

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA**

STANDING ROCK SIOUX TRIBE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:16-cv-01534 (JEB)
)	
UNITED STATES ARMY CORPS OF)	
ENGINEERS,)	
)	
Defendant.)	
)	

**UNITED STATES ARMY CORPS OF ENGINEERS’
NOTICE REGARDING RECENTLY ISSUED PUBLIC DOCUMENTS**

Pursuant to this Court’s order at the December 9, 2016 status conference, the United States Army Corps of Engineers hereby provides notice of: (1) the United States Department of the Army’s notification to Congress of its intention to grant an easement to Dakota Access, LLC to construct a pipeline under Corps-managed federal land at Lake Oahe; (2) the Army’s Memorandum regarding Compliance with the January 23, 2017 Presidential Memorandum; and (3) a proposed Federal Register Notice of Termination of the Intent to Prepare an Environmental Impact Statement in Connection with Dakota Access, LLC’s Request for an Easement to Cross Lake Oahe, North Dakota. *See* Exhibits 1-3.

Dated: February 7, 2017

Respectfully submitted,

JEFFREY H. WOOD
Acting Assistant Attorney General
Environment & Natural Resources Division

By: /s/ Matthew Marinelli

MATTHEW MARINELLI, IL Bar 6277967
U.S. Department of Justice
Natural Resources Section

P.O. Box 7611
Benjamin Franklin Station
Washington, DC 20044
Phone: (202) 305-0293
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*Attorneys for the United States Army Corps
of Engineers*

OF COUNSEL:

MILTON BOYD
MELANIE CASNER
U.S. Army Corps of Engineers
Office of Chief Counsel
Washington, DC

CERTIFICATE OF SERVICE

I hereby certify that, on the 7th day of February, 2017, a copy of the foregoing was filed through the Court's CM/ECF management system and electronically served on counsel of record.

/s/ Matthew Marinelli _____

Matthew Marinelli

Exhibit 1

Standing Rock Sioux Tribe v. United States Army Corps of Engineers,
Case No. 1:16-cv-1534 (JEB)
February 7, 2017 Notification to Congress



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS, ENERGY AND ENVIRONMENT
110 ARMY PENTAGON
WASHINGTON DC 20310-0110

FEB 07 2017

The Honorable Raul Grijalva
Ranking Member, Committee on Natural Resources
United States House of Representatives
Washington, D.C. 20515

Dear Representative Grijalva:

Pursuant to the Mineral Leasing Act of 1920, as amended (30 U.S.C. §185 (w)), the Army is hereby providing notice of an intent to grant an easement to Dakota Access LLC, a Delaware limited liability company ("Company"), with its principal office at 1300 Main Street, Houston, Texas, operating as a subsidiary of Energy Transfer Partners and authorized to do business in the State of North Dakota, for installation, construction, operation, maintenance, and repair of a 30-inch diameter underground light crude pipeline. The Army provided notice on September 3, 2015, that the Company filed an application with the Army for an easement for a right-of-way across Government land at Lake Oahe Dam and Reservoir, North Dakota.

On Government land, the pipeline will cross approximately 7.37 acres at Tracts 3214, 3215, 3218, 3219-1, and 3225 at Lake Oahe Dam and Reservoir. The pipeline will cross Lake Oahe and Government property on both the east and west of Lake Oahe. The crossing is located in Section 10, Township 134 North, Range 79 West in Morton County, North Dakota, and Section 11, Township 134 North, Range 79 West in Emmons County, North Dakota. A map and legal description are enclosed. Since the line is being buried using a horizontal directional drill under the lake, a construction license will not be needed. The pipeline will not cross the property of any other federal agency.

