillion of potential stranded fossil fuel assets globally, with potential for even larger knock-on economic damages.[9]

All financial institutions that continue financing fossil fuels are contributing to irreversible climate change-driven suffering and loss. As a leader among global banks, Bank of America’s actions threaten human rights of people around the world today and in the future.

Bank of America Fossil Fuel Financing - 2022

Bank of America’s clients include some of the worst fossil fuel companies - 202 clients in total - with extreme emissions, expansion plans, and human rights impacts.

TOTAL	$35,466,666,718
Top 100 Expansion Companies	**$4,657,326,813**
Top 30 Fracking Companies	**$5,193,497,004**
Top 30 Methane/LNG Companies	**$959,982,758**
Top Offshore Companies	**$635,473,262**
Top Tar Sands Companies	**$195,652,950**
Coal Mining	**$40,083,871**

PHOTO: Jim West / Alamy Stock Photo

CLIMATE CHANGE IS A HUMAN RIGHTS CRISIS

Climate change is a human rights crisis. Climate change-driven extreme weather impacts human lives and livelihoods, and the worst consequences are borne by those with the least resources to cope with them. These harms increase with every increment of warming. At a moment when we know that any fossil fuel expansion will result in overshooting 1.5°C, any financing for expansion reflects a failure to meet the responsibilities enshrined in the UN Guiding Principles for Business and Human Rights. Further, when fossil fuel companies build infrastructure to extract, transport, process, and burn fossil fuels, they leave tangible harms on the health and well-being of environmental justice communities. Leaders in those communities are urgently calling for an end to fossil fuels. Fossil fuel extraction is causally linked to violence against women, Indigenous Peoples, frontline communities, and environmental and human rights defenders. Finally, the fossil fuel industry is implicated in breeches of Indigenous Peoples' rights and sovereignty, including the right to Free Prior and Informed Consent (FPIC) and Indigenous Peoples' right to control their lands and territories.

Extreme Weather and Climate Chaos

The last year has offered a window into the climate chaos yet to come. Climate scientists warn about global tipping points that could result in rapid and catastrophic change.[10] Extreme weather events in 2023 show that the planet does not need to reach those tipping points before people begin experiencing unprecedented, life-threatening extremes. July was the world's hottest month on record, putting hundreds of millions under extreme heat conditions and contributing towards a rapid rise in heat-related mortality.[11] Climate change amplified the likelihood of these extremes.[12] Eleven thousand people died in Libya following catastrophic flooding in July.[13] Hawaiians mourned the loss of life and Indigenous cultural sites following the devastating wildfires in Maui.[14] Two-thirds of Canada's more than 1000 wildfires are out of control, and wildfires have cumulatively burned nearly 4% of the country's forests.[15] Researchers report that climate change more than doubled the likelihood of these fires. Similarly, researchers concluded that severe drought affecting millions of people in eastern Africa would not have happened in the absence of climate change.[16]

“**The climate crisis is killing us.** It is undermining not just the health of our planet, but the health of people everywhere – through toxic air pollution, diminishing food security, higher risks of infectious disease outbreaks, record extreme heat, drought, floods and more.”

- António Guterres, Secretary General of the United Nations

The risks to human health and well-being from a changing climate are well-documented - and constitute a threat to basic human rights, especially in the Global South.[17] Already supercharged storms, fires, and heat have killed thousands. Drought, excess rainfall, hurricanes, cyclones, and extreme heat create chaos for farmers, bringing crop loss and threatening equitable food access for millions worldwide. Infectious diseases spread more easily. Poor air quality from wildfire smoke exacerbates asthma. *The Lancet*’s 2022 report entitled *Health at the Mercy of Fossil Fuels* concluded that “climate change is undermining every dimension of global health.”[18]

While storms, fires, floods, deluges, droughts, and heat waves have always occurred, the increased severity, frequency, and likelihood of occurrence of these events is attributable to human-caused climate change.[19] A growing number of scientific studies offer evidence to support the attribution of extreme weather to global warming, and that evidence is making its way into courtrooms. People at the frontlines of climate chaos are demanding action from those most responsible for driving climate change: fossil fuel companies and their financial backers.[20]

Fossil Expansion as a Rights Violation

The failure to address a bank’s role in human-induced climate change and its attendant harms constitutes a human rights violation. Banks enabling systemic fossil fuel expansion are violating human rights because the primary human activity exacerbating climate change is the expansion of fossil fuel extraction, transportation, processing, and burning.

The International Energy Agency (IEA) affirms that fossil fuel expansion is incompatible with the Paris Agreement-aligned goal of limiting global average temperature rise to 1.5° C .[21] As its director, Fatih Birol, put it, “New large-scale fossil fuel projects not only carry major climate risks, but also business and financial risks for the companies and their investors.”[22] In 2021 the IEA published its landmark report detailing a pathway for the world to reduce greenhouse gas emissions in line with this goal, and the agency updated its roadmap in September 2023. It reiterated that it is still possible to reduce emissions to net zero by 2050 if financing for new energy sources increases rapidly and fossil fuel use declines just as rapidly.[23]

Nonetheless, data detailed in this report shows that Bank of America continues financing companies whose fossil fuel expansion plans **overshoot the IEA’s Net Zero 2050 scenario** (see Bank of America’s Net Zero Overshoot, p. 10).

Human rights experts at the United Nations recently raised an alarm about the human rights implications of fossil fuel expansion, focusing on oil giant Aramco, following a legal complaint filed in 2021. The complaint alleged that Aramco committed “the largest ever **climate-related breach of international human rights law** by a business” as the single biggest corporate emitter globally.[24] Though Aramco has made public climate commitments, according to analysis by The Carbon Tracker, these are “dubious” at best given the company’s expansion plans.[25]

On September 19th, 2023, as part of a wave of direct actions leading up to UN Climate Week, hundreds of activists, Indigenous and frontline leaders marched on the Bank of America tower in midtown Manhattan, demanding the bank stop financing climate chaos and defend human rights. Speakers from the Philippines to the Amazon, Appalachia to the U.S Gulf South spoke their truth and demanded accountability from the bank.

