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Fifteen Minutes of Shame: Social Media and 21st Century Environmental Activism

Chase T. Karpus

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2018]

FIFTEEN MINUTES OF SHAME:
SOCIAL MEDIA AND 21ST CENTURY
ENVIRONMENTAL ACTIVISM

I. INTRODUCTION

As we progress through the vast technological advances that have allowed us as a people to become more interconnected than ever, one thing has become abundantly clear: social media is here to stay.¹ Statista, a data collection company, revealed that the number of worldwide social media users has grown from 970 million users in 2010 to 2.28 billion users in 2016.² The study further extrapolated that this user base will increase to roughly 2.95 billion users by 2020.³ Though the numbers are enormous, they are not surprising.⁴ With the massive increase in consumer technology such as tablets and smartphones, internet users are able to connect with anyone from anywhere by the simple touch of a screen.⁵

When one thinks of this relatively new way of global communication, the biggest players that come to mind are normally the juggernauts of the social media world: Facebook and Twitter.⁶ With a simple Facebook “post” or a Twitter “tweet,” users can communicate with their private group of friends and followers or the entire global population.⁷ As with most global phenomena, there are always those who will seek to profit in one way or another, either economically or moralistically, and social media is no exception.⁸ A well-known tool for companies with a savvy social media team is to utilize a certain platform as a way to advertise to their target demographics at a fraction of the cost of most marketing cam-

1. See *Number of Social Media Users Worldwide from 2010 to 2020 (in billions)*, STATISTA (2017), <https://www.statista.com/statistics/278414/number-of-worldwide-social-network-users/> (indicating an increasing shift towards social media’s prevalence on a global scale).

2. See *id.* (identifying social media trends and projections from 2010-2020).

3. *Id.* (identifying social media users amongst various portions of the world).

4. See *id.* (discussing rise of social media).

5. See *id.* (revealing technology’s role in social media).

6. See Kate Lambert, *Environmental Law NGOs and Social Media Use: An Analysis of Strategies and Organizational Impacts*, 9-12 (April 2014) (unpublished Honors B.A. thesis, University of Michigan), <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/107752/katelamb.pdf?sequence=1> (discussing roles of Facebook and Twitter in social media landscape).

7. *Id.* (detailing functions of Twitter and Facebook).

8. *Id.* (describing monetary uses of social).

102 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

paigns.⁹ It takes a company with a social media plan that has clearly defined goals, access to different social media channels, and an eye towards analytics, and soon you have what is essentially a rehash of the iconic 1980's Faberge Organic Shampoo Commercial.¹⁰

Despite the obvious shift in our current advertising landscape, commentators have been quick to notice that this new, fast, and easy to use platform has also changed the landscape of environmental activism.¹¹ Social media users are now privy to environmental issues around the world and, with one click of a button, they can now show their support and dedication to those causes.¹² In this Comment, I will discuss this shifting paradigm from traditional activism to the new “armchair” activism.¹³ In conducting this analysis, I will examine the issues of the Flint Michigan Water Crisis, the Dakota Access Pipeline, and the internet meme of Harambe in order to discover the overarching effects social media can have on complex environmental issues and how these platforms can be more properly utilized.

II. BACKGROUND

A. Environmental NGOs, Environmental Law NGOs, and the Role of Social Media

Although the terms Environmental NGOs (Non-Governmental Organizations) and Environmental Law NGOs seem extremely similar, they play considerably different roles in the environmental activism landscape.¹⁴ It is true that both groups seek the same results from their environmental efforts, but while Environmental NGOs traditionally focus on “mobilizing activists, protests, lobbying, boycotts, petitions, raising issue awareness, and fostering appreciation

9. *See id.* (asserting advertising as a function of social media).

10. *Id.* (defining workings of social media); *see also* Sonny Ganguly, *4 Components of the Best Social Media Campaigns*, *MARKETING LAND* (Sept. 4, 2015), <https://marketingland.com/4-components-best-social-media-campaigns-140715> (revealing how to have successful social media campaigns).

11. *See* Mary Butler, *Clicktivism, Slacktivism, or ‘Real’ Activism: Cultural Codes of American Activism in the Internet Era* 3 (2011) (unpublished Master of Communication thesis, University of Colorado), http://scholar.colorado.edu/comm_gradetds/12/ (asserting social media role in shifting definition of activism).

12. *Id.* at 4 (describing social media users’ role in new activism).

13. *Id.* at 11-15 (dissecting grassroots activism roles social media users have replaced).

14. *See* Lambert, *supra* note 6, at 15 (discussing differences between types of Environmental NGOs).

of nature,” Environmental Law NGOs focus most of their efforts on litigation.¹⁵

Starting in 1976, the Environmental Defense Fund (EDF) was the first Environmental Law NGO ever founded.¹⁶ The group began in the midst of a landmark court case in Long Island where, after the publication of Rachel Carson’s *Silent Spring*, a local activist group teamed with legal counsel and successfully litigated a court imposed ban on the spraying of DDT.¹⁷ Throughout the coming years, this type of organized, grassroots activism began to spread as environmental litigation groups such as the Natural Resources Defense Council, Earthjustice, and the Center for Biological Diversity, have made it their mission to litigate and legislate to advance their specialized environmental goals.¹⁸ It should be noted that Earthjustice is the legal team representing the Standing Rock Sioux in the ongoing Dakota Access Pipeline issue, which will be discussed later in this Comment.¹⁹

With its wide reaching grasp, it would appear at its onset that social media is the perfect tool for environmental groups to bolster their “engagement, outreach, mobilization, and self-definition.”²⁰ Supporters believe that social media is the exact tool that can “revitalize” these grassroots activist groups and bring them into the Twenty-First Century.²¹ Similar to the ways in which Environmental Law NGOs have shifted environmental dialogue to include a wider audience beyond simply polluter and regulator, social media now allows millions of others who are not directly affected by the environmental issues to join the conversation.²² Although this idea found its supporters, it is not without its detractors who believe that

15. *See id.* at 15-16 (discussing roles of Environmental NGOs and Environmental Law NGOs).

16. *Id.* at 17 (discussing foundation of EDF); *see also About Environmental Defense Fund*, ENVTL. DEFENSE FUND (2017), <https://www.edf.org/about> (providing date of EDF founding).

17. *See* Lambert, *supra* note 6, at 17 (discussing case leading to the EDF). Rachel Carson’s *Silent Spring* provided an eye-opening look into the environmental effects of DDT spray. *Id.*

18. *Id.* at 17-22 (providing an overview of fundamental environmental groups).

19. Emily Dreyfuss, *Social Media Made the World Care About Standing Rock—and Helped It Forget*, WIRED (Jan. 24, 2017), <https://www.wired.com/2017/01/social-media-made-world-care-standing-rock-helped-forget/> (providing information on Sioux tribe legal representation); For further discussion on the DAPL’s fall from the spotlight, *see infra* notes 78-112 and accompanying text.

20. *See* Lambert, *supra* note 6, at 23-24 (describing social media connection to NGOs).

21. *Id.* at 13 (describing social media and grassroots activism).

22. *Id.* (understanding new dialogue created by social media).

social media leads to less participation in the realm of environmental activism.²³ It has become relatively apparent that because of the global net it casts, social media allows “real activists” to reach “online activists” who no longer have to worry about getting up and actually devoting real energy, time, and financial commitment to a cause.²⁴ Rather, these new activists can just click a link they see on their social media page and donate however much or little money they want in a matter of seconds.²⁵ As a result, this high-frequency, low-intensity form of activism can lead to a much larger financial gain for the cause.²⁶ Because millions of people on social media only need to click a few links to support a cause, it tends to result in a larger aggregate of financial and social support than if more activist participation was necessary.²⁷ This type of miniscule online participation has been described as “microcontributions” led by “microactivism” where instead of having the small amount people who care immensely to do a lot, one convinces a large amount of people who barely care to contribute in some small way.²⁸

While there has been instances of the new phenomena of “microactivism” and “microcontributions,” we may be seeing a growing trend of social media apathy; with so many causes flooding social media platforms, a user’s social media experience begins to be saturated with a myriad of causes, disasters, relief efforts, and donation links.²⁹ As a result, participation now goes below the financial threshold and charts into the territory of simple status updates, retweets, and likes on a page.³⁰ More critical detractors of the social media activist or “clicktivist” have found that these in-

23. See Butler, *supra* note 11, at 15 (discussing specific example of effects of social media on activist participation).

24. *Id.* at 13 (surveying online activist participation) (citing R. K. Garrett, *Protest in an Information Society: A Review of Literature on Social Movements and New ICTs Information, COMMUNICATION & SOCIETY*, 202-224 (2006)).

25. *Id.* at 15-16 (identifying traits of online activist behavior).

26. *Id.* at 16-17 (describing financial gains from lower participation).

27. *Id.* at 17-18 (reviewing paradigm of aggregation and minimal participation in social movements).