The Army intends to issue the easement for a term of 30 years. The width of the right-of-way will not exceed fifty feet plus the ground occupied by the pipeline. Easement terms will establish the following major responsibilities on the Company: mitigation of any damages to the property or to the Lake Oahe Project during construction, operation, and maintenance of the pipeline; construction, operation, and maintenance in accordance with applicable federal, state, county, and municipal laws, regulations, and ordinances; pipeline installation in accordance with the U.S. Department of Transportation's Minimum Federal Safety Standards and any other applicable federal or state safety requirements; supervision of the pipeline with inspections at reasonable intervals; the immediate repair of any defects or leaks found by such inspection; protection of government property; Company liability to the United States for damage or injury which may arise from or be incident to the activities of the Company under the easement; soil and water conservation measures including restoration, revegetation, and erosion control; environmental and natural resource protection requirements; non-disturbance of any historical, archeological, architectural or other cultural artifacts encountered; hazardous waste management; a plan for responding to hazardous waste, fuel, and other chemical spills; and compliance with the conditions set forth in the Federal Energy Regulatory Commission's Order Issuing Certificate

dated December 24, 2014, as applicable, to Docket No. OR14-42-00, Dakota Access LLC. In addition, special easement conditions include: responsibility for commitments and mitigation measures in the Final Environmental Assessment; consideration of Army comments prior to the Company's submission of a Facility Response Plan, Geographical Response Plan, Operations and Maintenance Manual, Risk Assessment (Integrity Management Plan), and Spill Models to the Pipeline and Hazardous Materials Safety Administration; as-built drawings; execution of training exercises; and compliance with specified pipeline safety conditions during construction and operation of the pipeline.

Consistent with the direction in "Presidential Memorandum Regarding Construction of the Dakota Access Pipeline" dated January 24, 2017, the U.S. Army Corps of Engineers intends to waive its policy to wait 14 days after Congressional notification before granting an easement under 30 U.S.C. §185. The Corps intends to execute this easement at a time that is mutually convenient to the Corps and the Company, no earlier than 24 hours following delivery of this notification letter.

If you have questions on this action, MAJ Richard Trimble, Office of the Chief of Legislative Liaison, may be reached at 703-697-2417 or LTC Elizabeth Walker at (703) 697-0275.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul D. Cramer", with a long horizontal flourish extending to the right.

Paul D. Cramer
Deputy Assistant Secretary of the Army
(Installations, Housing and Partnerships)

Enclosure



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS, ENERGY AND ENVIRONMENT
110 ARMY PENTAGON
WASHINGTON DC 20310-0110

FEB 07 2017

The Honorable Rob Bishop
Chairman, Committee on Natural Resources
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Bishop:

Pursuant to the Mineral Leasing Act of 1920, as amended (30 U.S.C. §185 (w)), the Army is hereby providing notice of an intent to grant an easement to Dakota Access LLC, a Delaware limited liability company ("Company"), with its principal office at 1300 Main Street, Houston, Texas, operating as a subsidiary of Energy Transfer Partners and authorized to do business in the State of North Dakota, for installation, construction, operation, maintenance, and repair of a 30-inch diameter underground light crude pipeline. The Army provided notice on September 3, 2015, that the Company filed an application with the Army for an easement for a right-of-way across Government land at Lake Oahe Dam and Reservoir, North Dakota.

On Government land, the pipeline will cross approximately 7.37 acres at Tracts 3214, 3215, 3218, 3219-1, and 3225 at Lake Oahe Dam and Reservoir. The pipeline will cross Lake Oahe and Government property on both the east and west of Lake Oahe. The crossing is located in Section 10, Township 134 North, Range 79 West in Morton County, North Dakota, and Section 11, Township 134 North, Range 79 West in Emmons County, North Dakota. A map and legal description are enclosed. Since the line is being buried using a horizontal directional drill under the lake, a construction license will not be needed. The pipeline will not cross the property of any other federal agency.

