

Exhibit 1

Declaration of Mark N. Fox,
Chairman of the Mandan, Hidatsa &
Arikara Nation, also known as
the Three Affiliated Tribes

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

STANDING ROCK SIOUX TRIBE;
YANKTON SIOUX TRIBE; ROBERT
FLYING HAWK; OGLALA SIOUX
TRIBE,

Plaintiffs,

and

CHEYENNE RIVER SIOUX TRIBE;
SARA JUMPING EAGLE, ET AL.,

Plaintiff-Intervenors,

v.

U.S. ARMY CORPS OF ENGINEERS,

Defendant-Cross Defendant,

and

DAKOTA ACCESS, LLC,

Defendant-Intervenor-Cross Claimant.

Case No. 1:16-cv-01534-JEB
(and Consolidated Case Nos. 16-cv-1796 and
17-cv-267)

**DECLARATION OF CHAIRMAN MARK N. FOX OF THE MANDAN, HIDATSA &
ARIKARA NATION**

1. My name is Mark N. Fox. I am Chairman of the Mandan, Hidatsa & Arikara (MHA) Nation, also known as the Three Affiliated Tribes. The MHA Nation's address is 404 Frontage Road, New Town, North Dakota 58763.

2. The MHA Nation is located on the Fort Berthold Indian Reservation ("Reservation") in North Dakota. Our Reservation surrounds the Missouri River and Lake Sakakawea and covers over one million acres of land. As of April 8, 2021, the MHA Nation had 16,808 enrolled members.

3. The MHA Nation's oil and gas reserves are held in trust on our behalf by the United States. As trustee, the United States owes the MHA Nation and its members a fiduciary duty to protect, administer, and account for the MHA Nation's trust property and oil and gas resources, and it must do so in a way that ensures the MHA Nation continues to enjoy full use of its trust resources without any diminution in value caused by its trustee's actions.

4. If the Dakota Access Pipeline ("DAPL") is shut down, the MHA Nation will suffer significant financial, environmental and safety harms that will add further injury to the MHA Nation's economy already suffering monumental losses as a result of the COVID-19 pandemic.

5. The MHA Nation has significant oil and gas reserves on our Reservation, with an estimated total of hundreds of millions of barrels of oil. Oil production on our Reservation is likewise significant, currently totaling approximately 300,000 barrels per day. There are currently over 2500 wells on the Reservation. About 25% of North Dakota's current total oil production takes place on our Reservation. Since 2008, the MHA Nation has been engaged in developing its oil and gas resources with the approval of the federal government. There are potentially over 2,000 more new wells to be developed in the future. Each well represents millions of dollars in tax and royalty revenue to the MHA Nation for the benefit of its members.

6. The MHA Nation's economy is heavily dependent on oil and gas development. Oil production on our Reservation is a critical source of governmental revenue for the MHA Nation. More than 80% of our tribal budget in the current fiscal year comes from oil and gas royalties and tax revenue. These funds are used by the MHA Nation to pay for things like health insurance for our members, contractual commitments for ongoing infrastructure projects, tribal courts, law enforcement and drug enforcement, a child safety center and foster home, elder care and assistance,

housing and many other programs and needs on our Reservation. The MHA Nation's cost of health insurance alone exceeds \$40,000,000 annually.

7. The MHA Nation uses a significant amount of its oil and gas revenue to construct community buildings like new schools, athletic fields, cultural centers, health clinics, emergency management centers, law enforcement centers, and courthouses. Oil and gas revenue also goes to construct and maintain highways and maintain our regulatory infrastructure. The MHA Nation spends significant revenue to fund tribal regulatory agencies charged with mitigating the environmental and social impacts of oil and gas development, to ensure that our oil and gas resources are developed in a responsible manner, and as well to protect our land, water, air, and species against not just the impacts of energy development but also the very real threats of climate change, so that we may preserve our culture and ways of life for generations to come.

8. The sharp drop in oil prices as a result of the COVID-19 pandemic has already led to a sharp decrease in revenue for the MHA Nation. Federal relief dollars have not come close to making up the difference, and that gaping lost revenue gap has greatly affected our ability to meet our contractual and commitments and fund our planned programs and projects. The MHA Nation can thus not afford further challenges to its ability to get its oil production to market.

9. Over sixty percent of the oil trust resources produced on our Reservation is transported to market on DAPL. If DAPL is shut down by any branch of the U.S. government, much of our Reservation production will be difficult to move to market and future production will be sharply curtailed. Not only would a DAPL shutdown deprive the MHA Nation of any return on substantial investments we have made in planned increases in oil production from our trust resources, it would also deprive us of substantial revenue from existing wells on our Reservation, causing significant additional financial harm both to the MHA Nation and the many people, native and non native

alike, who work in our Reservation's oil and gas industry. We have every reason to believe that the MHA Nation and individual Indian trust royalty owners will suffer significant financial losses as the value of our oil and gas trust resources is diminished by a shutdown of DAPL.

10. I directed MHA Nation staff and consultant experts to provide a study of the financial harm that could be done to the MHA Nation in the event DAPL is shut down. They have estimated that the losses will exceed \$160,000,000 over a one year period and exceed \$250,000,000 over two years.

11. The MHA Nation will also suffer significant environmental harms if DAPL is shut down. DAPL is the most efficient, environmentally-friendly way to transport to market the trust oil produced on our Reservation. The only alternative to the pipeline transport is to increase use of truck and rail transport. To the extent our Reservation trust oil now carried by DAPL is shifted to either of these more expensive options, the result will be increased truck and rail traffic in and around our Reservation, with increased road damage, more motor vehicle accidents, as well as increased air pollution from dust and heavy vehicle emissions that pose short-and-long-term risks to the health and safety of MHA Nation members, their livestock and the many species of animals and fish that inhabit our lands and waters.

12. In addition, shutting down DAPL would likely result in increased fatalities among the members of the MHA Nation using the roads on our Reservation. When DAPL began transporting our Reservation trust oil in 2017, it brought a decrease in the reliance on heavy truck and rail to transport oil from the region, and the MHA Nation noticed a significant reduction in traffic-related fatalities on our Reservation. According to state highway statistics, five fewer fatalities occurred annually after DAPL reduced traffic on our Reservation. Shutting down DAPL would likely result in a corresponding increase in fatalities within our MHA Nation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed: April 19, 2021



Mark N. Fox, Chairman
Tribal Business Council
MHA Nation