

Section I.

7-25-2016:

**Colonel John W. Henderson
Evaluated a 1261 page
Environmental Assessment (“EA”),
then Authorized
Dakota Access L.L.C. Employees
to Drill Beneath
Lake Oahe *and* The Missouri River
to Install
the Dakota Access Pipeline Project (“DAPL”)
approximately 92 feet beneath the riverbeds while
crossing
“Federally-Owned Property at Lake Oahe”**

Though the Standing Rock Sioux Tribe (“SRST”) *objected* to the construction of the Dakota Access Pipeline Project (“DAPL”) due to the risk it imposes on the tribe's drinking water *and* upon the safety of their ancestral burials sites¹, on July 25th, 2016, *while aware of the aforementioned objections*, John W. Henderson, acting as *Commander and District Engineer of the Army Corps of Engineers – Omaha District*², violated the Fiduciary Duty the United States is Constitutionally-required to uphold, as *Guardian*, on behalf of the Estate's *Ward*, the Standing Rock Sioux Tribe³.

1 **Earthjustice, “UPDATES & FREQUENTLY ASKED QUESTIONS; The Standing Rock Sioux Tribe’s Litigation on the Dakota Access Pipeline”:** <http://earthjustice.org/features/faq-standing-rock-litigation>

2 **US Army Corps of Engineers, “Colonel John W. Henderson, Commander and District Engineer– Omaha District”:** www.nwo.usace.army.mil/Media/Bio-Article-View/Article/602063/colonel-john-w-henderson/

3 **“Summary Analysis of The Fiduciary ('Trust') Relationship Between Indigenous ('Indian') Tribes & Tribal Nations & The United States Government, with particular focus on The Reserved Senior Water Rights of The Standing Rock Sioux Tribe in accordance with the 1851 & 1868 Fort Laramie Treaties”, available here:** www.standingrockclassaction.org/?page_id=3258

Pages 1 – 6 of the EA, Colonel Henderson's *Authorization*:

Colonel John W. Henderson was responsible for reviewing a 1261 page set of documents entitled “ENVIRONMENTAL ASSESSMENT for Dakota Access Pipeline Project; ‘Crossings of Flowage Easements and Federal lands’”; this set of documents may be downloaded in their entirety via the “Army Corps of Engineers' Digital Library” here:

<http://cdm16021.contentdm.oclc.org/cdm/ref/collection/p16021coll7/id/2427>

Within the first 6 pages of the Environmental Assessment (“EA”), as evidenced on pages 4-5, it is apparent he was fully aware that the SRST *and other tribal governments* objected to the proposed location of DAPL for the following reasons:

- 1.) **The proposed route crosses under Lake Oahe a few miles upstream of the SRST water intakes. Tribes are concerned that a leak or rupture would contaminate the river, including the SRST's drinking water.**
- 2.) **Tribes are concerned that the installation of the pipeline and a potential leak or rupture could damage or destroy cultural and sacred resources in the area.**

John W. Henderson confirmed, via Authorization, that he was aware that:

- 1.) **The Tribes argue the District did *not* adequately consult on the DAPL pipeline alignment.**

Despite their objections due to safety concerns *and* the safety of their (equivalent of) cemeteries, *and the* “lack of consultation” proclaimed to have experienced (see “Screenshot from page 2” on page 4 of this document), Colonel John W. Henderson asserted the following to be true (see “Excerpt from page 6” on page 4 of this document):

“I have evaluated the anticipated environmental, economic, cultural, and social effects, and any cumulative effects of the Proposed Action and determined that the Proposed Action is not injurious to the public interest... I have determined that preparation of an Environmental Impact Statement is not required.”

Pages 4-6 contain screenshots from within the first six pages of the EA, which, taken into context with Section II of this document (beginning on page 7), confirm Colonel John W. Henderson authorized drilling required for the DAPL project despite the objections. Sections which provide conclusive evidence pertinent to the Conclusions case.

Screenshot of Army Corps of Engineers' "Digital Library" where the EA may be downloaded from:

The screenshot shows a web browser window with the URL cdm16021.contentdm.oclc.org/cdm/ref/collection/p16021coll7/id/2427. The page header features the USACE Digital Library logo and navigation links for Home and Browse All. A search bar is present with a Search button and a link to Advanced Search. The breadcrumb trail indicates the location: Home > Project Management Reports > Environmental assessment: Dakota Access Pipeline Project, crossings of flowage easements and... Below this, there are links for Reference URL and Save to favorites. The main title of the document is "Environmental assessment: Dakota Access Pipeline Project, crossings of flowage easements and federal lands". A link to View Description is provided. The document is available in PDF and Text formats. The PDF file is named "2802.pdf" and is 65.99 MB in size. A note states "Link will provide options to open or save document." and the file format is identified as Adobe Reader. The Object Description section provides the following details:

Title	Environmental assessment: Dakota Access Pipeline Project, crossings of flowage easements and federal lands
Organizational author	Dakota Access, LLC United States. Army. Corps of Engineers. Omaha District
Report type	Environmental assessment
Publisher	U.S. Army Corps of Engineers, Omaha District
Date published	2015; 2016
Date digitized	2015
Subject	Environmental aspects Pipelines Real property
Keyword	Federal flowage easements
District	United States. Army. Corps of Engineers. Omaha District
State	North Dakota
Local place	Missouri River Williams County (N.D.) Lake Sakakawea (N.D.) Lake Oahe (S.D. and N.D.) Morton County (N.D.) Emmons County (N.D.)