The Army intends to issue the easement for a term of 30 years. The width of the right-of-way will not exceed fifty feet plus the ground occupied by the pipeline. Easement terms will establish the following major responsibilities on the Company: mitigation of any damages to the property or to the Lake Oahe Project during construction, operation, and maintenance of the pipeline; construction, operation, and maintenance in accordance with applicable federal, state, county, and municipal laws, regulations, and ordinances; pipeline installation in accordance with the U.S. Department of Transportation's Minimum Federal Safety Standards and any other applicable federal or state safety requirements; supervision of the pipeline with inspections at reasonable intervals; the immediate repair of any defects or leaks found by such inspection; protection of government property; Company liability to the United States for damage or injury which may arise from or be incident to the activities of the Company under the easement; soil and water conservation measures including restoration, revegetation, and erosion control; environmental and natural resource protection requirements; non-disturbance of any historical, archeological, architectural or other cultural artifacts encountered; hazardous waste management; a plan for responding to hazardous waste, fuel, and other chemical spills; and compliance with the conditions set forth in the Federal Energy Regulatory Commission's Order Issuing Certificate

dated December 24, 2014, as applicable, to Docket No. OR14-42-00, Dakota Access LLC. In addition, special easement conditions include: responsibility for commitments and mitigation measures in the Final Environmental Assessment; consideration of Army comments prior to the Company's submission of a Facility Response Plan, Geographical Response Plan, Operations and Maintenance Manual, Risk Assessment (Integrity Management Plan), and Spill Models to the Pipeline and Hazardous Materials Safety Administration; as-built drawings; execution of training exercises; and compliance with specified pipeline safety conditions during construction and operation of the pipeline.

Consistent with the direction in "Presidential Memorandum Regarding Construction of the Dakota Access Pipeline" dated January 24, 2017, the U.S. Army Corps of Engineers intends to waive its policy to wait 14 days after Congressional notification before granting an easement under 30 U.S.C. §185. The Corps intends to execute this easement at a time that is mutually convenient to the Corps and the Company, no earlier than 24 hours following delivery of this notification letter.

If you have questions on this action, MAJ Richard Trimble, Office of the Chief of Legislative Liaison, may be reached at 703-697-2417 or LTC Elizabeth Walker at (703) 697-0275.

Sincerely,



Paul D. Cramer
Deputy Assistant Secretary of the Army
(Installations, Housing and Partnerships)

Enclosure



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS, ENERGY AND ENVIRONMENT
110 ARMY PENTAGON
WASHINGTON DC 20310-0110

FEB 07 2017

The Honorable Lisa Murkowski
Chairwoman, Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Madam Chairwoman:

Pursuant to the Mineral Leasing Act of 1920, as amended (30 U.S.C. §185 (w)), the Army is hereby providing notice of an intent to grant an easement to Dakota Access LLC, a Delaware limited liability company ("Company"), with its principal office at 1300 Main Street, Houston, Texas, operating as a subsidiary of Energy Transfer Partners and authorized to do business in the State of North Dakota, for installation, construction, operation, maintenance, and repair of a 30-inch diameter underground light crude pipeline. The Army provided notice on September 3, 2015, that the Company filed an application with the Army for an easement for a right-of-way across Government land at Lake Oahe Dam and Reservoir, North Dakota.

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dated December 24, 2014, as applicable, to Docket No. OR14-42-00, Dakota Access LLC. In addition, special easement conditions include: responsibility for commitments and mitigation measures in the Final Environmental Assessment; consideration of Army comments prior to the Company's submission of a Facility Response Plan, Geographical Response Plan, Operations and Maintenance Manual, Risk Assessment (Integrity Management Plan), and Spill Models to the Pipeline and Hazardous Materials Safety Administration; as-built drawings; execution of training exercises; and compliance with specified pipeline safety conditions during construction and operation of the pipeline.

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If you have questions on this action, MAJ Richard Trimble, Office of the Chief of Legislative Liaison, may be reached at 703-697-2417 or LTC Elizabeth Walker at (703) 697-0275.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul D. Cramer", with a long horizontal line extending to the right.