28. See Butler, *supra* note 11, at 13, 21 (discussing “microcontributions” and “microactivism”).

29. *Id.* at 15 (discussing increase in social media call to arms); see also Micah White, *Clicktivism is Ruining Leftist Activism*, THE GUARDIAN (Aug. 12, 2010), <https://www.theguardian.com/commentisfree/2010/aug/12/clicktivism-ruining-leftist-activism> (describing user fatigue in online activism); see also Andy Park, *Clicktivism: Why Social Media Is Not Good For Charity*, SBS (Nov. 18, 2013), <http://www.sbs.com.au/news/article/2013/11/18/clicktivism-why-social-media-not-good-charity> (providing reasons for potential ineffective nature of ‘clicktivism’).

30. See Butler, *supra* note 11, at 15 (attributing less financial commitment to less participation required by social media).

creased participation rates have resulted in groups simply asking less and less of their members, and the strong ideology that once drove the grassroots activists of the Twentieth Century dried up with the rise of the digital age.³¹

B. The Flint Michigan Water Crisis

In June of 2012, the city of Flint Michigan, a predominantly African American community where forty percent of residents live in poverty, began searching for alternative water supplies in an effort to save the city money.³² After months of deliberation, in April of 2013, the city decided the best option moving forward was to construct a pipeline connecting to the Karegnondi Water Authority (KWA), which was expected to save the city roughly 200 million over twenty-five years.³³ While this new pipeline was being built, Flint began using the Flint River as its primary source of water.³⁴

In May of 2014, residents began complaining about the water's color and odor, and in August, residents were advised to begin boiling their water after E. coli and other bacteria were detected in the supply.³⁵ In January of 2015, Flint was found to be in violation of the Safe Drinking Water Act due to the presence of potential carcinogens in the water.³⁶ This was a result of an effort to add chlorine to the water supply to remove the E. coli and other bacteria, but unintendedly, the chlorine began to mix with organic matter in the water causing a rise in these potential carcinogens or "total trihalomethanes" (TTHM).³⁷ The trouble persisted when, in February, a city test revealed higher levels of lead than what was safe for human consumption in household tap water.³⁸

31. See White, *supra* note 29 (describing negative consequences of social media activist).

32. Merrit Kennedy, *Lead-Laced Water in Flint: A Step-By-Step Look at the Makings of a Crisis*, NPR (Apr. 20, 2016), <http://www.npr.org/sections/thetwo-way/2016/04/20/465545378/lead-laced-water-in-flint-a-step-by-step-look-at-the-makings-of-a-crisis> (discussing events leading to Flint crisis).

33. *Id.* (discussing benefits of alternative water supply).

34. *Id.* (detailing shift to Flint River for water supply). This water supply was never tested, but rather, city officials took a "wait-and-see" approach. *Id.*

35. *Id.* (describing hazardous conditions of Flint water supply).

36. *Id.* (discussing Flint violation of SDWA).

37. See Kennedy, *supra* note 32 (describing effects of chlorine in Flint water supply). This resulted in bottled water being provided to government employees at government offices. *Id.*

38. *Id.* (discussing lead levels in Flint water). Independent tests of the Flint residents' water revealed lead levels of 13,200 parts per billion, more than double what is already considered hazardous. *Id.*

In April, Michigan's Department of Environmental Quality (MDEQ) informed the Environmental Protection Agency (EPA) "that the City did not have corrosion control treatment in place at the Flint Water Treatment Plant," to which Dr. Marc Edwards of a Virginia Tech research team declared Flint to be one of the only cities in the U.S. without corrosion control.³⁹ The following September, Dr. Edward's Virginia Tech team tested the water in hundreds of Flint homes and discovered "serious levels of lead in city water;" however, these reports were rebuffed by MDEQ officials.⁴⁰ Soon after, a study from the local Hurley Medical Center found that children under the age of five had elevated lead levels in their blood, but city officials again rebuked the connection to the water source.⁴¹ As the issue persisted, Flint finally switched back to their previous Detroit water supplier in October; however, the following December, Flint Mayor Karen Weaver declared a state of emergency due to the elevated lead levels.⁴²

After the resignation of numerous MDEQ officials, in January of 2016, Michigan Governor Rick Snyder and President Obama individually declared a state of emergency.⁴³ In the following months, the House Committee on Oversight and Government Reforms heard testimony from the EPA, Flint officials, and Governor Snyder where a general consensus of the Committee cited governmental failure as the sole cause of the crisis.⁴⁴ In the wake of these revelations, Flint began making plans to provide support for the city by replacing water fixtures, replacing lead service lines, and increasing school resources.⁴⁵ In the following months, after an independent investigation found the MDEQ to be primarily responsible, Michigan's attorney general has brought forth a variety of criminal suits against governmental officials, yet the Water Crisis still continues.⁴⁶

Despite the attention and support Flint had received from the EPA and President Obama, it appeared as though the Water Crisis was not receiving the type of national media coverage that one

39. *Id.* (describing lack of oversight by MDEQ).

40. *Id.* (detailing conflicting reports of lead levels in Flint water).

41. *Id.* (describing increase in lead levels in Flint childrens' blood).

42. *See* Kennedy, *supra* note 32 (discussing shift to Detroit water supply and new state of emergency).

43. *Id.* (discussing declaration of state of emergency in Flint). President Obama's declaration authorized FEMA to provide resources to Flint residents and allowed federal funding to be allocated to aiding the crisis. *Id.*

44. *Id.* (detailing governmental hearings on Flint issue).

45. *Id.* (detailing governmental efforts to aid Flint).

46. *Id.* (discussing criminal charges arising out of Flint crisis).

would expect from such an example of governmental incompetence.⁴⁷ Almost all of the information disseminated in Flint, from interviews with investigation teams to revealing leaked intergovernmental memos, was done by Michigan reporters, not national news outlets.⁴⁸ Those who covered the Flint issue from its inception attributed the lack of national attention to factors that included: “continued newsroom cutbacks, the complexities of a story that combines government mismanagement with detailed science, and competition from the presidential primary campaign, breaking news events, and click-bait like celebrity gossip.”⁴⁹ It was not until 2015, after the EPA leaked the MDEQ memo regarding the lead memos, that reports by the Associated Press, Al Jazeera, and *The New York Times* began to appear and Flint gained a stint of national attention.⁵⁰

Rumblings about the issues in Flint arose on social media in January of 2015 when citizens of Flint began posting about the state of the city’s water on Twitter.⁵¹ These tweets consisted of simple complaints about the water’s taste, more desperate pleas for help, and angry criticisms of the absent national media.⁵² Symbiotic with the national media coverage, over the next year, the Flint Water Crisis began to garner massive amounts of social media attention as users took to Twitter to spread the message.⁵³ Twitter users began posting images representative of the state of the city, but among the photos of brown tap water and citizens in dismay, there were also photos of citizens aiding the cause by delivering water or protesting the government that had failed the city.⁵⁴ Each time, these tweets were punctuated with some form of the hashtag “#FlintWaterCrisis.”⁵⁵ Whether it was the year-long social media trend, the na-

47. Joe Strupp, *How National Media Failed Flint*, MEDIA MATTERS (Feb. 11, 2016), <http://mediamatters.org/blog/2016/02/11/how-national-media-failed-flint/208506> (describing absence of national media attention on Flint).

48. See Kennedy, *supra* note 32 (attributing most of article findings to Michigan news and radio reports).

49. See Strupp, *supra* note 47 (attributing factors to Flint’s lack of media coverage).

50. *Id.* (discussing Flint national news coverage).

51. Mitchell Trink, *The Poisoned Kids of Flint, Michigan: A Social Media Timeline of an Unraveling Man-Made Disaster*, THE 74 MILLION (Jan. 21, 2016), <https://www.the74million.org/article/the-poisoned-kids-of-flint-michigan-a-social-media-timeline-of-an-unraveling-man-made-disaster> (detailing social media timeline of Flint).

52. *Id.* (describing Flint citizen tweets).

53. *Id.* (detailing Flint citizen social media response to water crisis).

54. *Id.* (previewing pictures of social media during Flint Water Crisis).

55. *Id.* (providing overview of Flint social media trends). Merriam-Webster’s Dictionary defines a “hashtag” as “a word or phrase preceded by the symbol # that classifies or categorizes the accompanying text (such as a tweet).” *Definition of*

108 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

tional media finally picking up the story, or an amalgamation of both that led to Flint's new found attention, as of February 2016, after three years of silence, corporations, celebrities, and average citizens have bestowed donations amassing to tens of million dollars.⁵⁶ Two Michigan based non-profits, the Community Foundation of Greater Flint and the United Way of Genesee County, have been tasked with receiving a large portion of the donated funds to make sure they are allocated properly and evenly.⁵⁷ The media coverage, however, has disappeared much more quickly than it came, and despite the outpour of help and assistance, Flint is still a prevalent issue to those living in the city even after the social media and news storm has passed.⁵⁸

C. The Dakota Access Pipeline

In 2014, Energy Transfer partners proposed a four-billion-dollar project designed to transport up to 570,000 barrels of crude oil per day from North Dakota to Illinois.⁵⁹ The plan was to take oil from the Bakken Shale that was projected to contain 7.4 billion gallons of the black gold according to a US Geological survey.⁶⁰ In order to make this proposal a reality, the pipeline needed to travel under the Missouri River, the main water source for the Standing Rock Sioux.⁶¹ The Standing Rock Sioux is a Native American tribe that is indigenous to central North and South Dakota whose numbers are only an estimated 10,000 people.⁶² The two main concerns of the tribe's members are the pipeline's potential to leak thus con-

Hashtag, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/hashtag> (last visited Feb. 19, 2016) (providing definition of a hashtag).

