

FOR IMMEDIATE RELEASE:

Thursday, September 8, 2016

**YANKTON SIOUX CONTACT:**

Thomasina Real Bird, Attorney, Yankton Sioux Tribe (303) 673-9600

Jennifer S. Baker, Attorney, Yankton Sioux Tribe (303) 673-9600

Jason Cooke, Yankton Sioux Tribe (605) 384-3641

Faith Spotted Eagle, Ihanktonwan Treaty Chair (605) 481-0416

The Ihanktonwan Oyate, or Yankton Sioux Tribe, has filed a new lawsuit against the Army Corps of Engineers (Corps) and the U.S. Fish and Wildlife Service (FWS) challenging the federal agencies' decisions to authorize construction of the Dakota Access Pipeline (DAPL). The Tribe and the Chairman of its Business and Claims Committee, Robert Flying Hawk, filed a complaint in federal district court for the District of Columbia earlier today. The complaint includes claims under the National Historic Preservation Act, the National Environmental Policy Act, the Clean Water Act, and the Administrative Procedures Act. This new lawsuit comes on the heels of a decision by a federal D.C. judge to temporarily halt DAPL construction in a lawsuit filed in August by the Standing Rock Sioux Tribe.

The Tribe's lawsuit highlights the Corps' blatant failure to engage in consultation as required by federal laws and regulations as well as the Corps' own policies. Less than four months ago, the Tribe had its first meeting with Corps officials regarding section 408 permits in North Dakota which the parties agreed was a "pre-consultation" meeting, and did not constitute actual consultation. Before the Tribe even had an opportunity to schedule an actual consultation meeting, and despite the Corps' representations that such a meeting would occur, the Corps blindsided the Tribe by releasing a final Environmental Assessment and Finding of No Significant Impact pertaining to the project. The Corps foreclosed the legally-mandated consultation process before consultation even began.

The Tribe also challenges the Corps' and FWS' failure to obtain the Tribe's free prior and informed consent prior to approving the project that will have severe impacts on the Tribe. The federal government's duty to first obtain a tribe's free prior and informed consent before taking action that will affect the tribe is grounded in the treaties, which pursuant to the U.S. constitution are the supreme law of the land. This duty has been codified and expounded upon in the United Nations Declaration on the Rights of Indigenous Peoples. Faith Spotted Eagle, Chair for the Ihanktonwan Treaty Steering Committee, explained: "The United Nations Declaration reflects what all Native people understand, that our complete world view is based on relationship. Relationship with the land, water, and all living things dictates how we conduct ourselves on Mother Earth. Those in power only have relationship with themselves and their sources of power; in this case, how much money they can make. It is a sad state of affairs but we will persevere. I pray for those who destroy sacred sites as there are consequences in the natural world."

The Tribe stresses that a key reason consultation is not only required by law but also vital to the Tribe's welfare is because tribes possess unique knowledge and expertise with respect to sacred

and cultural sites, much of which sounds in oral history, so sites of spiritual and cultural importance to tribes are likely to go undocumented and unprotected in the absence of tribal participation and insight. Because DAPL would traverse lands set aside for the Yankton Sioux Tribe and other Indian tribes by the 1851 Treaty at Fort Laramie as well as lands for which the Yankton Sioux Tribe held aboriginal title and other ancestral lands to which the Tribe ascribes historical and cultural significance, there is an abundance of sacred sites, cultural sites, and burials which are under threat by DAPL. The Tribe asserts that many if not most of these sites have never been identified and therefore will not be protected. The Tribe's action is motivated by a duty and an absolute need to protect these sites for future generations.

Other driving factors include protection of water, which is sacred to the Tribe and considered the "first medicine," and the Tribe's interest in ensuring that the laws intended to protect it are enforced.

Chairman Flying Hawk expressed grave concern about what is at stake with respect to DAPL. "As Chairman of the Ihanktonwan, I and the Ihanktonwan Oyate support the efforts our relatives at Standing Rock and Cheyenne River are taking to protect what we as the Oceti Sakowin hold sacred. We stand with them and all our relatives in taking this action in defense of our people."