Paul D. Cramer
Deputy Assistant Secretary of the Army
(Installations, Housing and Partnerships)

Enclosure



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS, ENERGY AND ENVIRONMENT
110 ARMY PENTAGON
WASHINGTON DC 20310-0110

FEB 07 2017

The Honorable Maria Cantwell
Ranking Member, Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Cantwell:

Pursuant to the Mineral Leasing Act of 1920, as amended (30 U.S.C. §185 (w)), the Army is hereby providing notice of an intent to grant an easement to Dakota Access LLC, a Delaware limited liability company ("Company"), with its principal office at 1300 Main Street, Houston, Texas, operating as a subsidiary of Energy Transfer Partners and authorized to do business in the State of North Dakota, for installation, construction, operation, maintenance, and repair of a 30-inch diameter underground light crude pipeline. The Army provided notice on September 3, 2015, that the Company filed an application with the Army for an easement for a right-of-way across Government land at Lake Oahe Dam and Reservoir, North Dakota.

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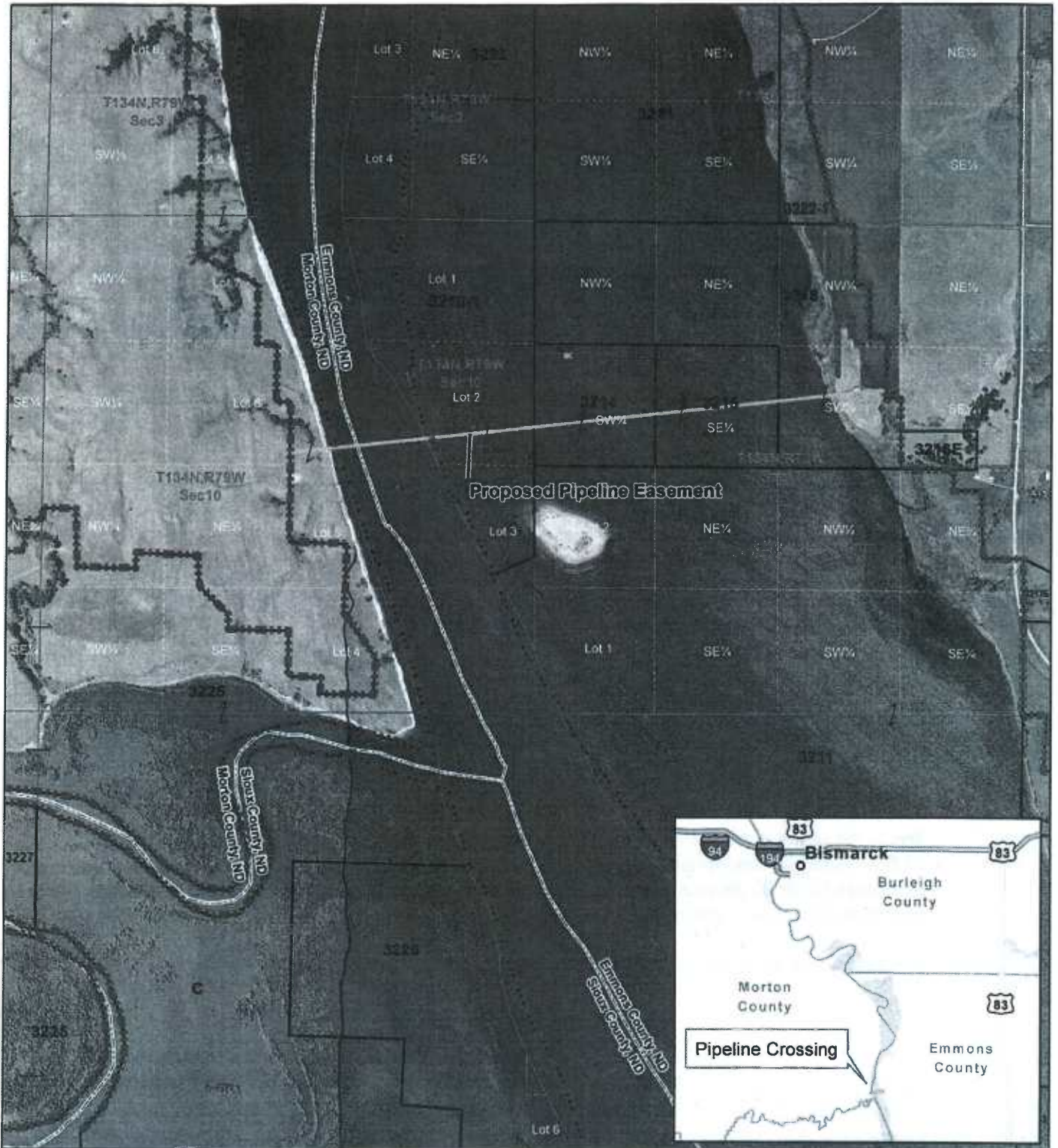
If you have questions on this action, MAJ Richard Trimble, Office of the Chief of Legislative Liaison, may be reached at 703-697-2417 or LTC Elizabeth Walker at (703) 697-0275.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul D. Cramer", with a long horizontal line extending to the right.