56. Dominic Adams, *Flint Water Crisis Donation Tally at \$7 Million and Climbing*, MLIVE (Feb. 19, 2016), http://www.mlive.com/news/flint/index.ssf/2016/02/donations_to_aid_flint_water_c.html (discussing donation amounts to Flint).

57. *Id.* (discussing non-profits tasked with handling funds).

58. Jacqueline Gulledege, *Flint Residents Still Need Help with Water Crisis*, CNN (Oct. 31, 2016), <http://www.cnn.com/2016/01/13/us/iyw-flint-michigan-water-crisis-how-to-help/> (discussing need for further assistance post national coverage of Flint).

59. Justin Worland, *What to Know About the Dakota Access Pipeline Protests*, TIME (Oct. 28, 2016), <http://time.com/4548566/dakota-access-pipeline-standing-rock-sioux/> (providing initial proposal for Dakota Access Pipeline). The pipeline was designed to connect oil wells in North Dakota's Bakken Shale allowing oil recovery in markets such as the Gulf Coast, Midwest and East Coast. *Id.*

60. Holly Yan, *Dakota Access Pipeline: What's at Stake?*, CNN (Oct. 28, 2016), <http://www.cnn.com/2016/09/07/us/dakota-access-pipeline-visual-guide/> (detailing massive oil reserve in Bakken Shale).

61. *See* Worland, *supra* note 59 (describing beginning of DAP controversy).

62. *Id.* (reporting Sioux tribe numbers).

taminating the tribe's water supply and the pipeline's passage over sacred Sioux burial grounds.⁶³

In addition to the fear of leakage, environmentalists believe the pipeline will cause a massive increase in greenhouse gasses that normally come with recovering fossil fuels, thus perpetuating the ongoing issue of climate change.⁶⁴ Meanwhile, advocates for the pipeline believe it will provide a boost to the region's economy, diminish America's reliance on foreign oil, and free up cargo shipments that would otherwise be shipping crude oil, a concept proponents promote as environmentally friendly.⁶⁵ In 2015, a small group of protestors opposing the pipeline set up camps on land owned by Energy Transfer Partners, one of the parties tasked with building the pipeline, in an attempt to slow down the pipeline's construction.⁶⁶ In addition to these protestors, online petitioners began asking for support, and petitions from groups such as Credo Action had amassed over 270,000 signatures.⁶⁷

As of October 2016, these small protests of a few hundred grew into thousands, all opposing the pipeline's construction.⁶⁸ In addition to protesting, the Sioux tribe began litigation by filing a complaint for declaratory and injunctive relief against the Army Corps of Engineers, the governmental organization that permitted the project.⁶⁹ The complaint alleged the agency violated the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA) by not considering both the cultural and envi-

63. *Id.* (recounting Sioux tribe complaints regarding DAP). Although the pipeline does not directly cross the Sioux's reservation, they hold the federal government did not get adequate permission as detailed in federal law. *Id.*; see also *Cheyenne River Sioux Tribe Files Amended Complaint Against U.S. Army Corps of Engineers & Dakota Access to Stop DAPL*, NATIVE NEWS ONLINE.NET (Sept. 9, 2016) (quoting River Sioux Tribal Chairman Howard Frazier about complaints against the DAPL).

64. See Worland, *supra* note 59 (providing further arguments against DAP); see also Yan, *supra* note 60 (arguing against potential DAP environmental consequences).

65. See Yan, *supra* note 60 (discussing pipeline advocates position); see also Worland, *supra* note 59 (detailing proponents desire for pipeline).

66. See Worland, *supra* note 59 (recounting beginning of pipeline protests).

67. See Yan, *supra* note 60 (discussing social media support for pipeline activists).

68. See Worland, *supra* note 59 (denoting protest action in North Dakota); see also Yan, *supra* note 60 (describing Sioux protests in North Dakota).

69. See Worland, *supra* note 59 (providing Sioux tribe complaint against ACE); see also Complaint at 1, *Standing Rock Sioux Tribe v. Army Corps. of Eng'rs* (D.D.C. 2016) (No. 1:16-cv-01534), <https://earthjustice.org/sites/default/files/files/3154%201%20Complaint.pdf>.

110 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

ronmental significance of the pipeline.⁷⁰ As a result of the litigation, President Obama, in one of his last decisions in office, ordered the Army Corps to prepare a thorough Environmental Impact Statement, thus halting the project during the final days of his presidency.⁷¹

One of the more startling revelations of the pipeline is the lack of national media coverage, and where there has been coverage, it has attacked the Sioux tribe.⁷² Instead of support for the tribe, North Dakota's local media took a pro-pipeline stance as pundits painted the "water protectors," the name taken on by protestors, as environmental extremists pushing ideals over the needs of North Dakotans.⁷³ Over the previous year, various independent journalists went to North Dakota to cover the issue and the protestors, Sioux and non-Sioux alike, and had begun to portray the Sioux Tribe's side of the story through non-major news outlets like social media.⁷⁴

Much like the independent journalists who originally covered the event, protestors present at the demonstrations also took to social media platforms like Twitter and Facebook to provide an inside look of the pipeline protest.⁷⁵ In complete contrast with what was portrayed by North Dakota media, Twitter and Facebook users were given all access passes to videos of police violence, including the use of water to spray the crowds and police dogs to intimidate and at-

70. See Worland, *supra* note 59 (describing Sioux tribe allegations against ACE); see also *Standing Rock Sioux Tribe*, *supra* note 69, at 2 (setting forth act violations allegedly committed by ACE).

71. *Id.* (discussing litigation of the pipeline); see also David Blackmon, *Trump's Pipeline Executive Orders: Proceed with Caution*, FORBES (Jan. 25, 2017), <http://www.forbes.com/sites/davidblackmon/2017/01/25/trump-executive-orders-on-dapl-and-keystone-proceed-with-caution/> (detailing President Obama actions towards the pipeline).

72. Paul Spencer, *Native Americans Are Resisting the Dakota Pipeline with Tech and Media Savvy*, VICE MOTHERBOARD (Oct. 29, 2016), <http://motherboard.vice.com/read/tech-behind-the-dakota-access-pipeline-protests> (detailing national media attempts to spin coverage away from Sioux sympathies).

73. *Id.* (providing North Dakota media coverage of DAP).

74. *Dakota Access Pipeline: Behind the 'Media Blackout'*, AL JAZEERA (Dec. 11, 2016), <http://www.aljazeera.com/programmes/listeningpost/2016/12/dakota-access-pipeline-media-blackout-161210071122040.html> (celebrating independent reporters who covered DAP); see also Spencer, *supra* note 72 (analyzing social media and DAPL).

75. Nicole Gallucci, *Social Media Shows Different Angle of Dramatic Events at Dakota Pipeline*, MASHABLE (Nov. 21, 2016), <http://mashable.com/2016/11/21/dakota-pipeline-protesters-water-cannons/#D8dWtJP.cEqi> (providing various tweets and videos revealing police violence at DAP protests).

tack protestors.⁷⁶ Overhead drone footage and cell phone footage received thousands of “retweets” on Twitter, displaying not only shock over the events but also new found interests from those outside of the region.⁷⁷ The caveat, however, of having a twenty-four hour news cycle is that new found interests can quickly become old.⁷⁸

III. PRESENT STATE

A. The Flint Water Crisis Rages On

As of December 2016, four hundred days had passed since Flint’s water was publicly declared undrinkable.⁷⁹ Since the Water Crisis reached its apex, which culminated in Michigan’s Governor, Rick Snyder, admitting fault for mishandling the issue, Flint’s moment in the national and social media limelight passed.⁸⁰ The widespread use of water filters in residents’ homes and the various water bottle stations in the city have been the most successful remedies, yet there remains a noticeable portion of the population suffering the effects of the lead-polluted water.⁸¹ Unfortunately, 41.2% of Flint residents live below the poverty line, and as a result of the impoverished housing, the modern water filters do not always fit with the older plumbing systems.⁸² To make matters worse for the residents of Flint, a portion of those under the poverty line affected by the ill-fitting water systems lack the transportation necessary to reach a water bottle station.⁸³

The Flint situation serves as an apparent counterpoint to “clicktivism” as one critic exclaimed to her readers: “[n]o, your two weeks of hashtags did not work. Your retweets did not change anything. Water bottle donations may have had a more immediate impact, but they still won’t give the most marginalized citizens access

76. *Id.* (showing videos of water cannons used on protestors); *see also* Worland, *supra* note 59 (providing video footage of police dogs charging crowds).

