



4. The Corps diligently compiled the administrative record of the decisions challenged by the Standing Rock Sioux Tribe. The administrative record includes approximately 5,300 documents.

5. The Corps expects to lodge the majority of the administrative record in this case on November 10, 2016.

6. The Corps reviewed the administrative record to determine whether it contained information that is protected by the National Historic Preservation Act, 54 U.S.C. § 54 U.S.C. § 300101 *et seq.*; the Privacy Act, 5 U.S.C. § 552a, certain sensitive security information, the attorney client privilege, or the attorney work product privilege. The Corps redacted information from the administrative record in accordance with these statutes, standards, and privileges.

7. The Corps identified approximately 31 documents submitted to the Corps by Dakota Access that Dakota Access labeled as “confidential.” Counsel for the Corps and Counsel for Dakota Access engaged in discussions regarding identifying any additional documents in the administrative record that may contain similar, potentially confidential information. The Corps and Dakota Access are conferring regarding: (A) the extent to which the information contained in those documents may be protected by, among other things, the Pipeline and Hazardous Materials Safety Administration 49 C.F.R. Part 1500 regulations; and (B) the proper manner of protecting any such information.

8. Accordingly, Dakota Access and the Corps need additional time to complete their review of these documents. The Corps will then need additional time to supplement its administrative record with these documents in an appropriate manner.

9. The granting of this motion will not cause undue injury or prejudice to the Parties' interests in this case. Rather, the requested relief, if granted, will enable the Corps to lodge its administrative record in an efficient and appropriate manner.

WHEREFORE, the Corps hereby respectfully requests that the Court:

- (1) Order a limited, two-week extension of the November 10, 2016 deadline for lodging a portion of the administrative record consisting of approximately 31 documents in order to allow the Corps to confer with Dakota Access regarding: (A) the extent to which the information contained in those documents may be protected by, among other things, the Pipeline and Hazardous Materials Safety Administration 49 C.F.R. Part 1500 regulations; and (B) the proper manner of protecting any such information.
- (2) Order that on or before November 24, 2016, the Corps address the administrative record documents that it is withholding in order to engage in discussions with Dakota Access by either: (A) lodging the documents; (B) lodging redacted copies of the documents; or (C) filing a motion for a protective order relating to the documents.

Dated: November 9, 2016

Respectfully submitted,

JOHN C. CRUDEN  
Assistant Attorney General  
Environment & Natural Resources Division

By: /s/ Matthew Marinelli  
MATTHEW MARINELLI, IL Bar 6277967  
U.S. Department of Justice  
Natural Resources Section  
P.O. Box 7611  
Benjamin Franklin Station  
Washington, DC 20044  
Phone: (202) 305-0293  
Fax: (202) 353-2021  
matthew.marinelli@usdoj.gov

ERICA M. ZILIOLI, D.C. Bar 488073  
U.S. Department of Justice  
Environmental Defense Section  
P.O. Box 7611  
Washington, DC 20044  
Phone: (202) 514-6390  
Fax: (202) 514-8865  
[Erica.Zilioli@usdoj.gov](mailto:Erica.Zilioli@usdoj.gov)

*Attorneys for the United States Army Corps  
of Engineers*

OF COUNSEL:

MILTON BOYD  
MELANIE CASNER  
U.S. Army Corps of Engineers  
Office of Chief Counsel  
Washington, DC

**CERTIFICATE OF SERVICE**

I hereby certify that, on the 7th day of November, 2016, a copy of the foregoing was filed through the Court's CM/ECF management system and electronically served on counsel of record.

/s/\_\_\_\_\_.