Paul D. Cramer
Deputy Assistant Secretary of the Army
(Installations, Housing and Partnerships)

Enclosure



OAHE DAM AND RESERVOIR



Legend

- Project Boundary (Fee)
- ▬▬▬▬ 50' Wide Proposed Easement (±7.37 Acres)
- ▭ Tracts
- ▭ Sections
- ▭ Counties

Disclaimer: The Government furnishes this data and the recipient accepts and uses it with the express understanding that the United States Government makes no warranties, expressed or implied, concerning the accuracy, completeness, reliability, usability, or suitability for any particular purpose of the information and data furnished. The United States shall be under no liability whatsoever to any person by reason of any use made thereof. Data displayed on this map are approximations derived from GIS layers and should NOT be used in place of survey data or legal land descriptions.

**EXHIBIT "A" ATTACHED TO AND
MADE A PART OF DACW45-2-16-8059**



Date: 28-May-2015

Path: (regsi1):re2jesselob_incontro\Oahe\DAPL_Easement\DAPL_Easement.mxd

METES AND BOUNDS DESCRIPTION
CENTERLINE 50' WIDE PERMANENT EASEMENT

Being a centerline description located in the Section 10, Township 134 North, Range 79 West of the 5th P.M., in Morton and Emmons County, North Dakota and Section 11, Township 134 North, Range 79 West of the 5th P.M., in Emmons County, North Dakota, and crossing the following tracts of land and described as follows:

Basis of Bearing:

Bearing are based on UTM Zone 14 Grid North.

Tracts of land:

Tract 1: Portion of Lot 4 and Lot 7; Book 125, Page 395; Deed Records, Morton County.

Tract 2: Lake Oahe.

Tract 3: Portion of the N1/2 of Section 11; Civil Case No. 406; Probate Records, Emmons County.

COMMENCING at a 3/8-inch iron rod found for the Northwest corner of said Section 10;

THENCE, crossing said Section 10, South 46 degrees 08 minutes 26 seconds East a distance of 3,664.72 feet to the west line of said United States of America Tract 1 for the **POINT OF BEGINNING** of this centerline description;

THENCE, crossing the United States of America tracts and through said Section 10 and said Section 11, North 83 degrees 59 minutes 34 seconds East a distance of 6,420.72 feet to the east line of said United States of America Tract 3 for the **TERMINAL POINT** of this centerline description, from which a 1-inch USGS monument found on said east line bears South 01 degrees 17 minutes 30 seconds West a distance of 296.68 feet. Said centerline having a length of 6,420.72 feet, 389.14 rods, and said fifty foot (50') wide.

Permanent Easement containing 7.37 acres of land.

