

CASE NO. 17-5043

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STANDING ROCK SIOUX TRIBE,
Plaintiff-Appellant,

And

CHEYENNE RIVER SIOUX TRIBE,
Intervenor-Plaintiff-Appellant,

v.

U.S. ARMY CORPS OF ENGINEERS,
Defendant-Appellee,

And

DAKOTA ACCESS LLP,
Intervenor-Defendant-Appellee.

**PLAINTIFF-APPELLANT CHEYENNE RIVER SIOUX TRIBE'S
UNOPPOSED MOTION FOR VOLUNTARY DISMISSAL OF APPEAL
WITH PREJUDICE**

Plaintiff-Appellant Cheyenne River Sioux Tribe (“Tribe”) hereby moves the Court, pursuant to Fed. R. App. P. 42(b), to dismiss this appeal. In support of this motion, the Tribe states as follows:

1. On February 9, 2017, the Tribe filed a motion for preliminary injunction to prevent the flow of oil through the Dakota Access Pipeline under Lake Oahe in

North Dakota pursuant to the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1 (“RFRA”) while the district court considered the merits of the Tribe’s RFRA claim.

2. On March 7, 2017, the U.S. District Court for the District of Columbia denied the Tribe’s motion for preliminary injunction.

3. On March 10, 2017, the Tribe filed its notice of appeal and a motion for injunction pending appeal filed under Federal Rule of Civil Procedure 62(c) in the district court. The district court denied the Tribe’s motion for injunction pending appeal on March 14, 2017.

4. On March 15, 2017, the Tribe filed an emergency motion for injunction pending appeal in this Court under Federal Rule of Appellate Procedure 8(a) and D.C. Circuit Rule 8. This Court denied that motion on March 18, 2017.

5. On March 27, 2017, Defendant-Appellee Dakota Access, LLC advised that oil had been placed in the Dakota Access Pipeline under Lake Oahe. Accordingly, the Tribe moves to dismiss its appeal from the district court’s denial of a preliminary injunction to stop the flow of oil under Lake Oahe. No appeal briefs have been filed by either side.¹ The Tribe requests that the Court grant the voluntary dismissal of this appeal with prejudice, with each side to bear its own costs. Undersigned counsel has conferred with counsel for the Standing Rock Sioux Tribe,

¹ Appellant’s initial brief is due on May 2, 2017.

the U.S. Army Corps of Engineers, and Dakota Access, LLC and has been informed that this motion is unopposed.

Respectfully submitted this 28th day of April, 2017.

CHEYENNE RIVER SIOUX TRIBE,
Intervenor-Plaintiff,

By: /s/ Nicole E. Ducheneaux

Nicole E. Ducheneaux
Fredericks Peebles & Morgan LLP
3610 North 163rd Plaza
Omaha, NE 68116
Telephone: (402) 333-4053
Facsimile: (402) 333-4761
nducheneaux@ndnlaw.com

Conly J. Schulte
Fredericks Peebles & Morgan LLP
1900 Plaza Drive
Louisville, CO 80027
Telephone: (303) 673-9600
Facsimile: (303) 673-9839
cschulte@ndnlaw.com

CERTIFICATE OF SERVICE

I certify that on April 28, 2017, I filed the foregoing *Unopposed Motion for Voluntary Dismissal of Appeal With Prejudice* with the Court and served true and correct copies via the Court's CM/ECF system and via e-mail to:

Counsel for Defendant-Appellee U.S. Army Corps of Engineers

James A. Maysonett
Appellate Section, Environment and
Natural Resources Section
U.S. Department of Justice
PHB Mailroom 2121
601 D Street, NW
Washington, DC 20004
james.maysonett@usdoj.gov

Erica M. Zilioli
U.S. Department of Justice
Environmental Defense Section
601 D Street, NW, Suite 8000
Washington, DC 20004
erica.zilioli@usdoj.gov

Counsel for Plaintiff Standing Rock Sioux Tribe

Jan Hasselman
Earthjustice Legal Defense Fund
705 Second Avenue
Suite 203
Seattle, WA 98104-1711
jhasselman@earthjustice.org

Counsel for Intervenor-Defendant-Appellee Dakota Access, LLC

Kimberly H. Caine
Robert D. Comer
Norton Rose Fullbright US LLP
799 9th Street NW, Suite 1000
Washington, DC 20001-4501
kim.caine@nortonrosefullbright.com
william.leone@nortonrosefullbright.com
bob.comer@nortonrosefullbright.com

William J. Leone
Norton Rose Fulbright US LLP
666 Fifth Avenue
New York, New York 10103-3198
william.leone@nortonrosefulbright.com

Edward V.A. Kussy
Alan M. Glen
Nossaman LLP
1666 K Street, NW, Suite 500
Washington, DC 20006
ekussy@nossaman.com
aglen@nossaman.com

Miguel A. Estrada
William S. Scherman
David Debold
Gibson Dunn & Crutcher, LLP
1050 Connecticut Avenue, N.W.
Washington D.C. 20036
mestrada@gibsondunn.com

/s/ Nicole E. Ducheneaux