IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

STANDING ROCK SIOUX TRIBE, Plaintiff,)))
v.) Case No. 1:16-cv-01534 (JEB)
UNITED STATES ARMY CORPS OF ENGINEERS,)))
Defendant.)))

DEFENDANT'S MOTION FOR EXTENSION OF TIME TO LODGE PORTION OF ADMINISTRATIVE RECORD

Pursuant to Rule 7 of the Federal Rules of Civil Procedure, Defendant United States

Army Corps of Engineers ("Corps") hereby respectfully moves for a two-week extension of the

deadline for lodging a portion of the administrative record in this case because that portion of the

administrative record requires additional review. This is the Corps' first such motion. Plaintiffs

Standing Rock Sioux Tribe and Cheyenne River Sioux Tribe do not oppose this motion.

Defendant Dakota Access LLP opposes the Corps' requested two-week extension but does not

oppose a one-week extension. In support of its motion, the Corps states the following:

- 1. The Standing Rock Sioux Tribe filed this case on July 27, 2016. ECF No. 1. It filed a Motion for Preliminary Injunction on August 4, 2016. ECF No. 5. The Court denied Standing Rock Sioux Tribe's motion on September 9, 2016. ECF No. 38.
- 2. The Court held a status hearing on September 16, 2016. ECF No. 49. At that status hearing, the Court ordered the Corps to respond to the Standing Rock Sioux Tribe's complaint by October 11, 2016, and lodge its administrative record by November 10, 2016.
 - 3. The Corps filed its answer on October 11, 2016. ECF No. 47.

- 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,

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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/ .