Wood Group Mustang, Inc.
17325 Park Row
Houston, Texas 77084
(832) 809-8000
April 23, 2015
Job No. 103957

Exhibit "B"
DACW45-2-16-8059

Exhibit 2

Standing Rock Sioux Tribe v. United States Army Corps of Engineers,
Case No. 1:16-cv-1534 (JEB)
United States Department of the Army Memorandum



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

FEB -7 2017

MEMORANDUM FOR RECORD

SUBJECT: Compliance with Presidential Memorandum (January 24, 2017)

1. References:

- a. U.S. Army Corps of Engineers ("Corps" or "USACE") Environmental Assessment ("EA") Dakota Access Pipeline Project Crossings of Flowage Easements and Federal Lands, and Mitigated Finding of No Significant Impact ("FONSI"), July 25, 2016
- b. Assistant Secretary of the Army (Civil Works) ("ASA(CW)") memorandum to Commander, U.S. Army Corps of Engineers, Subject: Proposed Dakota Access Pipeline Crossing at Lake Oahe, North Dakota, December 4, 2016 ("ASA(CW) Memorandum")
- c. Notice of Intent ("NOI") to Prepare an Environmental Impact Statement in Connection with Dakota Access, LLC's Request for an Easement to Cross Lake Oahe, North Dakota, 82 FR 5543 (January 18, 2017)
- d. Presidential memorandum for Secretary of the Army, Subject: Construction of the Dakota Access Pipeline, January 24, 2017 ("PM")
- e. Acting Secretary of the Army memorandum for ASA(CW) and the Chief of Engineers ("COE"), Subject: Presidential Memorandum – Construction of the Dakota Access Pipeline, January 31, 2017 ("Army Memorandum")
- f. U.S. Army Corps of Engineers memorandum for ASA(CW), Subject: Dakota Access Pipeline; USACE Technical and Legal Review for the Department of the Army, February 3, 2017 ("Corps Memorandum")

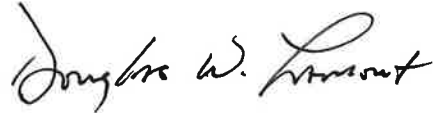
2. The PM directs the Secretary of the Army to instruct the ASA(CW) and the COE to complete the following actions:

- Section 2(a)(i) of the PM directs the Secretary of the Army to instruct the ASA(CW) and the COE to review and approve in an expedited manner, to the extent permitted by law and as warranted, and with such conditions as are necessary or appropriate, requests for approvals to construct and operate the Dakota Access Pipeline, including easements or rights-of-way to cross Federal areas.
- Section 2(a)(ii) of the PM directs the Secretary of the Army to instruct the ASA(CW) and the COE to consider, to the extent permitted by law and as

warranted, whether to rescind or modify the ASA(CW) Memorandum and whether to withdraw the NOI.

- Section 2(a)(iii) of the PM directs the Secretary of the Army to instruct the ASA(CW) and the COE to consider, to the extent permitted by law and as warranted, prior reviews and determinations, including the EA, as satisfying all applicable requirements of the National Environmental Policy Act (“NEPA”) and any other provision of law that requires executive agency consultation or review.
 - Section 2(a)(iv) of the PM directs the Secretary of the Army to instruct the ASA(CW) and the COE to review and grant, to the extent permitted by law and as warranted, requests for waivers of notice periods arising from or related to Corps real estate policies and regulations.
 - Section 2(a)(v) of the PM directs the Secretary of the Army to instruct the ASA(CW) and the COE to issue, to the extent permitted by law and as warranted, any approved easements or rights-of-way immediately after notice is provided to the Congress pursuant to Section 28(w) of the Mineral Leasing Act, 30 U.S.C. §185(w).
3. As required by the Section 2 of the PM, the Acting Secretary of the Army by memorandum, dated January 31, 2017 instructed the ASA(CW) and the Corps to comply with the specific directives listed in subparagraphs (a)(i) through (a)(v) of Section 2.
4. This memorandum documents my actions and decisions as directed.
- In accordance with Section 2(a)(i) of the PM, I have reviewed Dakota Access, LLC’s request for approvals related to the Dakota Access Pipeline, including its request for an easement or right-of-way to cross Federal areas. Additionally, the Corps completed a full review of the administrative record, including the environmental review of Dakota Access, LLC’s request for an easement at Lake Oahe last year, and recently completed a technical and legal review of the proposed Lake Oahe easement. See references 1.a. and 1.f.
 - In accordance with Section 2(a)(ii) of the PM, in light of the fact that the Army has already prepared an EA/FONSI, and considered the entire administrative record, including the Corps Memorandum, I have determined that there is no cause for completing any additional environmental analysis. Therefore, I have determined that the ASA(CW)’s Memorandum must be rescinded. I have further determined that the NOI previously published will be terminated, and a notice of this determination will be published in the Federal Register.
 - In accordance with Section 2(a)(iii) of the PM, I have considered prior reviews and determinations and found that all applicable requirements of NEPA and any other provision of law that requires executive agency consultation or review were satisfied by the EA/FONSI and the entire administrative record. See reference 1.a.

