



February 9, 2021

The Honorable Joe Biden
President of the United States
1600 Pennsylvania Ave, NW
Washington, DC 20500



Dear President Biden:

On behalf of our undersigned Tribal organizations, we write in support of the January 19, 2021 letter of the elected leaders of the Standing Rock, Cheyenne River, and Oglala Sioux Tribes (collectively, the “Tribes”) requesting that you immediately halt the construction and operation of the Dakota Access Pipeline (DAPL). We wish to offer our perspective on this matter and urge that you take the immediate actions proposed in the Tribes’ letter.

In their January letter, the Tribes asked that you instruct the Army Corps of Engineers (the Corps) to stop the illegal construction of DAPL and order the Corps to conduct a robust National Environmental Policy Act (NEPA) process, including meaningful Tribal consultation and the completion of a thorough Environmental Impact Study, before any future construction on the pipeline can take place. They also asked that you withdraw President Trump’s January 2017 “Presidential Memorandum Regarding Construction of the Dakota Access Pipeline” and reinstate the December 2016 opinion of the Solicitor of the Interior entitled “Tribal Treaty and Environmental Statutory Implications of the Dakota Access Pipeline,” which was itself withdrawn by the Department early in the Trump administration.

Since the Tribes’ letter was sent, the D.C. Circuit Court of Appeals has affirmed the D.C. District Court’s conclusion that the Corps’ process of approving the necessary easement for the pipeline violated NEPA and flagrantly disregarded Tribal rights. As the Court pointed out, “Since the Tribes retain rights associated with Lake Oahe, the Corps must consider the possible impacts of its DAPL permitting decisions on these reserved hunting, fishing, and water rights. In addition, federal laws like NEPA contain separate safeguards through which agencies must evaluate impacts to tribal treaty rights and interests prior to authorizing projects like the DAPL.” The heart of the Court’s finding was that the DAPL poses an oil spill hazard that has never been fully analyzed by the Corps. Yet, the question of whether injunctive relief will issue has been drawn out and is still unresolved. Thus, while the Corps ponders the magnitude of this risk, more than a half-million gallons of crude oil per day continue to flow through this pipeline. As a consequence, the health and welfare of Native Americans as well as the treaty resources that the United States is duty-bound to protect are imperiled.

Accordingly, the relief that the Tribes requested from you on January 19, 2021, remains urgent. We emphasize that while the D.C. Circuit’s decision did not itself resolve this matter, it did present you and your administration with an important opportunity to do so.



National Indian Health Board



The federal government's continued failure to halt the operation of DAPL represents a violation of its legal obligations to Tribal Nations including its treaty obligations, its fiduciary duty to protect the health and welfare of Indian Tribes, and its obligations to take seriously Tribal input in matters affecting Tribal Nations, their people, and their lands. As the D.C. Circuit stated in its opinion, "The Tribes' unique role and their government-to-government relationship with the United States demand that their criticisms be treated with appropriate solicitude."

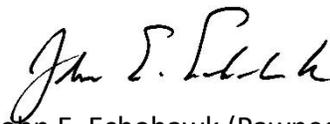
Set against the historic backdrop of the dispossession of the Tribes' lands and resources as well as the ways in which infrastructure developed in this region in disregard of Tribal rights, these more recent actions by the Corps are all the more appalling, if not unfortunately predictable. Not only is this an opportunity for your administration to correct the Corps errant course, but it is also an opportunity to demonstrate to tribes across the United States that this administration will take Tribal rights seriously and honor its fiduciary responsibility.

We urge you to take immediate action to address this important issue implicating treaty rights and the rights of Native peoples.

Sincerely,



Fawn Sharp (Quinault)
President
National Congress of American Indians



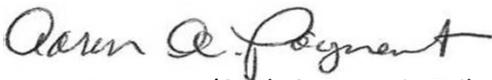
John E. Echohawk (Pawnee)
Executive Director
Native American Rights Fund



Chairman Harold Frazier (Cheyenne River
Sioux)
Chairman
Great Plains Tribal Chairmen's Association,
Inc.



Kirk Francis (Penobscot)
President
United South and Eastern Tribes Sovereignty
Protection Fund



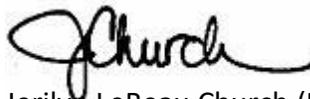
Aaron Payment (Sault Ste. Marie Tribe of
Chippewa Indians)
President
Midwest Alliance of Sovereign Tribes



W. Ron Allen
Tribal Chairman/CEO, Jamestown S'Klallam
Tribe and President, Board of Directors, Self-
Governance Communication & Education
Tribal Consortium



Aaron Payment (Sault Ste. Marie Tribe of
Chippewa Indians)
President
United Tribes of Michigan



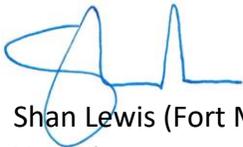
Jerilyn LeBeau Church (Mniconjou Lakota)
Chief Executive Officer
Great Plains Tribal Chairmen's Health Board



Will Funmaker (Ho-Chunk Nation)
Executive Director Great Lakes Area
Tribal Health Board



Frank Ettawageshik (Odawa)
President
Association on American Indian
Affairs



Shan Lewis (Fort Mojave)
Vice Chairman
Inter Tribal Association of Arizona



William Smith (Valdez Native Tribe)

Inter Tribal Association of
Arizona Chairman
National Indian Health Board



Laura Harris (Comanche)
Executive Director
Americans for Indian Opportunity



Rev. John R. Norwood, PhD, (Nanticoke-Lenape)
General Secretary
Alliance of Colonial Era Tribes (ACET)