



**Dakota Access Pipeline Remarks
North Dakota Senator John Hoeven
Floor of the U.S. Senate
November 30, 2016**

Introduction

I rise to speak today and respond to comments from some of my colleagues on the Dakota Access Pipeline and the ongoing protests in North Dakota.

The Dakota Access Pipeline is a 1,172-mile crude-oil pipeline from the Bakken oil fields near Stanley, North Dakota, to refineries and terminals in Patoka, Illinois. It will move 470,000 barrels of light sweet crude – the highest grade oil – from the Bakken in North Dakota and Montana to market oil that is now moved by truck and rail over our roads and bridges. So the project actually increases efficiency and safety for oil that is already being transported. Further, the project has undergone years of thorough state regulatory reviews and an extensive federal environmental assessment, which found no significant environmental impact.

Twice challenged and twice upheld – including by the Obama administration’s own appointees – the federal courts found that the Army Corps had followed the appropriate process the Standing Rock Sioux Tribe was properly consulted and the project can lawfully proceed.

Everyone has a right to be heard, but it must be done lawfully and peacefully – whether this is during the permitting process with its opportunities for public comment or else disputing the outcome through the court system. And I emphasize through the court system.

The ongoing protest activities – which at times have turned violent – are being prolonged and intensified by the Obama Administration’s refusal to approve the final remaining easement at Lake Oahe. This inaction has inflamed tensions, strained state and local resources, and, most importantly, is needlessly putting people at risk – including tribal members, protestors, law enforcement officers, construction workers, and area residents –our farmers and ranchers who live and work in the area.

It’s past time that the final easement is approved and construction is completed. We need to resolve this issue. As the record demonstrates, it should be done so by its merits through the previously established regulatory and legal process.

Further the federal law enforcement agencies should help our state and local law enforcement officers to ensure the law is followed, prevent violent and unlawful protests, and see

that the peace is maintained. Our law enforcement officers have worked professionally, diligently, and tirelessly to protect the public.

Background

To further describe the situation, let me provide some background.

The company developed the route for Dakota Access Pipeline beginning in 2014. The current path will run parallel to the existing Northern Border Gas Pipeline, which was placed into service in 1982, as well as an existing high-voltage electric transmission line.

Ninety-nine percent of the route for the Dakota Access pipeline crosses private land. Only 3 percent of the work needed to build the pipeline requires federal approval of any kind and only 1 percent of the pipeline affects U.S. waterways.

To date, the pipeline is already 98 percent complete in North Dakota and 86 percent complete overall. This includes the route around and up to the final 0.21-mile portion of the Missouri River where most of the protests are occurring. This area of the river – known as Lake Oahe – is controlled by the Army Corps for flood control purposes, and requires one remaining federal easement.

The segment at the center of this debate is the small section planned to traverse under Lake Oahe, which would occur at a depth of 92 to 117 feet below the riverbed.

In fact, where it crosses Lake Oahe, Dakota Access is 100 percent adjacent the existing natural gas pipeline. This was done so that ground disturbances would not harm intact cultural or tribal features.

To put this issue into broader context, the Congressional Research Service estimates there are 38,410 crude oil pipeline river and waterbody crossings in the United States, including 1,079 in North Dakota. These crossings range from rivers, streams, and lakes, to ponds, canals, and ditches.

Tribal Consultations

In total, the Army Corps held 389 meetings, conferred with more than 55 tribes, and conducted a 1,261-page environmental assessment, before finding that this infrastructure project has no significant environmental impact.

In his September 9th federal court opinion, U.S. District Judge Boasberg noted the company surveyed nearly twice as many miles in North Dakota as the 357 miles that would eventually be used for the pipeline.

The federal judge also noted where the surveys revealed evidence of historically important or cultural resources, such as stone features, the company modified the route on its own 140 times in North Dakota alone to avoid them. Additionally, the Corps ordered the company to change the route where it crossed the James River to avoid burial sites there.