Based on the UN Guiding Principles on Business and Human Rights, experts stated that "involvement of financial institutions in the financing of Saudi Aramco's activities could be in violation of international human rights law and standards." Bank of America claims to support those Guiding Principles, as is their responsibility.[26] However, **Bank of America** provided **$526,278,027 to Aramco in financing in 2022, $533,333,333 in 2020, and $ 1,177,632,384 in 2019**.[27] Meanwhile, Aramco raked in a record $161 billion profit in 2022.[28]

This is not just an issue for Aramco's financiers. Bankers of all fossil fuel companies with plans to expand oil, gas, or coal extraction have cause for concern. Human rights experts' point in this case may find traction in national and international legal mechanisms amidst a growing wave of international climate litigation.[29] If so, it could create material legal risks to financiers of fossil companies in years ahead. The legal theory behind this complaint is likely applicable to all companies engaging in fossil fuel expansion and all the banks that finance them.

Harms to Environmental Justice Communities

Fossil fuel extraction, transportation, processing, and use violates human rights not just because those activities contribute to climate change, but also because building fossil fuel infrastructure causes pollution, creates public health hazards, destroys fragile habitats, and erodes land rights and community integrity.

"**The financial firms facilitating these transactions and directly lending to the company have a responsibility** under the [UN Guiding Principles on Business & Human Rights] UNGPs – the global standard on business and human rights that all companies must follow – to remediate the human rights impacts caused by its activities."

- ClientEarth[30]

Communities exposed to the negative health impacts of fossil fuels are disproportionately people of color and lower income communities in the United States and globally. As a recent analysis put it, "fossil fuels require 'sacrifice zones' – places that are heavily polluted or damaged by industry activities, and whose inhabitants are subject to elevated health risks."[31] ProPublica identified "more than a thousand hot spots of "cancer-causing air" across these sacrifice zones in the United States and found that 250,000 people living in them may have been exposed between 2014 and 2018 to levels of excess cancer risk as defined by the US Environmental Protection Agency.[32] Poor communities, Indigenous territories, and areas with many people of color are often targeted for fossil fuel development because they have less institutional power to block such activities. One egregious example in the United States is so-called cancer alley, an 85 mile section of the Mississippi River in Louisiana where petrochemical plants and fossil fuel facilities have elevated cancer rates and other harms.[33] Likewise, in the wake of Hurricane Harvey in 2017, communities of color in Houston were exposed to toxic chemicals from superfund sites, chemical plants, and oil refineries.[34] These devastating harms to people living in the shadow of fossil fuels are human rights violations.

As detailed later in this report, Bank of America finances the fossil fuel industry across the U.S Gulf South, including in environmental justice communities.

Rights Violations From Fossil Fuel Projects

Environmental activists and land defenders globally face heightened threats of violence, including murder, and it is clear that fossil fuel projects exacerbate violence and land grabbing.[35] According to the non-profit Oil Change International, "There is an alarming record of human rights abuses by governments and corporations associated with fossil fuel operations, resulting in appropriation of land, forced relocation, and even the brutal and sometimes deadly suppression of critics."[36]

"Every day, environmental human rights defenders face abuse, threats and harassment for their work addressing the triple planetary crisis of climate change, pollution and nature loss."

-Michelle Bachelet, UN High Commissioner for Human Rights[37]

Violation of Indigenous Rights and Sovereignty: The right to give or withhold their Free, Prior, and Informed Consent (FPIC) is a cornerstone for the rights of Indigenous Peoples to exercise their sovereignty over land, culture, and livelihood. Indigenous People have the right to participation, without coercion, and with complete information, before any resource extraction, infrastructure construction, or other action that would impair their health, community, and territorial sovereignty takes place. Indigenous Peoples control territory holding much of the world's biodiversity, and their stewardship of land and resources is crucial to mitigating climate chaos.[38] Too often, though, Indigenous sovereignty is violated in the process of extracting oil, gas, coal, and even the critical minerals necessary for less-carbon intensive energy production.

Indigenous Peoples Protect the Amazon

The Amazon rainforest is at a tipping point; further oil and gas extraction will push the biome to the brink of irreversible collapse.[39] The Amazon is essential for climate change mitigation, and is home to 400+ Indigenous nationalities that defend and depend on it. Indigenous Peoples are the best stewards of forest biodiversity, and respecting their rights is thus the best way to protect the Amazon, and by extension the climate.[40]

Bank of America provided a total of **$210 million in financing in 2022** to two companies **Eneva** and **Cia Espanola de Petroleos** with direct involvement in oil and gas extraction in the **Amazon biome** in Brazil, Ecuador, Peru, and/or Colombia as defined by Amazonian Georeferenced Socio-Environmental Information Network (RAISG).[41]

Shifting to renewable energy or lower carbon fossil fuels is inadequate if banks like Bank of America do not develop more rigorous human rights and environmental due diligence processes for natural resource extraction. There is already evidence that mining for rare earths and siting wind and solar fields is undermining land sovereignty and driving labor violations.[42]

PHOTO: Tyson Gifford

PHOTO: Alizada Studios / Alamy Stock Photo

BANK OF AMERICA'S NET ZERO OVERSHOOT

Net zero means that human-generated greenhouse gas emissions have been reduced as close to zero as possible, with remaining emissions balanced by carbon sinks.[43] It will simply not be possible to achieve zero emissions if fossil fuels continue to dominate the energy system. The IEA's scenario relies on optimistic assumptions about as-yet unproven technologies like carbon removal and carbon capture, and should thus be considered a minimum standard. Despite its shortcomings, the IEA — and multiple other mainstream energy models — have now drawn a clear line in the sand: any development of new fossil fuel reserves beyond those approved in 2021 is incompatible with 1.5° C scenarios.[44] We are now almost two years past that deadline.