- In accordance with Section 2(a)(iv) of the PM, I am in agreement with the Corps that a partial waiver of the Congressional post-notification waiting period may be granted. See reference 1.f.
 - In accordance with Section 2(a)(v) of the PM, the COE has full responsibility to take the reasonable steps necessary to execute the requested easement immediately following the Congressional post-notification waiting period as contemplated in Section 28(w) of the Mineral Leasing Act (30 U.S.C. §185(w)).
5. No further action is required of me or my office by the PM.



Douglas W. Lamont, P.E.
Senior Official Performing the Duties of the
Assistant Secretary of the Army
(Civil Works)

Exhibit 3

Standing Rock Sioux Tribe v. United States Army Corps of Engineers,
Case No. 1:16-cv-1534 (JEB)
United States Department of the Army Documents



**DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108**

FEB -7 2017

Director
Office of the Federal Register
National Archives and Records Administration
800 North Capitol Street, N.W.
Washington, D.C. 20408

Dear Mr. Director:

I am forwarding for publication in the Federal Register a Notice of Termination of the Intent to Prepare an Environmental Impact Statement in Connection with Dakota Access, LLC's Request for an Easement to Cross Lake Oahe, North Dakota. Three originals of the Memorandum are enclosed. I have also enclosed an electronic file that contains the text of the notice in a MS Word document. I certify that the information on the disk is identical to that in the signed originals. Please contact Mr. Gib Owen at (703) 695-4641 if assistance is required.

Sincerely,

A handwritten signature in black ink, reading "Douglas W. Lamont".

Douglas W. Lamont, P.E.
Senior Official Performing the Duties of the
Assistant Secretary of the Army
(Civil Works)

Enclosure

BILLING CODE: 5001-03

DEPARTMENT OF THE ARMY

**Notice of Termination of the Intent to Prepare an Environmental Impact Statement
in Connection with Dakota Access, LLC's Request for an Easement to Cross Lake
Oahe, North Dakota**

AGENCY: Department of the Army, DoD.

ACTION: Notice.

NOTICE: In light of the President's memorandum to the Secretary of the Army dated January 24, 2017, published in the Federal Register on January 30, 2017 (82 FR 8661), this notice advises the public that the Department of the Army (Army), as lead agency, effective immediately, no longer intends to prepare an environmental impact statement (EIS) in connection with the Dakota Access, LLC's request to grant an easement to cross Lake Oahe, which is on the Missouri River and owned by the US Army Corps of Engineers (Corps). Therefore, the Notice of Intent announced in the Federal Register on January 18, 2017 (82 FR 5543) is terminated.

AUTHORITY: This notice is published in accordance with sections 1503.1 and 1506.6 of the CEQ's Regulations (40 CFR parts 1500-1508) implementing the procedural requirements of NEPA, as amended (42 USC 4321 *et seq.*), and the Army and Corps' NEPA implementation policies (32 CFR part 651 and 33 CFR part 230), and exercises the authority delegated to the Assistant Secretary of the Army (Civil Works) by General Orders No. 2017-1, January 5, 2017.

Brenda S. Bowen

Army Federal Register Liaison Officer