77. *See Gallucci, supra* note 75 (providing tweets with thousands of retweets).

78. *See Dreyfuss, supra* note 19 (examining how DAPL became forgotten after initial social media storm).

79. May Olvera, *Don’t Forget Flint: Michigan Still Dealing with Water Crisis*, UNIV. STAR (Dec. 4, 2016), <https://star.txstate.edu/2016/12/04/dont-forget-flint-michigan-still-dealing-with-water-crisis/> (shedding light on current state of affairs in Flint as of December 2016).

80. *Id.* (criticizing lack of current media attention on Flint).

81. *Id.* (discussing short term solutions for large portion of Flint citizens).

82. *Id.* (describing issues with low-income housing plumbing and water filters); *see also* *Flint Water Crisis Fast Facts*, CNN (Apr. 10, 2017), <http://www.cnn.com/2016/03/04/us/flint-water-crisis-fast-facts> (providing Flint poverty rates).

83. *See* Olvera, *supra* note 79 (portraying struggles faced by indigent Flint residents).

112 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

to water.”⁸⁴ Despite not providing specific analytics, the quoted critic’s point still makes clear sense given the current result of the Flint situation.⁸⁵

Notwithstanding this criticism, efforts on various fronts seem to have brought good news in 2017.⁸⁶ Based on a sample of 368 residential houses, as of late January 2017, Flint’s water system’s lead levels dipped below federal limits.⁸⁷ Now, when compared to similarly sized cities, Flint’s water is close to being on par, which according to the director of Michigan’s Department of Environmental Quality, Heidi Grether, “[Is] . . . the result of many partners on the local, county, state and federal levels working together to restore the water quality in the City of Flint.”⁸⁸ Despite these new findings, the government is telling residents to use faucet filters and bottled water because the new mass replacement of pipes may cause a short-term spike in lead levels.⁸⁹ Although there is no certainty that every individual home has safe drinking water, Michigan’s state government, which had been covering customers’ bills since October 2015, will no longer pay for Flint’s water, leaving the residents in a precarious position.⁹⁰ In an effort to seek justice, in late January, more than 1,700 Flint area residents and property owners filed a 722 million dollar lawsuit against the EPA for their conduct during the water crisis and the resulting damages.⁹¹ The Flint residents

84. *Id.* (criticizing social media effect on Flint crisis); *see also* Claire Ballentine & Ben Klar, *Flint’s River of Poison*, BLOOMBERG (Oct. 9, 2017), <https://www.bloomberg.com/features/2017-flint-photo-essay/> (providing a recent look into Flint’s ongoing and uncovered water situation.)

85. *See* Olvera, *supra* note 79 (decrying social media “clicktivism”).

86. David Eggert, *Water Lead-Level Falls Below Federal Limit in Flint*, ASSOCIATED PRESS (Jan. 24, 2017), <https://apnews.com/7ab0a877ea444c308b286d8c14b171ef/apnewsbreak-flint-water-has-fallen-below-federal-lead-limit> (discussing new state of Flint Water Crisis in 2017).

87. *See id.* (providing findings of new Flint environmental report).

88. *Id.* (detailing accomplishment of remedying Flint Water Crisis).

89. *See id.* (curbing enthusiasm of lowered lead levels in Flint water). Flint Mayor Karen Weaver “called the results ‘encouraging’ but said, ‘we are not out of the woods yet.’” *Id.* Moreover, experts proclaim there are no safe lead levels and this type of wide decree of “safe water” may mislead homeowners into believing their water is now safe to drink. *Id.*

90. *See id.* (revealing Michigan government’s plan to stop subsidizing water bills for citizens). Despite not covering customer bills, the state has still set aside \$27 million for the project, which has already reached close to \$300 million in bottled water, filters, legal bills, among other costs. *Id.*

91. Jim Lynch, *Flint Residents Seek \$722M Over Water Crisis*, THE DETROIT NEWS (Jan. 30, 2017), <http://www.detroitnews.com/story/news/michigan/flint-water-crisis/2017/01/30/flint-water-crisis-lawsuit/97262914/> (detailing class action suit arising from Flint’s Water Crisis); *see also* Complaint, Concerned Pastors for Social Action v. City of Flint (No. 16-10277) (E.D. Mich. 2017) (setting forth citizen claims against City of Flint).

have yet to be awarded their proposed dollar amount; however, on March 17, 2017, the EPA announced its intention to provide 100 million dollars to upgrade Flint's water infrastructure.⁹² Moreover, roughly ten days later, a federal judge settled a lawsuit between affected citizens and the city by awarding a ninety-seven million dollar settlement to replace steel water lines for at least 18,000 homes by 2020 in addition to the state promising to monitor water quality of homes after the replacement.⁹³

B. President Trump and the Dakota Access Pipeline: It's Gonna be Huge!

As noted previously in this Comment, in December of 2016, President Obama ordered the U.S. Army Corps of Engineers to prepare an Environmental Impact Statement regarding the Dakota Access Pipeline (DAPL).⁹⁴ Specifically, the report was designed to "explore alternative routes that would placate the ongoing protests conducted by the Standing Rock Sioux Tribe and a raft of outside protest groups."⁹⁵ President Trump, a proponent of the pipeline project, provided a statement to the Army Corps of Engineers, ordering them to "take all actions necessary and appropriate" and to do so "in an expedited manner . . . to the extent permitted by law and as warranted."⁹⁶ On its face, it appears as though President Trump desires the Corps to make sure the law is on their side if and when impending litigation comes forward.⁹⁷ President Trump offi-

92. See Flint Water Crisis Fast Facts, *supra* note 82 (discussing lawsuits and settlements between Flint residents and Environmental Protection Agency); see also EPA Awards \$100 Million to Michigan for Flint Water Infrastructure Upgrades, U.S. ENVTL. PROT. AGENCY (Mar. 17, 2017), <https://www.epa.gov/newsreleases/epa-awards-100-million-michigan-flint-water-infrastructure-upgrades> (announcing monies provided by EPA to Flint).

93. Chris Boyette, *Michigan and Flint Agree to Replace 18,000 Home Water Lines by 2020*, CNN (Mar. 27, 2017), <http://www.cnn.com/2017/03/27/us/flint-settlement/> (investigating governmental action within Flint community after water crisis); see also Settlement Agreement, Concerned Pastors for Social Action v. City of Flint, (No. 16-10277) (E.D. Mich. 2017) (setting forth City of Flint allocation of monies for new infrastructure).

94. See Blackmon, *supra* note 71 (providing context on President Trump's executive order to continue DAPL).

95. *Id.* (describing intentions of DAPL Environmental Impact Statement). Some believe the real intention of the executive order was to push the decision off to the Trump administration. See *id.*

96. *Id.* (internal quotations omitted) (quoting President Trump and revealing his aim for Environmental Impact Statement).

97. *Id.* (considering meaning of President Trump's statement to Corps).

114 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

cially signed the Executive Order on January 24, 2017 allowing the pipeline's completion.⁹⁸

The Dakota Access Company now plans to run the last necessary segment of the pipeline under Lake Oahe with the full support of President Trump.⁹⁹ Not surprisingly, this decision was met with outrage by environmentalists and protestors alike. As Phillip Ellis of Earthjustice stated, “[w]e are shocked and dismayed by today’s news because it puts water for millions at risk.”¹⁰⁰ The Army Corps of Engineers have now granted the Dakota Access Company an easement, or right to pass on someone else’s land, thus theoretically providing them with the ability to continue the project.¹⁰¹ Activists like Jamil Dakwar, director of the ACLU’s Human Rights Program, have further criticized the decision, demanding that “[t]he Trump administration should allow careful environmental impact analysis to be completed with full and meaningful participation of affected tribes.”¹⁰² Following President Trump’s push for the pipeline’s completion, the Standing Rock and Cheyenne River Sioux tribes sought a preliminary injunction against the easement needed for the pipeline’s completion based on religious concerns; however, U.S. District Judge James Boasberg denied the motion in early March, citing various facets such as the tribes’ delay in putting forth the motion, the project’s near completion, and its approval from the Army Corps as sources for his decision.¹⁰³ In response, the two

98. See Dreyfuss, *supra* note 19 (discussing President Trump’s executive order regarding DAPL); see also *Presidential Memorandum Regarding Construction of the Dakota Access Pipeline*, THE WHITE HOUSE (Jan. 24, 2017), <https://www.whitehouse.gov/the-press-office/2017/01/24/presidential-memorandum-regarding-construction-dakota-access-pipeline> (providing exact language of President Trump’s executive order).