In 2022 alone, Bank of America provided $10.5 billion in lending and underwriting to at least 40 upstream companies whose expansion plans for oil and gas will contribute to overshooting most credible paths to keeping global warming to less than 1.5° C. Together, these companies have short term expansion plans to bring into production in the near future 25 billion barrels of oil equivalent that are incompatible with this IEA scenario. This figure does not include all the oil and gas that these companies produce from projects that reached final investment decision (FID) before 2022.

As an institution with a stated commitment to human rights and climate action, Bank of America has a unique opportunity and responsibility to only provide capital to companies that are committed to a just energy transition. Instead, the bank continues to strike deals with the top expanders – those are planning to overshoot the IEA Net Zero by 2050 scenario. These companies include **Saudi Aramco**, **Chesapeake Energy**, **Southwestern Energy**, **Endeavor Energy**, and **Diamondback Energy** (See "Bank of America's Top 6 Upsteam Oil and Gas Overshoot Clients," p. 11).

Bank of America Top 6 Upstream Oil and Gas Overshoot Clients

COMPANY NAME	OVERSHOOT (MMBOE)	BOFA 2022 FINANCING
Saudi Arabian Oil Company (Saudi Aramco)	**11410**	**$526,278,027**
Chesapeake Energy Corporation	**1242**	**$222,222,222**
Southwestern Energy Company	**1097**	**$231,818,182**
Endeavour Energy Resources LP	**1009**	**$150,000,000**
Diamondback Energy Inc	**877**	**$264,285,714**
EQT Corporation	**805**	**$344,444,444**
At least 40 of Bank of America's 2022 clients have short-term expansion plans that would collectively produce 25 billion mmboe of gas and oil from projects reaching FID after 2021, making them incompatible with the IEA Net Zero scenario. These 40 clients received $10.5 billion from the bank in 2022.		

Data on net zero overshoot was calculated by Urgewald for the Oil & Gas Exit List 2022. Their methodology is available at https://gogel.org/.

- EQT is a major supplier for the Mountain Valley Pipeline. In a a 2023 investor presentation, it bragged: "NEW WORLD DRILLING RECORD SET"[45].
- Diamondback Energy has left hundreds of inactive, uncapped wells scattered across the state of Texas (see p. 21).
- Aramco received a communique from the United Nations warning of potentially climate-related human rights violations (see p. 6-7).

"**Human health, livelihoods, household budgets and national economies are being pummeled**, as the fossil fuel addiction spirals out of control. The science is clear: massive, common-sense investments in renewable energy and climate resilience will secure a healthier, safer life for people in every country."

- António Guterres, Secretary General of the United Nations

ConocoPhillips

Bank of America provided oil major **ConocoPhillips** with **$814 million of financing in 2022**. ConocoPhillips is one the top expanders of fracking in the Permian basin, a top overall oil and gas expander, and a company drilling in the Arctic.[46] According to 2021 data, among the top 100 US oil and gas producers, ConocoPhillips ranked first for overall greenhouse gas emissions and fourth for methane emissions.[47]

ConocoPhillips Financing from Bank of America - 2022

TOTAL	$813,636,364
Fracking League Credit	**$480,045,455**
Arctic League Credit	**$105,772,727**
Tar Sands League Credit	**$24,409,091**

This financing highlights a **loophole** in Bank of America's weak Arctic oil and gas policy. The company's ESG framework forbids "direct financing of petroleum exploration or production activities in the Arctic."[48] The bank's initial commitment to avoid Arctic projects made headlines in 2020.[49] Yet this policy applies only to direct project financing; it does not apply to finance for *companies* conducting Arctic petroleum exploration and production, rendering the policy almost meaningless. A vast majority of Bank of America's financing is given to companies rather than to specific projects: In 2022, 97% of its fossil fuel financing was for general corporate purposes, and only 3% was designated for specific projects.

This loophole enables Bank of America to provide capital for ConocoPhillips, a company that is expanding in the Arctic through the Willow project, a high-profile and controversial oil drilling project in Arctic Alaska. The project is expected to cost $8 billion, and it relies on capital raised from loans and/or bonds supported by Bank of America and its peers.[50] Bank of America provided $814 million in financing to ConocoPhillips in 2022. In 2023 Bank of America told investors that "we have not participated in project finance for oil and gas exploration in the Arctic" -- technically true, since the financing was not earmarked directly for the Willow project, but disingenuous given the difficulty of tracing how companies use finance designated for general corporate purposes.[51] Bank of America should take responsibility for what its clients do with their corporate finance.

The Willow project threatens the nearby Alaska Native village of Nuiqsut, where residents have opposed the project, raising concerns about the project's impacts on subsistence hunting and fishing, human health, and local ecosystems.[52] ConocoPhillips plans to pump oil for decades from the project, producing tremendous greenhouse gas emissions.[53] Ironically, the company is worried that melting permafrost — caused by climate change — poses a threat to the project site. At one point it proposed installing giant chillers to keep the permafrost frozen.[54] Organizations including Sovereign Iñupiat for a Living Arctic, Center for Biological Diversity, and National Resource Defense Council have filed lawsuits to stop the project. [55]

ConocoPhillips is also an equity owner of several current and planned methane gas export facilities.[56] The company owns a 30% stake in Sempra Energy's Port Arthur LNG project (see p. 14), which poses serious health hazards and threatens to lock in decades more reliance on methane gas. The booming global methane infrastructure buildout, detailed below, is a grave threat to human rights.

PHOTO: Jim West / Alamy Stock Photo

METHANE GAS

The last year has seen an explosion of new or revitalized proposals to export methane gas from the United States, what promoters euphemistically call Liquefied "Natural" Gas, or LNG. The fossil fuel industry touts this gas as a transition fuel that will help get the world off of coal. But this is a dangerous fallacy because the product is 95% methane.

