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November 25, 2016

Colonel John W. Henderson
Commander and District Engineer
Omaha District, U.S. Army Corps of Engineers
1616 Capitol Avenue
Suite 900
Omaha, NE 68102

Re: November 25, 2016, Letter Regarding Closure of Treaty Lands

Dear Col. Henderson:

This letter responds to your correspondence, dated November 25, 2016, announcing the U.S. Army Corps of Engineers' ("Corps") plan to close certain "Corps" managed lands to all public use and access effective December 5, 2016." You state that "[t]his decision is necessary to protect the general public from the violent confrontations between protestors and law enforcement officials that have occurred in this area, and to prevent death, illness, or serious injury to inhabitants of encampments due to the harsh North Dakota winter conditions."

You have warned that anyone found outside of a so-called "free speech zone" will be considered trespassing and may be subject to prosecution under federal state, and local laws." You have asked me to "encourage members of [the Cheyenne River Sioux Tribe], as well as any

The blue represents the thunderclouds above the world where live the thunder birds who control the four winds. The rainbow is for the Cheyenne River Sioux people who are keepers of the Most Sacred Calf Pipe, a gift from the White Buffalo Calf Maiden. The eagle feathers at the edges of the rim of the world represent the spotted eagle who is the protector of all Lakota. The two pipes fused together are for unity. One pipe is for the Lakota, the other for all the other Indian Nations. The yellow hoops represent the Sacred Hoop, which shall not be broken. The Sacred Calf Pipe Bundle in red represents Wakan Tanka – The Great Mystery. All the colors of the Lakota are visible. The red, yellow, black and white represent the four major races. The blue is for heaven and the green for Mother Earth.

non-members who support you who are located in the encampments north of the Cannonball River on Corps lands to immediately and peacefully move to the free speech zone. . . .”

The area north of the Cannonball River is both the ancestral homeland of the Lakota people and inside the boundaries of the 1851 Fort Laramie Treaty, a treaty that has not been abrogated and law that governs us all. The best of these lands have already been unjustly taken and flooded by the Corps in the disastrous Pick-Sloane legislation. We will no longer allow our rights as a Tribe or as indigenous people as a whole to continue to be eroded.

This decision, coming on the heels of the Thanksgiving holiday, is not only disrespectful, but continues the cycle of racism and oppression imposed on our people and our lands throughout history.

We ask that the Corps and the United States reconsider this decision. Treaties are the supreme law of the land and the Constitution of the United States demands that they be respected. Removal from Sioux Treaty lands should be the choice of the *Oceti Sakowin* Camp north of the Cannonball River, not the United States, which has been violating our rights for hundreds of years. The Cheyenne River Sioux Tribe stands with the more than 300 Tribal nations and the water protectors who are here peacefully protesting the Dakota Access pipeline while defending the rights of indigenous people.

Furthermore, your letter dangerously and profoundly misunderstands the basic function and status of a tribal government and its elected leaders. I am the chief executive of a sovereign nation that is comprised of individual citizens with physical territory within the exterior boundaries the State of South Dakota. Under the laws of the United States, my government lacks jurisdiction at Cannonball; but more importantly, I no more control the acts and behaviors of Cheyenne River Sioux Tribal members or non-member water protectors at the Cannonball site than you do, Col. Henderson.

As set forth above, even if I could control the water protectors, I recognize and respect their rights under the Constitution of the United States to peaceably assemble in prayerful protest against the cultural and environmental atrocity that is the Dakota Access Pipeline. I would not use my authority, which is based on the consent of my citizens, to curtail their human and constitutional rights.

Perhaps the most terrifying aspect of your letter is your acknowledgement of the stark reality that that the confrontation between our peaceful water protectors and law enforcement could result in death or serious injury, a fact demonstrated by the brutal attack on Sophia Wilansky by North Dakota police last week. But in the very next paragraph you *guarantee* that further confrontations will occur by promising that these peaceful people will be trespassing on closed areas and you threaten that they will do so “*at their own risk*” and will “*assume[] any and all corresponding liabilities for their unlawful presence and occupation of such lands.*”

I take your letter as issuing a direct and irresponsible threat to the water protectors. It appears to further empower the militarized police force that has been brutalizing and terrorizing our water protectors while imposing the blame and the risk on unarmed peaceful people. We

have pleaded for the protection of the United States. Your letter makes a grave and dangerous mistake. Federal efforts to de-escalate the violence should be aimed at the wrongdoers, not at our peaceful people

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Frazier', with a long horizontal flourish extending to the right.

Harold Frazier, Chairman
Cheyenne River Sioux Tribe

cc: President Barack Obama
Assistant Secretary, Jo-Ellen Darcy
Secretary of Interior Sally Jewell
Attorney General Loretta Lynch
Acting Assistant Secretary Larry Roberts
Tracy Toulou