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Bismarck, N.D.

Contact:

Bruce Ellison 605-858-1850

Jeff Haas 505-469-0714

Rachel Lederman 415-350-6496

## **FEDERAL JUDGE DISSOLVES DAPL'S INJUNCTION AGAINST WATER PROTECTORS**

North Dakota U.S. District Court Judge Daniel L. Hovland today dissolved a temporary restraining order against Standing Rock Sioux Tribal Chairman Dave Archambault II and a number of named and unnamed participants in protests against the construction of the Dakota Access Pipeline (DAPL). Dakota Access LLP, the consortium building the DAPL, applied for the restraining order on an ex parte basis on August 15, citing demonstrations earlier in August that effectively shut down construction near the Oahe Crossing in North Dakota, where the DAPL is planned to cross the Missouri River and a dammed portion of the river known as Lake Oahe. The federal court granted the ex parte restraining order the following day, enjoining Mr. Archambault and others, including Standing Rock Sioux Tribe members Valerie Wolf Necklace and Clifton Verle Howell, from “unlawfully interfering in any way” with pipeline construction.

Valerie Wolf Necklace and Clifton Verle Howell, represented by the National Lawyers Guild legal team that is defending the Camp Sacred Stone water protectors, argued that the restraining order was an unconstitutional prior restraint on fundamental First Amendment rights to freedom of speech and assembly and free expression of religion, was not supported by competent evidence, and that Dakota Access does not have standing to prohibit water protectors from praying at and protecting ancestral sacred sites on public or private land. As described in three declarations by expert Tim Mentz filed in support of the Standing Rock Sioux Tribe’s lawsuit for injunctive relief against DAPL<sup>1</sup>, many Lakota / Dakota sacred sites lie within and near the pipeline corridor,

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<sup>1</sup> *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, D.D.C. No. C16-1534 JEB

including burial sites and other historic sacred sites that are used for prayer and spiritual connection and are vital to the religious life and heritage of the Lakota / Dakota people.

The water protectors deny that they have engaged in any unlawful or violent acts. "I participated in these actions to protect my family's right to hunt, fish, and swim in clean water. I want my kids to be proud that we stood up to protect our source of clean drinking water," said Clifton Verle Hollow. "I am pleased that the court has dropped its order preventing us from doing what we have traditionally done."

After sacred sites were identified in court filings in the Standing Rock Sioux Tribe's lawsuit in the Washington D.C. federal court on September 2, Dakota Access bulldozed many of the sites on September 3, bringing in private security guards who maced and unleashed attack dogs on unarmed, peaceful water protectors. As Judge Hovland recognized in his September 16 order, although the D.C. District Court subsequently denied the Tribe's request for an injunction stopping construction, on September 9, the United States Department of Justice, the Department of the Army and the Department of the Interior released a joint statement recognizing that "important issues raised by the Standing Rock Sioux Tribe and other tribal nations and their members regarding the Dakota Access pipeline specifically, and pipeline-related decision-making generally, remain" and halted construction of the Oahe Crossing on federal land, also requesting that Dakota Access stop construction on the privately owned land in that area until the federal government determines whether it will need to reconsider any of its previous decisions to allow construction of the Oahe Crossing. However, Dakota Access has continued construction.

North Dakota District Judge Hovland's September 16 order dissolves any federal court prohibition on protests against the pipeline and leaves it up to local authorities and the criminal courts to deal with those accused of breaking the law. Meanwhile, local authorities are now charging as felonies, nonviolent actions of protesters including peacefully locking themselves to stationary earth movers. "Although the judge went out of his way to show his disdain for many of the water protectors, he also became aware that this was a political controversy that he likely

could not control and the mechanism of an injunction was unwieldy and likely ineffective in light of the determination of those resisting the pipeline construction over sacred sites and threatening the water supply,” said NLG attorney Jeff Haas.