Methane gas is a danger to people and to the planet. Methane is shorter lived in the atmosphere than carbon dioxide, but as a greenhouse gas it produces up to 84 times more warming over a 20 year time scale.[57] The International Energy Agency reported that full abate of methane in fossil fuel production could avoid nearly 1 million premature deaths, could prevent 2.8 million asthma-related hospital visits, and result in $266 billion in economic gains.[58]

"**Methane has contributed to around 30%** of the global rise in temperatures to date, and curbing these emissions is the most effective means available for limiting global warming in the near term. Emissions from fossil fuel operations present a major opportunity in this respect, since the pathways to reduction are both clear and cost-effective."

– International Energy Agency[59]

Gas export terminals are sprawling, environmentally destructive facilities that spew pollution, harming nearby people and coastal ecosystems.[60] Gas pipelines routinely leak, explode, and release pollutants that make people sick, leading to lost lives and billions of dollars of economic damage.[61] Plant operators cut corners, are understaffed, and are at risk of dangerous explosions, such as the one that shut down Freeport LNG in Freeport, Texas in 2022.[62]

Driven by high prices on the global market, developers are proposing 20 new liquefied methane gas export terminals in the US Gulf South states of Texas and Louisiana.[63] At the other end of these export facilities, proposals are on the table for dozens of import terminals across Asia and, to a lesser extent, Europe.[64] There is already evidence that financing for gas import terminals is displacing financing for more sustainable sources of energy in Asia and Europe.[65]

Methane leakage and flaring at various points in the gas life cycle — extraction, pipelines, liquefaction, shipping, storage, etc. — is a significant source of emissions. Even if these so-called "fugitive emissions" are cleaned up – something industry has been slow to do – burning all of the methane gas processed by these terminals would create emissions equivalent to 10% of the remaining emissions budget for achieving net zero by 2050.

Building these expensive terminals would lock in decades of emissions because the investment in the infrastructure incentivizes ongoing gas use. Companies are proposing a $62 billion investment into 2,900 more miles of methane gas pipelines in the US to feed the new terminals, all of which are designed to last for decades.[66] This is not a great long term bet, either for financiers, for the climate, or for the people living along the pipeline routes. Analysts believe that the race to create new supply is outstripping demand growth, leading to a supply glut.[67]

Sempra Energy

Bank of America financed **$878 million in 2022 to Sempra**, a diversified energy company with methane gas pipelines, export terminals, and electricity and gas distribution utilities. Sempra developed and operates **Cameron LNG**, the United States' fourth largest methane export terminal, in Hackberry, Louisiana. Since it began operating, the terminal has reportedly had at least 67 accidental releases of environmental toxicants including methane and the carcinogen benzene, leading to investigations by both the federal Environmental Protection Agency and the state of Louisiana's Department of Environmental Quality.[68]

Sempra recently secured financing for **Port Arthur LNG**, currently under development just outside of Port Arthur, Texas.[69] In March 2023, Bank of America participated in a $6.8 billion loan syndicate for the project.[70] Ultimately, the methane gas project would enable 7.7 million tons of CO2 equivalent emissions annually — the equivalent of about 1.5 million passenger cars' annual emissions.[71]

Located just south of the city of Port Arthur, the project is an example of environmental injustice. John Beard, a community leader in Port Arthur, told the *Texas Tribune,* "These companies, no matter what they say, are basically sacrificing communities of color in order to get wealthier, more affluent communities cheap fossil fuels."[72] The people of Port Arthur, TX are majority Black, Indigenous, and People of Color; 26% of residents live below the federal poverty line.[73]

Hoping to stop the project, Beard sued the Texas Council of Environmental Quality, arguing that the allowable levels of nitrogen oxides emitted by the plant — a class of air pollutants that exacerbate respiratory problems — were too high.[74] While an administrative law judge ruled in Beard's favor, the Texas Council on Environmental Quality did not follow the ruling and issued the company a permit, arguing that pollution control would be too costly.[75] Beard has appealed.

Given Sempra's track record in operating Cameron LNG, there are serious concerns about the safety of Port Arthur LNG. The company is also developing Energía Costa Azul LNG and Vista Pacífico LNG in Mexico, both of which pose similar threats.[76]

PHOTO: Healthy Gulf

BANKROLLING AN EXPLOSION OF METHANE GAS IN THE GULF SOUTH

The buildout in the US Gulf Coast represents a classic example of environmental racism.[77] Black, Latine, and Indigenous communities disproportionately bear the burden of environmental hazards while shareholders of multibillion dollar fossil fuel companies reap profits.[78] In fact, human rights experts appointed by the United Nations in 2021 cautioned against further development in Louisiana's Cancer Alley.[79]

In Louisiana, developers are planning new methane export terminals in and near Black communities. Louisiana is already a hub of environmental injustice, home to Cancer Alley, where the petrochemical industry has long exposed communities of color to high levels of disease-causing pollution.[80]

When facilities are built, they pollute: Venture Global's Calcasieu Pass Facility in southwestern Louisiana violated its emissions limits 100 times in 2022. [81] Cheniere's Corpus Christi expansion would release the emissions equivalent of 14 coal plants each year, along with other hazardous chemicals.[82] In Texas, methane developer Cheniere is expanding their Corpus Christi LNG terminal, a project that would expose nearby communities, the majority of whom are Latine and Indigenous, to deadly health hazards and pollution. These issues should raise concerns during a rigorous due diligence process. Yet **Bank of America financed $220 million to the project in 2022 and $1.81 billion to Cheniere and its subsidiaries since 2016.**

Methane Gas Clients

FACILITIES	DEVELOPER	BOFA 2022 FINANCING
• Calcasieu Pass • Plaquemines	**Venture Global**	**$503,119,022**
• Sabine Pass • Corpus Christi	**Cheniere**	**$237,200,0007**
• Port Arthur	**Sempra**	**$827,777,777**

