

FOR IMMEDIATE RELEASE—Oct. 9, 2016

Link and text of court ruling follows.



Standing Rock Sioux Tribe will continue fight against pipeline despite court setback

U.S. Court of Appeals denies injunction that would have halted construction during appeal process

Cannon Ball, N.D.—The U.S. Court of Appeals for the District of Columbia Circuit today rejected the Standing Rock Sioux Tribe’s request for an injunction to halt construction of the Dakota Access Pipeline by Texas-based Energy Transfer Partners. The decision comes as the Tribe is pursuing an appeal to stop construction while the rest of the case proceeds in U.S. District Court.

“The Standing Rock Sioux Tribe is not backing down from this fight,” said Dave Archambault II, Chairman of the Standing Rock Sioux Tribe. “We are guided by prayer, and we will continue to fight for our people. We will not rest until our lands, people, waters and sacred places are permanently protected from this destructive pipeline.”

The 1,168-mile pipeline crosses through the Standing Rock Sioux Tribe’s ancestral lands and within a half mile of the reservation boundary. Construction crews have already destroyed and desecrated confirmed sacred and historic sites, including burials and cultural artifacts. The original pipeline route crossed the Missouri River just north of Bismarck, the capital of North Dakota. The route was later shifted downstream, to the tribe’s doorstep, out of concerns for the city’s drinking water supply.

“We call on Dakota access to heed the government’s request to stand down around Lake Oahe,” said Jan Hasselman, lead attorney from Earthjustice, which is representing the Tribe. “The government is still deciding whether or not Dakota access should get a permit. Continuing construction before the decision is made would be a tragedy given what we know about the importance of this area.”

In its ruling, a panel of U.S. Circuit Court judges denied the tribe’s request for an injunction, allowing construction to continue as the Tribe’s appeal is considered. Previously, the Department of Justice announced a temporary halt to pipeline construction on federal lands and requested that Energy Transfer Partners voluntarily halt construction on private lands.

“The federal government recognizes what is at stake and has asked DAPL to halt construction,” said Archambault. “We hope that they will comply with that request.”

Archambault notes that by allowing pipeline construction to continue, today’s ruling threatens millions.

“This ruling puts 17 million people who rely on the Missouri River at serious risk,” said Archambault. “And, already, the Dakota Access Pipeline has led to the desecration of our sacred sites when the company bulldozed over the burials of our Lakota and Dakota ancestors. This is not the end of this fight. We will continue to explore all lawful options to protect our people, our water, our land, and our sacred places.”

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Link to Court decision:

https://www.dropbox.com/sh/y74w1a4ir75ixrk/AACleUz7Y3_94o6GSxzvtp5wa?dl=0

Text of Court Decision:

ORDER

Upon consideration of the emergency motion of appellant Standing Rock Sioux Tribe for injunction pending appeal, the oppositions thereto, the reply, the administrative injunction entered September 16, 2016, and the oral argument of the parties, it is **ORDERED** that the administrative injunction be dissolved.

It is **FURTHER ORDERED** that the motion be denied. Our precedent requires the party seeking an injunction to clearly show (1) a substantial likelihood of success on the merits; (2) the existence of irreparable harm absent injunction; (3) the equities favor injunctive relief; and (4) injunctive relief will not negatively impact the public interest. See *Davis v. Pension Ben. Guar. Corp.*, 571 F.3d 1288, 1291 (D.C. Cir. 2009); *Cobell v. Norton*, 391 F.3d 251, 258 (D.C. Cir. 2009). We find the Tribe has not carried its burden of persuasion on these factors, and so we deny the motion.

Although the Tribe has not met the narrow and stringent standard governing this extraordinary form of relief, we recognize Section 106 of the National Historic Preservation Act was intended to mediate precisely the disparate perspectives involved in a case such as this one. Its consultative process—designed to be inclusive and facilitate consensus—ensures competing interests are appropriately considered and adequately addressed. But ours is not the final word. A necessary easement still awaits government approval—a decision Corps’ counsel predicts is likely weeks away; meanwhile, Intervenor DAPL has rights of access to the limited portion of pipeline corridor not yet cleared—where the Tribe alleges additional historic sites are at risk. We can only hope the spirit of Section 106 may yet prevail.

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