99. See Dreyfuss, *supra* note 19 (describing final stages of DAPL).

100. *Id.* (quoting Earthjustice legal team spokesmen, Phillip Ellis, regarding President Trump’s executive order); see also Rebecca Herscher, *Trump’s Move on Keystone XL, Dakota Access Outrages Activists*, NPR (Jan. 24, 2017), <https://www.npr.org/sections/thetwo-way/2017/01/24/511411653/trumps-move-on-keystone-xl-dakota-access-outrages-activists> (providing activist attitude towards President Trump’s decision to grant pipeline easement).

101. See Amy Sisk, *Army Corps of Engineers Grants Easement For Dakota Access Pipeline*, NPR (Feb. 7, 2017), <https://www.npr.org/2017/02/07/513957885/army-corps-of-engineers-grants-easement-for-dakota-access-pipeline> (revealing Army Corp’s granting of DAPL easement).

102. See Dreyfuss, *supra* note 19 (quoting Jamil Dakwar’s negative statements towards President Trump and his administration).

103. See *Standing Rock Sioux Tribe v. U.S. Army Corps of Eng’rs*, 239 F. Supp. 3d 77, 77 (D.D.C. 2017) (rejecting Sioux tribe’s request for preliminary injunction); *Appeals Court Refuses to Stop Oil in Dakota Access Pipeline*, NBC NEWS (Mar. 18, 2017), <http://www.nbcnews.com/storyline/dakota-pipeline-protests/appeals-court-refuses-stop-oil-dakota-access-pipeline-n735336> (analyzing ongoing litigation surrounding the Dakota Access Pipeline); see also *Dakota Access Pipeline: Tribes’ Re-*

tribes sought an emergency injunction order pending their appeal from the U.S. District Court of D.C., but again they were denied for not meeting the “stringent requirements” for such an order.¹⁰⁴ With the law and the President on their side, Energy Transfer Partners (ETP) moved forward with the pipeline project, intending to let the full amount of crude oil flow as soon as possible.¹⁰⁵ Unfortunately for ETP, another hole in their plan appeared, but this time in the form of a small leak that occurred on April 4, roughly 200 hundred miles away from the Standing Rock protests.¹⁰⁶ The news led to a small “I told you so moment,” as Standing Rock Sioux Tribal Chairman Dave Archambault II said, “[t]he Dakota Access [P]ipeline has not yet started shipping the proposed half million barrels of oil per day and we are already seeing confirmed reports of oil spills from the pipeline. This is what we have said all along: oil pipelines leak and spill.”¹⁰⁷ Despite the absence of reports of any major damage, the presence of a small leak reflects a larger, more frightening picture.¹⁰⁸

Now, the media storm surrounding the Sioux tribe and Water Protectors has all but disappeared.¹⁰⁹ During the apex of the protests, thousands of people went to North Dakota to aid the Sioux tribe and the water protectors, and even with the unreliable wireless service, dozens of Facebook Live feeds were active at all times.¹¹⁰

quest to Stop Oil Flow Denied, FOX NEWS (Mar. 15, 2017), <http://www.foxnews.com/us/2017/03/15/dakota-access-pipeline-tribes-request-to-stop-oil-flow-denied.html> (setting forth reasons for denial of Sioux tribe motion).

104. *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2017 WL 1402139 (D.D.C. 2017) (rejecting Sioux tribe request for injunction pending appeal); *see also* NBC NEWS, *supra* note 103 (explaining Sioux tribe failure to meet judicial standards).

105. Phil McCausland, *Dakota Access Pipeline Springs a Small Leak in South Dakota*, NBC NEWS (May 10, 2017), <http://www.nbcnews.com/storyline/dakota-pipeline-protests/dakota-access-pipeline-springs-small-leak-south-dakota-n757666> (discussing Energy Transfer Partner’s plans moving forward with pipeline). Energy Transfer Partners began as a natural gas pipeline operator and has grown “from roughly 200 miles of natural gas pipelines in 2002 to more than 71,000 miles of natural gas, natural gas liquids (NGLs), refined products, and crude oil pipelines today.” *Corporate Overview*, ENERGY TRANSFER PARTNERS, http://www.energy-transfer.com/company_overview.aspx (last visited July 12, 2017).

106. *See* McCausland, *supra* note 105 (revealing location and magnitude of pipeline leak).

107. *Id.* (quoting Standing Rock tribe leader’s reflection on unheeded warnings regarding pipeline).

108. *Id.* (discussing small impact but potential future ramifications of pipeline leak).

109. *See* Dreyfuss, *supra* note 19 (alleging DAPL issue as forgotten).

110. *Id.* (discussing height of social media during DAPL protests). Facebook Live allows users to broadcast live videos through their Facebook profiles to be viewed by either private friends or the general public. Jayson DeMers, *Facebook*

116 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

Now the numbers have dwindled as protestors leave the sites and few, if any, Facebook Live feeds are currently streaming the protests.¹¹¹ The only evidence of the protests occurrence are old news stories and the thirty-eight million dollars in damage incurred by the state of North Dakota and local authorities as a result of the protests.¹¹²

IV. ANALYSIS: IS SOCIAL MEDIA AFFECTING CHANGE?

A. A Little of This, A Little of That

The situations presented in Flint's Water Crisis and the Dakota Access Pipeline provide an interesting dichotomy between two similar issues.¹¹³ Both issues involve historically disenfranchised and marginalized groups: the African American community in Flint and the Native American community in Standing Rock.¹¹⁴ Both groups suffer from extreme poverty, unemployment, and the loss of a basic human right: water.¹¹⁵ Due to the DAPL time table being a bit further along, the Sioux tribe have not yet lost their clean drinking water, like Flint's residents; yet, the potential loss of the basic right to water combined with the historic disenfranchisement of the culture is reminiscent of those suffering in Flint.¹¹⁶ Moreover, if one

Live: Everything You Need to Know, FORBES (Apr. 26, 2016), <http://www.forbes.com/sites/jaysondemers/2016/04/26/facebook-live-everything-you-need-to-know/#65b37cd47a82> (providing information regarding Facebook Live features).

111. See Dreyfuss, *supra* note 19 (detailing failing support of DAPL protests).

112. Emily Dreyfuss, *Social Media Made the World Care About Standing Rock—and Helped It Forget*, WIRED (Jan. 24, 2017), <https://www.wired.com/2017/01/social-media-made-world-care-standing-rock-helped-forget/> (discussing social media abandonment of DAPL protests); see also Chris White, *North Dakota Taxpayers on the Hook for \$40 Million Because of Pipeline Protests*, THE DAILY CALLER (Apr. 4, 2017), <http://dailycaller.com/2017/04/05/north-dakota-taxpayers-on-the-hook-for-40-million-because-of-pipeline-protests/> (lamenting financial harm done by DAPL protests).

113. Amy Goodman & Denis Moynihan, *Standing Rock Sioux to Trump: 'Creating a Second Flint Does Not Make America Great Again'*, COMMON DREAMS (Jan. 28, 2017), <http://www.commondreams.org/views/2017/01/28/standing-rock-sioux-trump-creating-second-flint-does-not-make-america-great-again> (likening DAPL to Flint crisis).

114. See Flint Water Crisis Fast Facts, *supra* note 82 (describing Flint population); see also Alicia Adamczyk, *The Dakota Pipeline Could Devastate Some of the Poorest People in America*, TIME MONEY (Nov. 2, 2016), <http://time.com/money/4551726/dakota-access-pipeline-standing-rock-sioux-tribe-devastate-poorest-people> (describing Sioux tribe population).

115. See Flint Water Crisis Fast Facts, *supra* note 82 (describing Flint population); see also Adamczyk, *supra* note 114 (describing Sioux tribe population).

116. See Adamczyk, *supra* note 114 (conveying historic disenfranchisement of Native Americans); see also Al Jazeera, *supra* note 74 (portraying DAPL issues as governmental negligence towards environmental issues and Native Americans).

were to examine both instances based purely on national recognition, a paradigm shift is apparent.¹¹⁷

At their onset, both issues garnered little to no media attention; however, after the Flint Water Crisis continued and the DAPL protests persisted, the media began to notice.¹¹⁸ Ultimately, the mainstream media took different stances on the issue; once the Flint Water Crisis was noticed, the national media provided a sympathetic look into the struggles of Flint's disenfranchised citizens.¹¹⁹ Yet, in the early days of the DAPL protests, the protestors were portrayed rather unsympathetically, as local media shed a negative light on the protestors, portraying them as backwards and out of touch.¹²⁰ The question remains as to why these two issues received such opposing attention, and the answer may be found in social media and its connection with not only traditional national media, but also local media.¹²¹

According to a 2010 survey by the Pew Research Center for the People and the Press, people display a low level of confidence in the national media's ability to report news accurately and unbiasedly, despite still finding it to be important.¹²² Respondents to a National News Association survey revealed they spend at least forty minutes a week reading their local newspaper.¹²³ Another study by YouGov determined that two-thirds of readers trust their local newspaper.¹²⁴ Although it is uncertain why citizens trust their local newspapers more than the national media, it is plausible that because of the geographical closeness and familiarity with their lo-

117. See Adams, *supra* note 56 (analyzing national media attention towards Flint); see also Spencer, *supra* note 72 (discussing DAPL protestors reliance on social media due to adverse national media attention).