Energy Transfer Partners

Bank of America financed **$493 million to Energy Transfer Partners (ETP) in 2022**. ETP has a track record of building destructive projects. Notably, it built the Dakota Access Pipeline which drew massive protests at the Standing Rock reservation for its violations of human rights, Indigenous sovereignty, and its environmental harms.[83]

ETP's proposed methane export terminal project, **Lake Charles LNG**, has been in development for nearly a decade, winding its way through regulatory agencies and courts.[84] The southwest Louisiana community of Lake Charles does not want this facility.[85] The plant would bring more air pollution and accident risks to an area already overburdened by the petroleum and petrochemical industry. The Department of Energy refused to extend the permits for the project past 2025, which ETP itself said could kill the project.[86] Despite this setback, ETP continues to push this project, announcing several sale agreements for its methane.[87]

Vitol

Bank of America financed **$2.2 billion in 2022 to Vitol**, the world's largest independent oil trader and a major intermediary buying and selling methane gas on the global market.[88] The trader faced scrutiny for its alleged role in trading Russian-produced oil despite international sanctions after the country's invasion of Ukraine.[89] The company has a history of controversy, including when it admitted guilt in 2020 to bribing officials in Brazil, Ecuador and Mexico in order to gain contracts.[90] The company holds the keys to ongoing global fossil fuels expansion.

PHOTO: Duncan Selby / Alamy Stock Photo

PIPELINES

Where do the export terminals get the gas they process? It comes through pipelines from fracking sites across North America.

Pipelines leak. Pipelines explode. Pipeline construction harms the environment, disrupts the lives of local residents, and destroys cultural sites.

Construction of pipelines and the oil industry have exacerbated violence against Native women and people. When pipelines and other extractive oil, coal, and gas infrastructure are built, companies set up large construction worker "man camps" to house temporary workers. Neighboring communities experienced higher rates of human trafficking, sex trafficking, and missing and murdered Indigenous People in their area.[91] For instance, during the Bakken oil boom in North Dakota, thousands of male workers moved to the area. Shortly after, over 125 Indigenous women disappeared and aggravated assault and violent crime notably increased.[92]

In a letter to major bank CEOs, over 40 Indigenous women leaders directly called on banks to end their support of pipelines, citing the violence that fossil fuel infrastructures bring to Indigenous communities.

"There is a direct link between oil extraction and violence against largely Indigenous women and girls, which serves as an important reminder: violence against the land begets violence against women. This is yet another reason, on a growing list, why the pipeline expansions should be shelved. Financiers have an opportunity to walk the path towards a cleaner, safer and more just world for all women, girls and Mother Nature alike."

- Melina Laboucan-Massimo (Lubicon Cree Nation), Founder of Sacred Earth Solar and Director of Healing Justice at Indigenous Climate Action.[93]

Pipelines are built to last, inducing demand for fossil fuels and making it harder to transition off of oil and gas. **At a time when new fossil fuel infrastructure should not be built, Bank of America continues to finance pipeline developers to the tune of hundreds of billions of dollars each year.**

COMPANY	BOFA 2022 FINANCING	SAMPLE PROJECTS
ONEOK	**$361,111,111**	**Saguaro Connector Pipeline -** a proposed pipeline that would carry methane gas from the Permian Basin in Texas to the coast of Mexico for export at a new liquefaction site and terminal.[94] While ONEOK awaits permitting, residents are mobilizing against the pipeline's construction.[95]
Equitrans	**$100,000,000**	**Mountain Valley Pipeline -** a methane gas pipeline ardently opposed by impacted landowners in Virginia and North Carolina, United States. The pipeline has faced protracted legal battles that periodically forced construction to stop.[96] The construction has already damaged Indigenous cultural sites, harmed local environments, and affected the livelihoods of many low-income rural residents.[97] MVP is routed through especially rugged terrain, so its construction is producing tremendous environmental damage.
Coastal GasLink (TC Energy)	**$118,208,644**	**Coastal GasLink Pipeline** - Hereditary chiefs and members of the Wet'suwet'en First Nation as well as protestors across Canada are actively resisting this pipeline, under construction in British Columbia, Canada. It would connect inland gas wells with the new LNG Canada project on the west coast. A 2020 rail blockade in protest of the project shut down rail routes for weeks.[98] The project raises serious concerns about its violation of treaty rights and international Free Prior and Informed Consent (FPIC) principles.The project would significantly increase Canada's greenhouse gas emissions.[99]
Enbridge	**$999,166,667**	**Enbridge**, the company behind high-profile controversial pipelines including Line 3 and Line 5, is developing a number of projects to enable the expansion of methane gas. One such project, the **Rio Bravo Pipeline,** would supply all of the gas to Rio Grande LNG via a new 137-mile pipeline.[100] Rio Grande LNG is being developed without the consent of the Carrizo Comecrudo tribe, on whose ancestral land it is to be built. Another Enbridge project is the **Venice Extension,** which would provide gas to Venture Global's Plaquemines Parish facility. [101]
Kinder Morgan	**$441,666,667**	Kinder Morgan owns and/or operates over 83,000 miles of pipelines and 143 oil and gas terminals.[102] It is a key company in fossil fuel expansion, developing projects such as the **Evangeline Pass Gas Pipeline,** which would partially supply Venture Global's Plaquemines Parish facility.[103]

PHOTO: Erik McGregor

POLLUTING WITHOUT CONSEQUENCES

Banks say that instead of cutting off their fossil fuel clients, they want to help them clean up their act by reducing emissions and developing plans to transition away from fossil fuels.[104] But oil and gas companies continue to pollute, apparently without risking their financing.

