



USET

SOVEREIGNTY PROTECTION FUND

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USET SPF Resolution No. 2017 SPF:006

OPPOSITION TO THE DAKOTA ACCESS PIPELINE AND URGING MEANINGFUL TRIBAL CONSULTATION ON FEDERAL INFRASTRUCTURE PROJECTS

- WHEREAS,** United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-six (26) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET SPF Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and
- WHEREAS,** an 1168-mile-long crude oil pipeline, known as the Dakota Access Pipeline (DAPL), is set to be built from North Dakota into South Dakota, Iowa, and Illinois, including making crossings over land sacred to the Standing Rock Sioux Tribe (SRST) and other Lakota peoples; and
- WHEREAS,** if allowed to proceed, DAPL has the potential to cause irreparable harm to public health, water quality, and sacred sites, including the SRST sacred site, Lake Oahe; and
- WHEREAS,** SRST and thousands of representatives from Tribal Nations across the country are engaging in non-violent protest of DAPL at Sacred Stone Camp and Red Warrior Camp near Cannon Ball, ND; and
- WHEREAS,** the peaceful protesters are reportedly facing arrest, military and police force, and the use of pepper spray and attack dogs, as they seek to protect the waters of the Missouri River and Tribal sacred sites; and
- WHEREAS,** federal law requires that sacred places be protected in consultation with Tribal Nations, but the Army Corps of Engineers has not complied with that requirement in permitting DAPL; and
- WHEREAS,** on July 27, 2016, SRST filed suit in federal district court against the Army Corps of Engineers citing lack of meaningful consultation and violation of laws, including the Clean Water Act, the National Historic Preservation Act, and the National Environmental Policy Act, in the issuance of permits for DAPL; and
- WHEREAS,** as the lawsuit proceeds, SRST continues to request a preliminary injunction against DAPL construction, which has been denied by both the District Court and on appeal; and
- WHEREAS,** on September 9, 2016, DC District Court Judge, James Boasberg, denied the injunction and ruled that the Army Corps of Engineers, "likely complied with [the National Historic Preservation Act (NHPA)] and that the Tribe has not shown it will suffer any injury that would be prevented by any injunction the Court could issue"; and


- WHEREAS,** following the decision, the United States Department of Justice, Department of the Army, and Department of the Interior announced that the federal government will put a halt to any DAPL construction on Army Corps land bordering or under the SRST sacred site, Lake Oahe, until it determines whether decisions regarding permitting of construction need to be reconsidered; and
- WHEREAS,** additionally, the agencies are initiating consultation with Tribal Nations on two questions: (1) Within the existing statutory framework, what should the federal government do to better ensure meaningful Tribal input into infrastructure-related reviews and decisions and the protection of Tribal lands, resources, and treaty rights?; and (2) Should new legislation be proposed to Congress to alter that statutory framework and promote those goals?; and
- WHEREAS,** on September 12, 2016, SRST appealed the denial to the DC Circuit Court of Appeals, requesting an injunction pending appeal, which was denied on October 9, 2016; and
- WHEREAS,** despite being asked repeatedly by the federal government to voluntarily cease construction during the lawsuit and as the Administration reviews its permitting decisions, DAPL continues to proceed with construction outside of federal lands; and
- WHEREAS,** it remains critically urgent that pipeline construction cease until the protection of sacred places, water quality, and the safety of protestors can be guaranteed; and
- WHEREAS,** the litigation, protest, damage to sacred sites, and human casualties could likely have been avoided had the Army Corps of Engineers engaged in timely, meaningful consultation with SRST and other affected Tribal Nations in accordance with aforementioned laws, and issued a full Environmental Impact Statement; and
- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** the USET SPF Board of Directors urges the Obama Administration to deny the final easement for the Dakota Access Pipeline to cross Lake Oahe; and, be it further
- RESOLVED** the USET SPF Board of Directors requests that the Administration suspend all construction permits on Dakota Access Pipeline while it conducts a full Environmental Impact Statement for the Lake Oahe crossing, as well as such other areas along the route identified as of concern to the directly impacted Tribal Nations, which must include meaningful consultation with Tribal Nations; and, be it further
- RESOLVED** the USET SPF Board of Directors firmly believes that if the Dakota Access Pipeline is to move forward, it must do so without adverse impacts to the Tribal Nations surrounding the pipeline, as determined by those Tribal Nations; and, be it finally

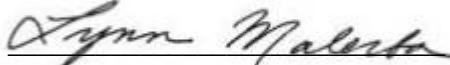
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RESOLVED the USET SPF Board of Directors encourages this and future Administrations to move toward engaging in more meaningful consultation and guidance from Tribal Nations during the development and planning of infrastructure projects, including incorporating express requirements for seeking consensus and stipulating that there must be written Tribal Nation consent, as well as reflect upon the failures that allowed this error in permitting to occur.

CERTIFICATION

This resolution was duly passed at the USET SPF Annual Meeting, at which a quorum was present, in Cherokee, NC, October 26, 2016.


Chief Kirk Francis, President
United South and Eastern Tribes
Sovereignty Protection Fund


Chief Lynn Malerba, Secretary
United South and Eastern Tribes
Sovereignty Protection Fund

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