

United States Senate

WASHINGTON, DC 20510

February 1, 2017

The Honorable Donald Trump
President of the United States of America
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear President Trump:

As the former Chairs, and current Ranking Member, of the United States Senate Committee on Indian Affairs, we write to express our concern about the Presidential Memorandum issued January 24, 2017 and reports that the Army Corps of Engineers intends to grant a final easement allowing construction of the Dakota Access Pipeline without appropriate consultation with the Standing Rock Sioux Tribe and due process.

This project would carry more than 500,000 barrels of oil each day while crossing underneath the Missouri River (at Lake Oahu) less than one-half mile north of the Standing Rock Sioux Reservation. This body of water is vital to the Tribe as well as the region. It provides drinking water, habitat for fish, wildlife and plants that sustain the Tribe, and is critical for sacred ceremonies.

It is for these reasons that the United States Department of the Army (through the Army Corps of Engineers) made the determination that an Environmental Impact Statement (EIS) is necessary to assess the impact that granting an easement at this location would have on the Tribe, the environment, and all those who rely on the Missouri River for their livelihood. This process has started, with the Army soliciting comments on the scope of an EIS.

It appears that your memorandum and the reported decision to grant the easement, seeks to truncate and override the EIS process and predetermine an outcome. This causes us a great deal of concern. Long standing legal precedent requires the United States to uphold its trust responsibility to tribes and protect the lands and resources that were guaranteed to them by treaty. By "expediting" this process and proceeding without appropriate consultation and pushing for a predetermined outcome, the United States would be turning its back on its most solemn trust responsibility to the Tribe. We are deeply concerned and believe the United States must uphold its trust and treaty obligations to the Tribe and respect the self-determination and wishes of all tribal nations.

For the last forty years federal policy, with respect to American Indian affairs, has recognized the federal government's responsibility to support tribal sovereignty and self-determination, a policy that was heralded by President Nixon and furthered under President Reagan. This policy requires the United States to engage with tribal governments on a government-to-government basis. Your January 24th memorandum was issued without any consultation by you or your staff with the Standing Rock Sioux Tribe.

Your January 24th memorandum requires that the Army Corps of Engineers carry out your directive to "the extent permitted by law." We believe existing law requires the Army to complete the already published EIS process, including notice and comment, and appropriate consultation with impacted parties. To do anything less, would undermine the rule of law and U.S. responsibilities to the Tribe.

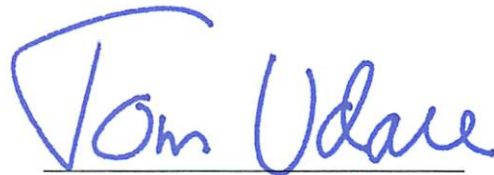
We ask that you uphold the United States' legal and moral responsibility to meaningfully consult with the Standing Rock Sioux Tribe before taking any further action with respect to the Dakota Access Pipeline. All federal agencies involved in the project should meaningfully consult with the Tribe before proceeding, and the U.S. Department of the Army should complete the EIS process with meaningful consultation with the Tribe. It is extremely important to fully understand the cumulative environmental and social impacts of a project of this scale. A full assessment of this project and possible must continue, and we would like to request updates on its progress.

We look forward to your response.

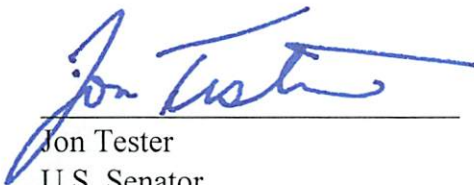
Sincerely,



Maria Cantwell
U.S. Senator



Tom Udall
U.S. Senator



Jon Tester
U.S. Senator