

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

STANDING ROCK SIOUX TRIBE

Plaintiff,

V.

U.S. ARMY CORPS OF ENGINEERS

Defendant,

DAKOTA ACCESS, LLC

Intervenor.

www.pearsoned.com

Case No. 1:16-CV-01534

**AFFIDAVIT OF JOEY MAHMOUD IN SUPPORT OF DAKOTA ACCESS'S MOTION
TO PREVENT PUBLICATION OF ENVIRONMENTAL-IMPACT-STATEMENT
NOTICE IN FEDERAL REGISTER, AND EMERGENCY MOTION FOR INTERIM
RELIEF THROUGH A TEMPORARY RESTRAINING ORDER**

1) My name is Joey Mahmoud. I am over 21 years of age, of sound mind, and duly qualified to make this declaration. I make this declaration based upon my personal knowledge, including without limitation (i) my personal communications as they relate to Dakota Access; (ii) my personal involvement with the business dealings of Dakota Access and the Dakota Access Pipeline (“DAPL”); (iii) my personal involvement in the application, authorization, verification, right-of-way negotiations and other government interactions and procedures that DAPL was subject to and that are the subject of this litigation; and (iv) my position as Vice President of Dakota Access and Executive Vice President of Engineering & Construction of Energy Transfer Partners, L.P., a beneficial owner of Dakota Access.

2) Dakota Access is a limited liability company formed to construct and own DAPL. In that capacity it has applied for, received, and holds various federal rights-of-way, permits, authorizations, and verifications needed to construct and operate DAPL.

3) Physical pipeline construction activities along the length of DAPL are essentially complete, with the exception of horizontal directional drilling (“HDD”) below Lake Oahe, certain final tie-ins to make the pipeline contiguous from start to finish, and minor land restoration activities across the length of the pipeline. Crude oil has been placed in a portion of the pipeline leading up to Lake Oahe in anticipation of completing the pipeline and commencing full operations.

4) HDD operations have begun at the Lake Oahe site: the entry and exit holes have been created, the pilot hole for the drilling has been initiated and executed up to the boundary of private property and the property owned by the United States. However, remaining HDD activities have been temporarily suspended awaiting this Court’s decision on Dakota Access’s cross-claim.

5) On January 12, 2017, I received a phone call from an associate who lives and works in Washington D.C., who reported to me that the Assistant Secretary of the Army for Civil Works, Jo-Ellen Darcy, had issued a directive to prevent communications beyond her particular office about the Army’s intentions for DAPL during the final days of the current administration.


6) Upon hearing this information, I made inquiries with various contacts to try to understand the directive Assistant Secretary Darcy was implementing, including its purpose, and to identify its possible effects on DAPL and the Court’s consideration of Dakota Access’s cross-claim.

7) On January 13, 2017, I was told by a contact within the government that Assistant Secretary Darcy has been in direct communication and planning with Plaintiff Standing Rock Sioux Tribe, and possibly other tribes, regarding the planning, scoping and publication of a notice of intent for the Army to require an Environmental Impact Statement ("EIS"). The purported authority for this EIS would be the Mineral Leasing Act. I was further informed that Assistant Secretary Darcy had directed that the notice be published in the Federal Register as early as Wednesday, January 18, 2017. I was also informed that Assistant Secretary Darcy made the decision to undertake this action without communication or coordination with the U.S. Army Corps of Engineers, the Federal Agency previously in the lead in issuing the approvals, verifications, permits and rights-of-way for DAPL, including the portion crossing Lake Oahe.

8) Further, on January 16, 2017, I learned from a senior ETP official that Sally Jewell, U.S. Secretary of the Interior, notified the North Dakota Governor's office on January 13, 2017, that Assistant Secretary Darcy plans to publish a notice of intent in the Federal Register to proceed with the new EIS.

9) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Executed on this 16 th day of January, 2017.


Joey Mahmoud