118. See Adams, *supra* note 56 (showing national media's growing support for Flint Water Crisis); see also Spencer, *supra* note 72 (revealing national media attention towards DAPL protests).

119. See Strupp, *supra* note 47 (providing overview of national media attention and Flint).

120. See Spencer, *supra* note 72 (detailing negative attention towards DAPL protestors); see also Al Jazeera, *supra* note 74 (portraying media attention towards DAPL protestors as adversely biased).

121. See Ruth A. Harper, *The Social Media Revolution: Exploring the Impact on Journalism and News Media Organization*, INQUIRIES JOURNAL (2010), <http://www.inquiriesjournal.com/articles/202/the-social-media-revolution-exploring-the-impact-on-journalism-and-news-media-organizations> (discussing relationship between social media and traditional media outlets).

122. *Id.* (revealing reader distrust of national media).

123. *Id.* (discussing consumer relationships with local news).

124. Roy Greenslade, *Most People Trust Local Newspapers, Finds Survey*, THE GUARDIAN (July 11, 2013), <https://www.theguardian.com/media/greenslade/2013/jul/11/local-newspapers-facebook> (conveying consumer trust in local media).

118 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

cal media, readers are more likely to trust those local sources rather than the national, faceless corporate media moguls.¹²⁵

Looking back at the local media coverage of both the Flint Water Crisis and the DAPL, it can be ascertained that the perspective taken by their local media market may have had a direct correlation with the national population's initial views towards these strikingly similar issues.¹²⁶ Another medium, however, gave those not represented by their own media a message: social media.¹²⁷ Social media allowed a light to be shed on these issues to an audience that was now "demanding a seat at the news making table" and the new, heightened connection to the world around them.¹²⁸ Examining the DAPL issue, it can be argued that without social media, this could have been completely buried and forgotten fulfilling the old adage that history is written by the winners.¹²⁹

Though beneficial, social media does not appear to be a cure-all for the oppressed or marginalized.¹³⁰ According to a 2015 study of social media and participation, researchers found "metadata demonstrate a positive relationship between social media use and participation;" however, because only half of the results were seen as "statistically significant," the correlation between the positive experience and overall participation is much likely lower.¹³¹ This type of data has led experts to believe social media may not have the largely perceived firm "mobilizing potential."¹³² Study correlations have revealed to be too weak and have been "overwhelmingly tackled with cross-sectional survey data which render the causal mecha-

125. *Id.* (revealing 37% of consumers distrust national business attention towards local issues).

126. *See* Al Jazeera, *supra* note 74 (conveying poor local media attention towards protestors); *see also* Kennedy, *supra* note 32 (attributing initial calls for help in Flint to local media).

127. *See* Trinka, *supra* note 51 (discussing social media in Flint); *see also* Spencer, *supra* note 72 (investigating social media use by Sioux tribe).

128. Pamela Podger, *The Limits of Control*, AM. JOURNALISM REV., 33-27 (August/September 2009), <http://ajrarchive.org/Article.asp?id=4798> (interrogating the paradigm of traditional journalism and social media).

129. *See generally* Spencer, *supra* note 72 (discussing national media blackout).

130. *See generally* Yannis Theocharis & Will Lowe, *Does Facebook Increase Political Participation? Evidence from a Field Experiment* (Dec. 17, 2015) (unpublished manuscript) (found at 19 INFO., COMM. AND SOC'Y 1465) (analyzing effects of social media on political participation).

131. *Id.* at 2-3 (quoting Shelley Boulianne, *Social Media Use and Participation: A Meta-Analysis of Current Research*, 18 INFO., COMM. AND SOC'Y 524 (2015)) (discussing relationships between social media use and participation).

132. *See id.* at 4 (revealing lack of relationship between social media use participation).

nisms unclear.”¹³³ Other studies, however, have revealed that social media use does reveal a positive correlation to certain types of political participation, most namely, political protest.¹³⁴

In another 2015 study, researchers examined the effects of Facebook on political participation by analyzing Greek citizen’s social media habits as it related to their country’s political stratosphere.¹³⁵ Overall, the researchers found that Facebook use failed to influence the social media site’s users to engage in a “number of classic and widely used political and civic participation repertoires.”¹³⁶ The study revealed users utilized the site for entertainment as a way to escape the political atmosphere and economic issues their country was encountering at the time.¹³⁷ Although this study analyzed Greek participants rather than Americans, it does reveal a real issue of “compassion fatigue.”¹³⁸ Compassion fatigue is the idea that as humans, our threshold for empathy is limited, and if constantly faced with tragedy or sympathetic issues, we will eventually begin to tune out.¹³⁹ Normally a term used for social workers or caregivers who become literally fatigued due to their daily encounters with suffering, compassion fatigue can be attributed to social media where the twenty-four hour news cycle allows us to preview all of the world’s anguish with just the click of a button.¹⁴⁰

Much like what was revealed in the Greek Facebook study, this constant bombardment of sympathetic appeals and causes may lead to a lower level of caring and participation and result in a higher level of escapism.¹⁴¹ This type of compassion fatigue may be one of the many answers as to why the general public seemed to forget about Flint’s Water Crisis and the Sioux Tribe’s DAPL issue.¹⁴²

133. *See id.* (providing reasons for lack of relationship between social media use participation).

134. *Id.* at 5 (providing further studies on effects of social media and political participation).

135. Theocharis & Lowe, *supra* note 130, at 15-18 (creating study to examine Greek Facebook users’ political participation).

136. *Id.* at 17 (analyzing Facebook participation study of Greek site users).

137. *See* Theocharis & Lowe, *supra* note 130, at 18 (discussing escapist quality of social media).

138. *See generally* Courtney L. Tulipani, *Social Media’s Impact on Compassion* (Apr. 20, 2016) (unpublished Capstone and Thesis, California State University), http://digitalcommons.csumb.edu/cgi/viewcontent.cgi?article=1526&context=caps_thes (outlining compassion fatigue resulting from social media immersion).

139. *Id.* at 8 (defining compassion fatigue).

140. *Id.* (describing social media’s effect on compassion).

141. *See generally id.* (analyzing full scope of compassion fatigue and social media’s role).

142. *See generally id.* (describing social media constant presence as reason for compassion fatigue).

120 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

This is not a novel answer revolving around these issues either, as Emily Dreyfuss of *Wired* stated: “the whiplash of the news cycle and the short attention spans exacerbated by the Twitterfication of politics worked against [protest] efforts. On Tuesday [January 24], the hashtag #DAPL trended nationwide for a little while, and then was eclipsed by chatter about the Academy Awards’ nominations.”¹⁴³ Dreyfuss goes on to dirge the now forgotten message and the state of social media: “If social media and live streaming enabled the Standing Rock Sioux to amplify their protest for clean water, its speed and ceaseless flow also allowed the world to forget about them.”¹⁴⁴

Although issues like the Flint Water Crisis and the DAPL continue to persist, new causes and appeals to emotion appear every day in front of social media users, and there simply is not enough time, energy, and empathy to valuably contribute to all of them.¹⁴⁵ Despite the potential for “compassion fatigue” and the reality that living with a twenty-four hour news cycle means not every story can be covered for elongated periods of time, it is still too early to tell what effects social media has on user participation rate.¹⁴⁶ Essentially, due to social media’s relatively new emergence and the lack of long-term studies performed, there is no definitive answer as to whether social media truly creates a greater participation rate in political or environmental issues.¹⁴⁷

It must be noted, however, the above studies conducted look towards strictly political participation where they found a “polarisation” on social media that created an “incisive, uncivil, and often deleterious atmosphere.”¹⁴⁸ Issues like politics inherently create a divide between certain groups, creating a hostile attitude and a suppressed desire for participation.¹⁴⁹ When understood from this perspective, it may be assumed that participation rates could rise in

143. See Dreyfuss, *supra* note 19 (lamenting on state of DAPL in public consciousness).

144. *Id.* (attributing social media to rise and fall of DAPL protest notoriety).

145. See Tulipani, *supra* note 138, at 9 (discussing constant engagement with tragedy through social media platforms).

146. See Theocharis & Lowe, *supra* note 130, at 19 (attributing lack of concrete evidence on social media effects towards user participation on absence of studies with longitudinal and experimental designs).

147. See *generally id.* at 4, 19 (discussing conflicting studies on social media participation).

148. *Id.* at 19 (commenting on divisive nature of social media and politics).