Take, for example, Callon Permian, a mid-sized independent oil and gas company operating across 127,000 acres in Texas.[105] The US Environmental Protection Agency (EPA) recently fined the company for excess emissions from flares, tanks, and combustors, detected with infrared sensors during flyover monitoring.[106] The EPA identified violations in a 2019 flyover, and issued an Administrative Compliance Order in July 2020 with expected corrections. Following further inspections and informal administrative actions, the EPA issued Callon an informal Notice of Citation on January 10, 2022.[107] The company failed to correct the emissions and the EPA eventually fined Callon $1.3 million dollars in July 2023 and required a series of corrective actions at 13 of Callon's Permian production facilities.[108]

The EPA estimated the following air pollutants:

Carbon Dioxide-Equivalents[109]	Enough to power 6,625 homes' energy use for one year
Methane[110]	Enough to power 7,420 homes' energy use for one year
Volatile Organic Compounds (VOCS)	644 tons / year

The emissions resulting from this pollution is part of a pattern of environmental racism across the unconventional oil and gas landscape.[111] Researchers have documented that Indigenous and people of color communities are disproportionately exposed to flaring, experiencing health consequences including risk of preterm birth and asthma.[112]

How much financing did Callon receive in the years since the EPA first identified their lax environmental practices?

A group of major banks provided Callon with a $650 million bond in 2021, a $600 million bond in 2022, and $1.5 billion of revolving credit in 2022.[113] **Bank of America is credited with $500 million of that financing.**

Callon appears to be a company that should be subject to enhanced due diligence regarding environmental compliance. Yet, just five months after receiving an informal Notice of Citation for violating the Clean Air Act from the EPA, Callon told investors that it was complying with US environmental laws.[114] **Despite Callon's egregious permit violations, Bank of America and additional financiers continued their support for Callon.** In the purchase agreement for their $600 million 2022 bond, Callon claimed to be "in compliance with any and all applicable federal, state, local and foreign laws (including common law), rules, regulations, decisions, judgments, decrees, orders and any legally binding requirements relating to pollution or the protection of the environment, natural resources or human health or safety."[115] In their October 2022 credit agreement, Callon asserted that it was "in compliance with all applicable Environmental Laws" and that "there are no claims, demands, suits, orders, inquiries, or proceedings concerning any violation of, or any liability (including as a potentially responsible party) under, any applicable Environmental Laws."[116] Neither of the publicly available financing agreements contain the words "emissions," "climate," "GHG", "greenhouse," or "methane." **The banks leading these deals are missing opportunities to use their financing relationships with oil and gas clients to meet their own climate commitments.**

> "**There is a huge opportunity to cut methane emissions** from the energy sector. We estimate that around 70% of methane emissions from fossil fuel operations could be reduced with existing technology. In the oil and gas sector, emissions can be reduced by over 75% by implementing well-known measures such as leak detection and repair programmes and upgrading leaky equipment…we estimate that around 40% of methane emissions from oil and gas operations could be avoided at no net cost."
>
> –International Energy Agency[117]

PHOTO: G B Hart / Shutterstock

Uncontrolled flaring and leaks aren't Callon's only problems. Callon has also left hundreds of **inactive, uncapped oil and gas wells** scattered across Texas, wells which leak climate warming methane gas and toxic chemicals like toluene and benzene which endanger human health (see table below).[118]

COMPANY	2016-2022 BANK OFAMERICA FINANCING (USD)	INACTIVE, UNCAPPED WELLS IN TEXAS	AVERAGE METHANE EMISSIONS PER YEAR (KG)	AVERAGE NUMBER OF INACTIVE YEARS	ESTIMATED METHANE EMISSIONS TOTAL (KG)	COST CALCULATION FOR CAPPING WELLS FROM RRC
Callon Petroleum Co	**$3,059,940,476**	**276**	**86,112**	**4.7**	**402,480**	**$74,726,762**
Diamondback	**$2,597,821,429**	**817**	**254,904**	**3.5**	**882,024**	**$216,546,519**
Finance figures are derived from Banking on Climate Chaos 2023. Inactive, uncapped wells data is derived from publicly available data from the Texas Railroad Commission, which regulates oil and gas wells in the State of Texas. See note 188 for additional details.						

There is growing evidence that the damage from inactive, uncapped wells is even greater than previously estimated.[119] The U.S. EPA estimates that there are 2-3 million abandoned oil and gas wells across the country.[120] Oil and gas companies for decades have left their messes for state and the federal governments to clean up.[121]

These are some of the easiest emissions reductions to make, yet fossil fuel companies resist because no one - including their bankers - holds them accountable.[122]

Who is cleaning up after the oil and gas industry? **Taxpayers**.

Who is profiting from climate destruction? **Fossil fuel executives and their bankers**.

Diamondback

Another of Bank of America's fossil fuel clients is Diamondback. Like Callon, Diamondback has left significant inactive, uncapped oil and gas wells across Texas - 817, according to data obtained from the Texas Railroad Commission (see table above). Diamondback is an expansion company: 79% of the 1107.21 mmboe resources under development and field evaluation it had as of September 2022 overshoot the IEA's Net Zero by 2050 scenario (see Bank of America Top 6 Upstream Oil and Gas Overshoot Clients). Their three year average capital expenditure for exploration between 2020 and 2022 was $831 million. **Bank of America provided them with $264,285,714 total financing in 2022, of which $261,642,857 is estimated to support fracking.**

PHOTO: Erik McGregor

BANK OF AMERICA'S POLICY FAILURES

Our *Banking on Climate Chaos 2023* analysis shows that Bank of America's policies are not ambitious enough to achieve their stated climate and human rights goals of adhering to the Paris agreement and limiting warming to 1.5° C.[123] When compared against what is required of financial institutions according to the UN High Level Expert Group's criteria for credible net zero commitments, the bank's policies fall far short.[124] The bank's human and Indigenous rights policies are also insufficient to protect activists and communities or to meet the bank's international responsibilities. As new requirements around due diligence enter into effect in the European Union, global banks will find themselves in a race to implement policies to come into compliance - this presents an opportunity for Bank of America to be a leader and correct the significant deficiencies in their climate and human rights policies in tandem.[125]

