

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

STANDING ROCK SIOUX TRIBE;
YANKTON SIOUX TRIBE; ROBERT
FLYING HAWK; OGLALA SIOUX
TRIBE,

Plaintiffs,

and

CHEYENNE RIVER SIOUX TRIBE,

Intervenor Plaintiff,

v.

U.S. ARMY CORPS OF ENGINEERS,

Defendant,

and

DAKOTA ACCESS, LLC,

Intervenor Defendant.

Case No. 1:16-cv-01534-JEB

**MOTION TO COMPEL PROMPT COMPLETION OF
ADMINISTRATIVE RECORD**

Dakota Access, LLC (“Dakota Access”) respectfully moves the Court to order Defendant U.S. Army Corps of Engineers (“Corps”) to produce promptly a complete administrative record for this case. As set forth in the attached memorandum of law, the existing record for post-July 25, 2016 events in this case is seriously deficient.

Dakota Access seeks production of records (including emails, telephone logs, and calendars) of the Departments of the Army, the Interior, and Justice, as well as those held, received, or

issued by the White House, that relate to the Dakota Access Pipeline project, including the following:

- All documents that relate to the preparation and substance of a September 9, 2016 Joint Statement issued by the three Executive Branch Departments, as well as all documents considered by the three Departments in developing and issuing that Joint Statement.
- All documents pertaining to an October 10 Joint Statement by the same Departments, including the determination whether to reconsider any previous decisions, and all documents considered as part of that determination.
- All documents considered in reaching the determination that the Army announced on November 14, and then reiterated on December 4, that the permits at issue here “comported with legal requirements.”
- All documents that discuss the granting of the July 25, 2016 permissions and all that were considered in deciding to announce delay of the easement.

Dakota Access respectfully requests expedited consideration of this motion and oral argument. Briefing has recently completed on Plaintiffs’ partial summary judgment motions and Defendants’ cross-motions. Despite good-faith efforts to work with the Corps on correcting these serious record deficiencies, Dakota Access still lacks documents critical to a full defense against Plaintiffs’ claims. The timing for briefing and production of the remaining record should be prompt enough to give Dakota Access the opportunity to supplement its arguments on the pending summary judgment motions and cross-motions before the Court resolves them.

Dakota Access has conferred with Plaintiffs and the Corps pursuant to Local Civil Rule 7(m). Plaintiffs have all reserved taking a position on this motion until they have had a chance to review this motion and supporting materials. The Corps has advised that, while it intends to supplement the record for other reasons, it opposes searching for the categories of records at issue here. Dakota Access did not file this motion earlier in the hope that it would first have a chance to review the records that the Corps is adding to see how they might narrow the dispute. Be-

cause briefing is now complete on summary judgment, however, Dakota Access is filing this motion without continuing to wait on the Corps's planned supplementation and will advise in its Reply or otherwise the extent to which supplementation affects this request.

Dated: April 21, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of April, 2017, I electronically filed the foregoing document using the CM/ECF system. Service was accomplished by the CM/ECF system.

/s/ William S. Scherman

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