The pipeline company and the Army Corps have documented dozens of attempts to engage with the Standing Rock Sioux tribe to help identify historical resources and provide feedback in the planning process. Judge Boasberg wrote that “the tribe largely refused to engage in consultations, and chose to hold out for more, namely the chance to conduct its own cultural surveys over the entire length of the pipeline.”

Further, Judge Boasberg wrote: “As it has previously mentioned, this Court does not lightly countenance any depredation of lands that hold significance to the Standing Rock Sioux. Aware of the indignities visited upon the Tribe over the last centuries, the Court scrutinizes the permitting process here with particular care. Having done so, the Court must nonetheless conclude that the Tribe has not demonstrated that an injunction is warranted here.”

In the spring of 2016, I helped arrange meetings between Colonel Henderson and Standing Rock. It was during these meetings that Army Corps Colonel Henderson imposed several additional conditions on the pipeline, including a double-walled piping, in response to tribal concerns about environmental safety. A Tribal Monitoring Plan has also been required, which requires Dakota Access to allow tribal monitors at [certain] sites when construction is occurring.

Environmental Assessment

In July 2016, the Army Corps issued its final Environmental Assessment, which concluded with “Finding of No Significant Impact” and “No Historic Properties Affected” determinations.

The Environmental Assessment “establishes that the [Corps] made a good faith effort to consult with the tribes and that it considered all tribal comments. In addition, Dakota Access has developed response and action plans, and will include several monitoring systems, shut-off valves and other safety features to minimize the risk of spills and reduce or remediate any potential damages.”

In fact, the Army Corps required the company to implement numerous mitigation plans, including (1) an Environmental Construction plan; (2) a Stormwater Pollution Prevention Plan; (3) a Spill Prevention, Control, and Countermeasure Plan; (4) a Horizontal Directional Drilling Construction Plan; (5) a Horizontal Directional Drilling Contingency Plan; (6) an Unanticipated Cultural Resources Discovery Plan; (7) a Geographical Response Plan; (8) a Facility Response Plan, and (9) a Tribal Monitoring Plan, among other measures.

Protest Activities

With regard to the protests, the Obama administration’s inaction on the final federal easement crossing the Missouri River has created undue hardship and uncertainty for area residents, private landowners, farmers, ranchers, tribal members, construction workers, and law enforcement personnel themselves. Now with winter weather conditions worsening, this inaction has reached a critical and frankly life-threatening stage.

Since the protests started earlier this year, state and local agencies have been put to the test in maintaining public safety, which has been threatened by ongoing – and oftentimes violent – protest activity.

There have been instances of trespassing, vandalism, theft, and fire on privately owned ranchland. Residents have endured the challenges caused by roads being blocked or closed, either by protest activity or law enforcement's response to it to ensure safety at a time when farmers and ranchers are busy harvesting, hauling hay, shipping calves and moving their herds from summer pasture. In addition, law enforcement is investigating cases of butchered, mutilated, injured and missing cattle, horses and bison in areas adjacent to sites occupied by protesters.

Law enforcement has worked to protect everyone. They have been patient, professional, and diligent. They have not used concussion grenades. More than 500 protestors have been arrested for breaking the law, and over 90 percent of them are from out of state – many if not most are not Native American. They are environmental activists from other parts of the country. If you want more information on law enforcement, go to YouTube “Know the Truth Morton County,” which is a website the Morton County Sheriff's Office uses to provide updates on their efforts to maintain law and order at the protest site. The motto of law enforcement is “To Serve and Protect,” and that is exactly what they are doing.

Conclusion

In accordance with the finding of the Army Corps' environmental assessment and court decisions, the Army Corps needs to follow established legal and regulatory criteria and approve the final easement so that construction can be completed. In addition, federal resources should be deployed expeditiously to protect people and property in the area of violent protests to help support state and local law enforcement efforts. This issue needs to be resolved.