Overview Assessment of Bank of America's Policies

KEY CRITERIA	ARE BOFA'S POLICIES ADEQUATE?	NOTES
Robust Net Zero Targets?	✖	✔ Net Zero Pledge made public ✖ Intensity, rather than absolute emission reduction targets ✖ Scope only on lending and not underwriting ✖ Not aligned with IPCC or IEA ✖ First target set for 2030, not 2025 ✖ Methane emissions from energy sector not addressed ✖ Use of carbon credits
Commitments to Phase Out Fossil Fuel Exposure in line with 1.5° C pathways with low or no overshoot?	✖	✔ Announced phase out of finance for new coal mining projects and for companies that derive over 25% of revenues from coal mining by 2025 ✖ Coal power policy restricts financing for new coal power projects but fails to cover corporate financing for coal power companies ✖ Oil and gas expansion restrictions limited to weak project exclusions, allowing continued corporate finance for upstream and midstream expansion
Credible, Detailed and Effective Net Zero Transition Plan Published?	✖	✖ No credible, detailed, and effective plan published
Robust Human Rights Due Diligence Mechanism?	✖	✖ No robust human rights due diligence mechanism ✖ Climate risk not meaningfully integrated into due diligence
Robust Indigenous Rights Policies, including FPIC?	✖	✖ Lack of specificity in FPIC policy implementation ✖ Scope of FPIC policy fails to include corporate general purpose financing, excluding the vast majority of harms

Bank of America's Net Zero Commitment is hollow and is not backed by credible targets or policies. The data outlined in this report show that the bank continues to finance the fossil fuel industry beyond what 1.5° C aligned emissions reduction scenarios allow, including the IEA's Net Zero 2050 scenario, which Bank of America selected as the basis for its net zero commitments.[126]

The bank has minimal fossil fuel exclusion policies for coal power and Arctic oil and gas, but those exclusions generally apply only to project finance, while 97% of the bank's fossil fuel finance happens at the corporate level. As detailed above (see ConocoPhillips, p. 12), the bank's weak policies on coal power and Arctic oil and gas projects are all but meaningless. Loopholes allow them to finance companies like Glencore, an active coal developer, and ConocoPhillips, active in the Arctic.

Bank of America's climate targets are lagging behind its peers. Unlike US banks like Citi and Wells Fargo, which have absolute targets, Bank of America's interim 2030 net zero targets rely solely on intensity metrics, meaning that their emissions targets are based on lowering the emissions associated with each unit of energy.[127] This allows room for the overall emissions of their finance portfolio to grow, plateau, or decrease, albeit at too slow a rate. Bank of America also fails to account for underwriting in its targets. Since 2016, 46% of Bank of America's nearly $280 billion in financing to the fossil fuel industry has been in the form of facilitating underwriting bonds and equities in capital markets. These deals are a critical, if often overlooked, source of funding for the fossil fuel industry. So, at the same time as Bank of America is touting its net zero commitment, its climate policies ignore a major source of support for fossil fuel expansion.

Among the big six Wall Street banks, JPMorgan Chase, Goldman Sachs, and Wells Fargo have climate policies that apply to their underwriting activities. While these banks' methodologies are opaque and lack ambition, their inclusion of capital markets brings their climate plans closer to credibility than Bank of America's.[128]

Bank of America has no credible, detailed, and effective public transition plan. The bank has no plan articulating a credible pathway to navigating the energy transition in their portfolio, including detailing the client criteria it will apply to limit their financed emissions.[129] While Bank of America is making a significant investment in renewable energy, absent a credible and publicly disclosed plan that meets the key criteria set forth by the UN High Level Expert's Working Group, the company's piecemeal climate policy commitments are unintegrated, not transparent, and insufficient to meet the urgent need of the climate crisis.

Bank of America's human rights policies are insufficient in scope, ambition and specificity. Bank of America's human rights statement acknowledges the bank's responsibility to protect human rights, even noting "the significant risks that climate change poses not just to our business and our clients, but also to the human rights of individuals and communities affected by climate change."[130] However, their response to these climate risks is to point to their net zero commitments, which, as described above, are entirely insufficient to meet the urgency of the climate crisis, and fail to integrate meaningfully with their human rights policies and practices. This **failure to integrate climate risk represents a major disconnect and weakness in their human rights policy** and due diligence architecture.

The bank's human rights policy is a **patchwork of ad hoc due diligence mechanisms which are unequally applied and narrowly scoped**. The bank fails to implement a robust and comprehensive Human Rights Due Diligence (HRDD) mechanism. Key elements of a robust HRDD system that would best ensure rights are respected and limit harms should include:

1. Publicly disclosed **Human Rights Impact Assessments** (HRIA)'s with real stakeholder engagement to assess actual and potential adverse impacts on rights holders;
2. Integration of HRIA findings into management systems and incentive structures to implement a continuous improvement process on human rights;
3. Strong **mechanisms for remedy** that are racial justice and gender responsive, including robust grievance mechanisms that prevent retaliation.

Many of the bank's existing human rights practices are oriented towards suppliers and the bank's own operations, **excluding the human rights harms and climate impacts of the bank's clients**.[131] Moreover, it prioritizes action on specific categories of human rights, such as those related to modern slavery and trafficking in persons, which it claims are the most salient to the bank.[132] This saliency analysis crucially omits climate risks and associated human rights harms. Even where such actions are prioritized, when it comes to the bank's clients, the action is limited to "encourage our clients…to mitigate harm."[133]

Moreover, the bank's "enhanced due diligence" tier is reliant in some cases on being triggered by "front line units" which have a conflicting incentive not to raise alarms in order to do business with their fossil fuel clients, and is not based on robust HRIA's to assess potential harms to rights holders.[134] Nor is the "enhanced due diligence," when triggered, sufficiently comprehensive, integrated, transparent, consultative and effective, as would be the case if it were embedded within a robust HRRD system.