149. *Id.* (discussing politics on social media leading to lower participation rates).

the context of less polarized issues such as the environment because it seems obvious no citizen actively seeks its destruction.¹⁵⁰

In a 2016 Earth Day study conducted by Pew Research, researchers made six findings, however five specifically relate to the public's view about the environment: 1) "Overall, Americans support protecting the environment, but there are deep partisan divides on the issue;" 2) Many Americans want elected officials to address environmental matters, but the public gives other issues - like the economy or terrorism - greater priority; 3) Views about how involved the government should be in protecting the environment vary by political party and ideology; 4) Roughly two-in-five Americans identify as environmentalist; and 5) The vast majority of Americans say they recycle.¹⁵¹ Pertaining to Finding One, the study showed that 74% of Americans want the country to protect the environment at all costs with Democrats leading that sentiment; however, Republican support for the environment has decreased since 2004, which leads to the next finding.¹⁵² Finding Two posited 47% of Americans see the environment as a top priority, but see the economy (75%) and terrorism (75%) as more important.¹⁵³ Finding Three analyzed the partisan divides and determined that 72% of Democrats believe the federal government should have an enhanced role in the environment compared to 35% of Republicans.¹⁵⁴ From Finding Four, we receive a somewhat surprising statistic as millennials (a fundamental user and contributor to social media) were found to be less likely to see themselves as environmentalist than older generations.¹⁵⁵ Finally, Finding Five discovered almost half of Americans (46%) recycled with older Americans contributing more to the effort than millennials.¹⁵⁶

A few inferences may be drawn from this study as it correlates to social media, but most importantly is the glaring finding that environmental issues are not invulnerable to the social media cy-

150. Monica Anderson, *For Earth Day, Here's How Americans View Environmental Issues*, PEW RESEARCH CTR. (Apr. 22, 2016), <http://www.pewresearch.org/fact-tank/2016/04/22/for-earth-day-heres-how-americans-view-environmental-issues/> (conducting study to ascertain American environmental beliefs).

151. *Id.* (setting forth five findings related to American views on environment).

152. *Id.* (analyzing Finding One and partisan divides).

153. *Id.* (discussing Finding Two as it pertains to what American's view as top governmental priorities).

154. *Id.* (reviewing Finding Three's suggestion of political ideology and environmental awareness).

155. *See* Anderson, *supra* note 150 (analyzing Finding Four and millennial environmental standing).

156. *Id.* (discussing Finding Five and American recycling habits).

122 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

cle.¹⁵⁷ It may seem obvious with what has happened with Flint's Water Crisis and the DAPL issue, but the argument could still have been made that those issues were deeply political and cultural rather than simply environmental.¹⁵⁸ As the Earth Day studies have shown, however, despite the emergence of environmental activism in the late 1960s and the growing social trend of environmental consciousness, it still remains a political topic that can easily fall into the divisive social media trap.¹⁵⁹ More surprising is that environmental consciousness is generationally trending downwards.¹⁶⁰ In 2016, Pew Research conducted a study on social media trends and found with respect to active online 18-29 year olds (millennials): 88% used Facebook; 36% used Twitter; and 59% used Instagram.¹⁶¹ Each individual statistic is higher than any other demographic, and reveals a concern for environmental issues in the social media age: if those who utilize social media the most are becoming less environmentally conscious and more apathetic, what kind of change can activists truly expect to come from these platforms?¹⁶²

B. Branding and Social Media: Effective Uses of Social Media

Despite the major issues social media activism faces, there are still ways in which the platforms can be utilized.¹⁶³ In a business context, social media's primary use is to foster consumer loyalty.¹⁶⁴ No matter the campaign, a business's social media wants the user to keep coming back to their individual Twitter, Facebook, Instagram, etc. with the goal of the brand itself becoming lodged in the consumers mind and creating a form of "social media magnetism."¹⁶⁵

157. *Id.* (revealing partisan nature of environmental issues); see generally Theocharis & Lowe, *supra* note 130 (asserting lack of participation in divisive discourse).

158. See Kennedy, *supra* note 32 (revealing governmental mishandlings of Flint Water Crisis); see also Blackmon, *supra* note 71 (discussing government involvement in DAPL issue).

159. See Lambert, *supra* note 6, at 15-16 (discussing rise of environmentalism).

160. See Anderson, *supra* note 150 (revealing millennials to be less environmentally conscious than past generations).

161. Shannon Greenwood, Andrew Perrin & Maeve Duggan, *Social Media Update 2016*, PEW RESEARCH (Nov. 11, 2016), <http://www.pewinternet.org/2016/11/11/social-media-update-2016/> (analyzing social media trends in 2016).

162. *Id.* (revealing millennials to use social media more than any other age range).

163. See generally Lambert, *supra* note 6, at 26 (elaborating on potential of social media branding as most effective way to utilize platforms).

164. *Id.* (examining social media in business model).

165. *Id.* (citing Jamie Turner & Reshma Shaw, *How to Make Money with Social Media: An Insider's Guide on Using New and Emerging Media to Grow Your Business* (2nd

Corporations find this type of “magnetism” easier to achieve because they are constantly selling a good or service directly to the consumer, creating a supply and demand relationship.¹⁶⁶ Unlike a corporation, an Environmental Law NGO hardly offers a good or service, but to the contrary, specifically asks for these goods and services in the form of donations and activism.¹⁶⁷

Notwithstanding the lack of branding potential most environmental issues pose, there are still exceptions, one of which is the zoo creature turned internet meme: Harambe the Gorilla.¹⁶⁸ In late May of 2016, Harambe, a seventeen year old silverback gorilla was shot and killed at the Cincinnati Zoo.¹⁶⁹ The tragic event occurred after a child fell into the gorilla’s enclosure and was subsequently apprehended by the animal, forcing zoo officials to kill the beast.¹⁷⁰ In an odd turn for the zoo, but not for the internet, social media came alive with mourning for Harambe as users began harassing the zoo’s Twitter page with tweets protesting the killing, many of which ended with the hashtag “#JusticeForHarambe.”¹⁷¹ The incident was the perfect storm for a myriad of individuals: 1) animal rights activists, who saw the incident as reminiscent of the Cecil the Lion incident in 2015; 2) satirists, who saw this as an opportunity to lampoon what they believed to be an over-reactionary and politically correct culture; and 3) trend followers, who simply wanted to be “in” on the joke.¹⁷²

Regardless of the lens with which you viewed the Harambe story, the meme had impact and staying power as a petition to hold

ed. 2015)) (portraying social media branding as a magnet to continually attract consumer).

166. *Id.* (admitting social media magnetism as much more achievable from corporate viewpoint).

167. *Id.* (acknowledging Environmental NGO’s uphill battle when it comes to social media branding).

168. Katie Rogers, *The Complicated Appeal of the Harambe Meme*, N.Y. TIMES (Aug. 24, 2016), <https://www.nytimes.com/2016/08/25/us/the-complicated-appeal-of-the-harambe-meme.html> (detailing rise of Harambe internet notoriety). “An Internet meme is a concept or idea that spreads ‘virally’ from one person to another via the Internet. An Internet meme could be anything from an image to an email or video file; however, the most common meme is an image of a person or animal with a funny or witty caption.” Vangie Beal, *Internet Meme*, WEBOPEDIA, http://www.webopedia.com/TERM/I/internet_meme.html (last visited July 12, 2017) (describing meaning of term “meme”).

169. *See* Rogers, *supra* note 168 (setting forth events leading to Harambe meme).

170. *Id.* (retelling events at Cincinnati Zoo leading to Harambe death).

171. *Id.* (describing Twitter backlash for Harambe killing). The Cincinnati Zoo has since had to delete its Twitter account due to the massive amount derogatory tweets and comments regarding the incident. *Id.*

172. *See generally id.* (examining different reactions to Harambe).

124 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

the boy's parents responsible for the events of that day garnered nearly 500,000 signatures.¹⁷³ In addition to the petition, the meme gained national attention which led to Harambe's nomination for the 2016 U.S. presidential election, song remixes, news articles, and a multitude of other ventures.¹⁷⁴ The Harambe meme followed similar patterns to those found in other memes, but its scope was more massive than most anyone had seen before.¹⁷⁵ This led to what Ryan Milner, author of the book "The World Made a Meme," has called a "cross pollination" where various groups with various agendas have taken hold of the meme and made it their own.¹⁷⁶

As mentioned, prior to the Harambe meme's "cross pollination" with others, the initial outrage was similar to that of Cecil the Lion as animal rights activists and the average internet user abhorred the zoo's killing of the gorilla, thus one could posit there was a potential monopolization of "#JusticeforHarambe" for a greater, more environmental friendly good.¹⁷⁷ It is an interesting thought; however, the Harambe brand could very well be the one in a million exception where an issue with an environmental twist gained so much notoriety and staying power.¹⁷⁸

C. Environmental Law NGOs and the Quest for Social Media Relevance

Yet, even if Harambe is the exception to the short shelf life of social media outcry, it illuminates how important it is for environmental activists to understand how social media works, and that is exactly what Environmental Law NGO's are trying to accomplish.¹⁷⁹ Despite the wavering and fair weather support causes such as the DAPL and the Flint Water Crisis receive, Environmental Law NGOs

173. See Rogers, *supra* note 168 (discussing magnitude of Harambe meme culture).

174. *Id.* (detailing scope of Harambe meme).

