

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STANDING ROCK SIOUX TRIBE,

Plaintiff,

and

CHEYENNE RIVER SIOUX TRIBE,

Plaintiff-Intervenor,

v.

U.S. ARMY CORPS OF ENGINEERS,

Defendant-Cross Defendant,

and

DAKOTA ACCESS, LLC,

Defendant-Intervenor-Cross Claimant.

Case No. 1:16-cv-1534-JEB

JOINT STATUS REPORT

Pursuant to this Court’s minute order, dated November 27, 2017, Plaintiff Standing Rock Sioux Tribe (“SRST”); Plaintiff-Intervenor Cheyenne River Sioux Tribe (“CRST”); Defendant U.S. Army Corps of Engineers (“Corps”) and Defendant-Intervenor Dakota Access LLC (“DAPL”) respectfully submit this status report to update this Court regarding the status of this litigation. That minute order directed that “Within 30 days following the completion of remand, all parties shall submit a joint status report and proposed schedule for post-remand briefing.”

On August 31, 2018, the United States Army Corps of Engineers provided notice to the Court and all Parties that remand was complete. ECF No. 363. The Corps attached a Memorandum of Record to the notice, which set forth the Corps’ remand conclusions. *Id.* The

Corps also stated that the Remand analysis was undergoing a confidentiality review before its release. *Id.*

As part of the confidentiality review, the Corps requested that the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) review the Remand analysis for information that should be redacted from a publicly available document. The Corps received the results of PHMSA’s review on September 24, 2018 and has reviewed and incorporated PHMSA’s comments into the Remand analysis. The Corps has shared a version of the Remand analysis with proposed redactions with DAPL, SRST, and CRST for their own review. The Parties have agreed that until the document is subject to public release by the Corps, it shall be treated as covered by the protective order in this case. *See* ECF No. 235, Order of June 6, 2017. The Tribes have not previously had the opportunity to review the Corps’ Remand analysis and make appropriate governmental-level decisions as to whether and/or how to proceed with this litigation. Accordingly, the Parties are not yet able to provide the proposal for post-remand briefing that this Court requested.

The Parties respectfully request the Court order as follows:

(a) Any party that wishes to include additional redactions, other than those in the Remand analysis document transmitted by the Corps to the Parties, shall either reach agreement with the other Parties or move for a protective order within ten days of receiving the document. Any party that seeks to prohibit the Corps from making redactions in the Remand analysis document shall either reach agreement with the other Parties or file a motion within ten days of receiving the document. Oppositions to any such motions must be filed within fourteen days, and any reply three days after that.

(b) As expeditiously as possible, but no later than November 1, 2018, the Parties shall

submit proposals for post-remand proceedings. (DAPL believes this can be accomplished by October 15, 2018, but does not object to the language preferred by the other Parties.)

Dated: October 1, 2018

Respectfully Submitted,

STANDING ROCK SIOUX TRIBE,
Plaintiff

CHEYENNE RIVER SIOUX TRIBE,
Intervenor-Plaintiff

/s/ Jan E. Hasselman

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Intervenor-Defendant

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