Screenshot from page 1:

ENVIRONMENTAL ASSESSMENT DAKOTA ACCESS PIPELINE PROJECT WILLIAMS, MORTON, AND EMMONS COUNTIES, NORTH DAKOTA

Introduction: In accordance with the National Environmental Policy Act (NEPA) and its implementing regulations, an Environmental Assessment (EA) was prepared to evaluate the potential effects of the United States Army Corps of Engineers (USACE), Omaha District (District), granting permission under Section 14 of the Rivers and Harbors Act of 1899, codified 33 U.S.C. Section 408 (Section 408), to Dakota Access, L.L.C. (Dakota Access) to allow the proposed Dakota Access Pipeline (DAPL) Project to cross federal real property interests administered by the District. Specifically, the DAPL project would cross federal flowage easements near the upper end of Lake Sakakawea, north of the Missouri River in Williams County, North Dakota, and federally-owned property at Lake Oahe in Morton and Emmons counties, North Dakota. Dakota Access proposes the DAPL Project to efficiently and safely transport at least 570,000 barrels of crude oil per day (bpd) from the Bakken and Three Forks production region in North Dakota to a crude oil market hub located near Patoka, Illinois, and ultimately to refineries located in the Midwest and the Gulf Coast, where 80% of the U.S. refining capabilities exist.

Screenshot from page 2:

The Standing Rock Sioux Tribe (SRST) and other tribal governments object to the pipeline and its alignment because the proposed route crosses under Lake Oahe a few miles upstream of the SRST water intakes. Tribes are concerned that a leak or rupture would contaminate the river, including the SRST's drinking water. The tribes argue the District did not adequately consult on the DAPL pipeline alignment. The EA establishes that the District made a good faith effort to consult with the tribes and that it considered all tribal comments. In addition, the pipeline will be located under Lake Oahe, and Dakota Access has developed response and action plans, and will include several monitoring systems, shut-off valves and other safety features to minimize the risk of spills and reduce or remediate any potential damages.

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Screenshot from page 3:

Summary of Cultural Impacts: Tribes are also concerned that the installation of the pipeline and a potential leak or rupture could damage or destroy cultural and sacred resources in the area. The District referenced a Class I Literature Review performed by Dakota Access, as well as existing Corps of Engineers Class III surveys and the North Dakota State Historic Preservation Office (SHPO) Guidelines Manual for Cultural Resources Inventory Projects as part of the National Historic Preservation Act (NHPA) Section 106 evaluation. Section 106 consultation/coordination with Tribal governments and members, THPOs, the SHPO, the Advisory Council on Historic Preservation (ACHP), and other interested parties began in September 2014. The Corps conducted formal government-to-government consultation with tribal representatives via meetings; site visits; distribution of pertinent information; conference calls, and emails in order to inform tribal governments and private members, and to better understand their concerns. The Corps' EA administrative record details over 250 interactions between District and Dakota Access representatives and consulting parties (Tribes, THPOs, the SHPO, ACHP, and interested parties) for the DAPL project. All information received during the Section 106 process was considered during the Corps decision-making process.

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Screenshot from page 6:

Conclusion: I have evaluated the anticipated environmental, economic, cultural, and social effects, and any cumulative effects of the Proposed Action and determined that the Proposed Action is not injurious to the public interest and will not impair the usefulness of the federal projects. Moreover, for the reasons stated herein and discussed in greater detail in the Environmental Assessment, the District granting the referenced Section 408 permissions does not constitute a major federal action that would significantly affect the quality of the human environment. As a result, I have determined that preparation of an Environmental Impact Statement is not required. This conclusion and the processes and documents supporting it are in compliance with all applicable laws, executive orders, regulations and guidelines.

2 5 JUL 2016

Date

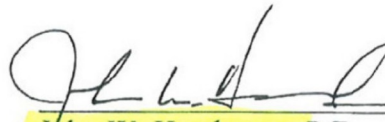

John W. Henderson, P.E.
Colonel, Corps of Engineers
District Commander

Photo of John W. Henderson:

Photo Source:

Army Corps of Engineers; OMAHA DISTRICT, “Colonel John W. Henderson, Commander & District Engineer, Omaha District”:

www.nwo.usace.army.mil/Media/Bio-Article-View/Article/602063/colonel-john-w-henderson/