175. *Id.* (discussing wide reach of Harambe meme).

176. *Id.* (analyzing ramifications of Harambe meme massive audience); see also Ryan M. Milner, *The World Made Meme: Public Conversations and Participatory Media* (2016). In the context of Harambe, the larger issue of racial tensions in America, specifically the Black Lives Matter movement, took over at the forefront of the Harambe meme culture. *Id.*

177. *Id.* (providing animal rights activists outrage over Harambe killing).

178. See Rogers, *supra* note 168 (harkening on unusual nature and circumstances of Harambe meme culture).

179. See Lambert, *supra* note 6, at 27 (illuminating Environmental Law NGO social media strategies).

are constantly and consistently at the forefront of these issues.¹⁸⁰ Regarding the DAPL, once President Trump handed down the executive order approving the drilling, activists backed by the Sierra Club planned to rally in Washington, D.C.¹⁸¹ Furthermore, Earthjustice, another Environmental Law NGO, threatened suit once the U.S. Army issued the easement.¹⁸²

Historically and currently, these organizations are imperative to the furtherance of environmental progressivism with or without social media.¹⁸³ Nevertheless, despite the realities of social media activism, these platforms can be powerful in the hands of environmental organizations that know how to utilize them properly.¹⁸⁴ Many Environmental Law NGOs understand social media is a necessary tool needed to maintain a dialogue with an audience they normally do not reach.¹⁸⁵ Organizations like the Center for Biological Diversity find social media as not only an effective tool for new forms of communication, but also as a way to catapult environmental issues into the mainstream consciousness.¹⁸⁶ The first step for Environmental Law NGOs begins with building “social capital,” essentially a relationship with the user built on trust and reciprocity; and, more importantly, these organizations need the knowledge of how to use it.¹⁸⁷ Due to limited funding, Environmental Law NGOs must get creative in generating social capital by focusing on “high value” content that their user bases want to consume.¹⁸⁸ In building this social capital, Environmental Law NGOs spend considera-

180. See Dreyfuss, *supra* note 19 (describing Environmental Law NGOs commitment to DAPL issue). For a further discussion on environmental Law NGOs, see *supra* notes 15-21 and accompanying text.

181. See *id.* (revealing Sierra Club reaction to President Trump executive order).

182. *Id.* (reporting EarthJustice legal claims against President Trump’s executive order).

183. For a discussion on Environmental Law NGOs roles in environmental progression, see *supra* notes 15-21 and accompanying text.

184. See Lambert, *supra* note 6, at 54 (discussing importance of social media to Environmental NGOs).

185. *Id.* at 112 (conveying need for NGOs such as Earthjustice, EDF, and NRDC to maintain a social media presence).

186. *Id.* at 57 (revealing social media effect on NGO presence in mainstream media).

187. *Id.* at 28 (defining social capital and its relevance to Environmental Law NGOs).

188. See *generally id.* at 63 (elaborating on ideas that Environmental Law NGOs can use to get creative with social media).

126 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

ble amounts of time figuring out with whom to build it, that is, who are their primary users.¹⁸⁹

The Center for Biological Diversity analyzed the statistics of their Facebook page and discovered that the age group they are reaching the most are thirty-five to fifty-four years old, and yet, more specific data points to women ranging from forty-five to sixty-five years of age.¹⁹⁰ Earthjustice, the group behind the DAPL litigation, largely targets people forty-five years and older; however, their Facebook page metadata reveals they are most popular among younger people, specifically ages twenty-five to forty-four.¹⁹¹ Earthjustice found the identities of these two groups' users tend to be conscientious consumers with a liberal political disposition.¹⁹²

Once these groups have determined exactly who makes up their user base, it is important for them to understand how to greater utilize and inspire their audiences.¹⁹³ While acknowledging that these platforms can only do so much, those who manage these social media accounts hope to continually build greater social capital that eventually leads to real time activism that currently escapes the virtual vacuum of social media.¹⁹⁴

V. IMPACT: MOVING TOWARDS THE FUTURE WITHOUT BEGGING FOR THE PAST

Because social media is all about going “viral,” it feels as though a medicinal analogy is in order: social media is a home remedy, and although sometimes it may work on a small scale, eventually you will need to go to the doctor.¹⁹⁵ Specifically, the doctor in this analogy is an Environmental Law NGO, a professional who understands how to cure in the long term and has the necessary tools to do so.¹⁹⁶ It is clear that social media, as a collection of acting individuals, cannot single handedly solve large scale environmental

189. See Lambert, *supra* note 6, at 61-62 (examining Environmental Law NGOs social media user base).

190. *Id.* at 61 (reviewing CBD main social media users).

191. *Id.* (providing Earthjustice target demographic and most reached users).

192. *Id.* at 61-62 (detailing who tends to follow Environmental Law NGOs' social media pages); see Dreyfuss, *supra* note 19 (discussing legal representation for Standing Rock Sioux in DAPL case).

193. *Id.* at 90 (discussing need to go beyond clicktivism).

194. See Lambert, *supra* note 6, at 90 (communicating social capital as stepping stone to real life activism).

195. For a discussion on the overall ineffective nature of social media and environmental issues, see *supra* notes 72-81, 127 and accompanying text.

196. For a discussion on Environmental Law NGOs roles in environmental progressivism, see *supra* notes 15-21 and accompanying text.

crises.¹⁹⁷ While the amalgamation of various “microcontributions” from a user base that stretches into the hundreds of millions can and do make a difference, it again harkens back to the short-term home remedy.¹⁹⁸

Individual donations to relief projects and short-term public outcry, though helpful, do not push legislation.¹⁹⁹ Rather, it is the organizations that have been working with and within the government since the late 1970s that understand how to truly affect change, and this is where social media has begun to be utilized in the most efficient way possible.²⁰⁰ Issues such as the Flint Water Crisis and the Dakota Access Pipeline go far beyond a collection of tweets, Facebook posts, or even donations.²⁰¹

The importance of social media in raising awareness cannot be stressed enough, especially when it is examined within the dichotomous nature between these new platforms and mainstream media.²⁰² As soon as social media makes the population aware of an issue, however, it also can quickly make us forget.²⁰³ This is where Environmental Law NGOs’ effective use of social media is imperative.²⁰⁴ An unconventional champion of social media is the Harambe meme that to this day still pervades social media; it is not illogical to think an Environmental Law NGO with the right social media manager could have taken advantage of such a topic closely related to the environment and turned it into a positive gain for the organization.²⁰⁵

Understandably, the Harambe meme was bigger and more farcical than the environmental issue of endangered species, but it still indicates that the new medium requires a business-like savvy

197. See Butler, *supra* note 11, at 15 (explaining social media role in less active user participation).

198. *Id.* at 13, 21 (discussing microcontributions and microactivism).

199. For a discussion of social media user participation, see *supra* notes 72-81, 120-126 and accompanying text.

200. For a discussion on Environmental Law NGOs emerging use of social media as a platform for change, see *supra* notes 173-183 and accompanying text.

201. See Olvera, *supra* note 79 (alleging social media awareness did not solve Flint Water Crisis).

202. For a discussion on the current state of national media, see *supra* notes 107-113 and accompanying text.

203. See Dreyfuss, *supra* note 19 (attributing forgotten state of DAPL to social media); see also Olvera, *supra* note 79 (reminding public not to forget about Flint after social media news storm).

204. See Lambert, *supra* note 6, at 89-90 (revealing need for Environmental Law NGOs to go beyond clicktivism).

205. For a discussion on the unusual popularity of the Harambe meme, see *supra* notes 158-167, 168 and accompanying text.

128 VILLANOVA ENVIRONMENTAL LAW JOURNAL [Vol. XXIX: p. 101

and novel understanding in order to take advantage of its massive user base.²⁰⁶

As previously mentioned, social media is about branding and building social capital.²⁰⁷ Luckily for the environment, Environmental Law NGOs are beginning to understand this, and they are using Facebook and Twitter to drive users to their websites, allowing visitors to receive informative emails, learn more about the organizations, and understand the unique identities and missions of these groups.²⁰⁸ Moving forward, this influx of users not only provides awareness and funding for various Environmental Law NGOs, but they also allow the goals and issues to stay in both the media's consciousness and the populations'.²⁰⁹ Hopefully in the future, when issues such as Flint and the DAPL's fifteen minutes are over and everyone has left, there will still be a larger, more dedicated few behind ready to keep pushing forward.

*Chase T. Karpus**

206. *See generally* Lambert, *supra* note 6, at 26 (examining business mentality behind social media).

207. *Id.* at 26-27 (understanding what creates social media branding and social capital).

208. *Id.* at 108 (considering Environmental Law NGOs efforts to brand and build social capital).

209. *See id.* (describing increase in Environmental Law NGOs notoriety because of social media).

* J.D. Candidate, 2018, Villanova University Charles Widger School of Law; B.A., 2015, University of Delaware.