Lastly, a core component of their risk and due diligence framework relies on **circular logic of client selection** - the bank claims it partners with and engages clients and suppliers who share its conviction to respect human rights, but many of the client relationships, especially in the fossil fuel sector, would seem to be in conflict with robust due diligence around the bank's human rights and climate exposure.[135]

FPIC Policies Fall Short on Scope and Specifics:
While the bank makes broad statements about respecting the rights of Indigenous Peoples to give or withhold Free Prior and Informed Consent (FPIC) it does not provide sufficient details on the procedures to be followed to ensure these rights are respected. Moreover, excepting some commodity sectors, the FPIC policies exclude protections for communities with customary land rights to give or withhold consent. The scope of this policy is limited to "transactions in which the majority use of proceeds is attributed to identified activities that may negatively impact an area used by or traditionally claimed by an Indigenous community."[136] This means that the enhanced due diligence is not triggered for general purpose loans or underwriting, which leaves a significant loophole for harmful activities to secure financing.

"**A persistent fossil fuel addiction** is amplifying the health impacts of climate change, and compounding the concurrent energy, cost-of-living, food, and COVID-19 crises we face."

– 2022 Report of *The Lancet* Countdown[137]

PHOTO: Tyson Gifford

PHOTO: Erik McGregor

DEMANDS

"The just transition to a healthy future can no longer be delayed."

– 2022 Report of *The Lancet* Countdown[138]

- **Adopt a policy to immediately end expansion financing:** Immediately stop lending and underwriting for any company expanding fossil fuels. This exclusion must include project finance and general corporate finance for any company with expansion plans, regardless of the scope of the expansion project. This is the most urgent step for banks to take to strengthen their climate policies.
- **Adopt absolute emissions targets:** Develop and adopt absolute emissions reductions targets in line with 1.5˚ C pathways across the lending and underwriting portfolios for all oil, gas, and coal clients in up-, mid-, and downstream segments.
- **Publish a detailed transition plan:** Prove to the public and investors that Bank of America has a plan to address these demands by publishing a detailed transition plan for the bank with timely interim targets, milestones, and metrics. The plan must outline a clear and credible path for the bank to phase out fossil finance and ramp up finance for a just transition, including exclusion criteria for clients without credible and ambitious transition plans.
- **Operationalize a comprehensive human rights due diligence mechanism that integrates climate and human rights policies**: Urgently develop and adopt a robust human rights due diligence mechanism grounded in meaningful stakeholder consultation, Human Rights Impact Assessments (HRIA)s, continuous improvement, and proactive due diligence. This human rights mechanism should be clearly integrated with other elements of the bank's climate policy and fully reflect the human rights impacts of fossil fuel financing. Core components of this system must include:
    - **Robust, publicly disclosed HRIAs** conducted for all clients, high risk sectors, and project financing, including robust stakeholder and community engagement.
    - **Climate-specific HRIA modules** for all fossil fuel clients and fossil project financing, to include a **Climate Impact Screen** (to determine impact of the financing on the bank's climate goals and the human rights impact of its contribution to climate chaos), an **Environmental Justice Screen** (to determine health and other adverse impacts to local communities around project sites and other client operations), and an **Environmental and Biodiversity Impact Screen** (to assess ecological impacts of the projects and client operations).

    - **Clear client criteria** setting transparent and enforceable expectations of all clients around respect for human rights, inclusive of the human rights impacts of climate change, and expectations for climate transition planning.
- **Designate fossil fuel sector to trigger enhanced due diligence:** Immediately adapt the existing enhanced due diligence mechanism articulated in the Bank's Environmental and Social Risk Policy Framework such that any transaction involving a fossil fuel client or project triggers enhanced due diligence.[139]
- **Revise and enhance Indigenous rights and sovereignty policies:** The bank's policies must set required standards for their clients to fulfill Free, Prior, and Informed Consent (FPIC) rights, specifying best practices for how clients should co-design and document FPIC procedures. Clients must respect the right of Indigenous Peoples to give or withhold FPIC if they could be affected by planned operations. This includes clients' contractors, suppliers, and all business relationships.
- **Phase out fossil finance and increase financing for a just transition:** As financing to fossil fuel companies is rapidly phased out in line with 1.5° C pathways, financing to renewable energy systems must also sharply rise. Financing must have guardrails to avoid greenwashing and false solutions. Human rights and FPIC due diligence must apply to renewables development.
- **Close corporate finance loopholes:** Extend existing fossil fuel exclusion policies related to the Arctic, coal power, and coal mining to include general corporate finance, not just direct project finance.
- **Expand geographical definition of the Arctic:** Apply the Arctic Monitoring and Assessment Programme (AMAP) definition of the Arctic to the exclusion for financing of Arctic oil and gas activities.[140]
- **Apply exclusion policies to underwriting:** Immediately apply all exclusion policies and Net Zero targets to facilitation of bonds and equities, not just to syndicated lending.
- **Require emissions monitoring:** Require all oil and gas clients to rigorously monitor and control methane and other greenhouse gas emissions, and other hazardous air pollutants along the supply chain, including at non-productive wells, along pipelines, and throughout the entire up-, mid-, and downstream segments of the fossil fuel industry.

"Protecting the environment goes hand-in-hand with protecting the rights of those who defend it."

-Michelle Bachelet, UN High Commissioner for Human Rights[141]

PHOTO: Tyson Gifford

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Unless otherwise noted, all finance figures in this report are from Banking on Climate Chaos 2023. Bank of America was given an opportunity to comment on the data and analysis in this report prior to publication. Details about the report methodology can be found at **http://ran.org/bofa23method**

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