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Memorandum on Construction of the Dakota Access Pipeline

January 24, 2017

Memorandum for the Secretary of the Army

Subject: Construction of the Dakota Access Pipeline

Section 1. *Policy*. The Dakota Access Pipeline (DAPL) under development by Dakota Access, LLC, represents a substantial, multi-billion-dollar private investment in our Nation's energy infrastructure. This approximately 1,100-mile pipeline is designed to carry approximately 500,000 barrels per day of crude oil from the Bakken and Three Forks oil production areas in North Dakota to oil markets in the United States. At this time, the DAPL is more than 90 percent complete across its entire route. Only a limited portion remains to be constructed.

I believe that construction and operation of lawfully permitted pipeline infrastructure serve the national interest.

Accordingly, pursuant to the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct as follows:

Sec. 2. *Directives*. (a) *Pipeline Approval Review*. The Secretary of the Army shall instruct the Assistant Secretary of the Army for Civil Works and the U.S. Army Corps of Engineers (USACE), including the Commanding General and Chief of Engineers, to take all actions necessary and appropriate to:

(i) review and approve in an expedited manner, to the extent permitted by law and as warranted, and with such conditions as are necessary or appropriate, requests for approvals to construct and operate the DAPL, including easements or rights-of-way to cross Federal areas under section 28 of the Mineral Leasing Act, as amended, 30 U.S.C. 185; permits or approvals under section 404 of the Clean Water Act, 33 U.S.C. 1344; permits or approvals under section 14 of the Rivers and Harbors Act, 33 U.S.C. 408; and such other Federal approvals as may be necessary;

(ii) consider, to the extent permitted by law and as warranted, whether to rescind or modify the memorandum by the Assistant Secretary of the Army for Civil Works dated December 4, 2016 (Proposed Dakota Access Pipeline Crossing at Lake Oahe, North Dakota), and whether to withdraw the Notice of Intent to Prepare an Environmental Impact Statement in Connection with Dakota Access, LLC's Request for an Easement to Cross Lake Oahe, North Dakota, dated January 18, 2017, and published at 82 *Fed. Reg*. 5543;

(iii) consider, to the extent permitted by law and as warranted, prior reviews and determinations, including the Environmental Assessment issued in July of 2016 for the DAPL, as satisfying all applicable requirements of the National Environmental Policy Act, as amended, 42 U.S.C. 4321 *et seq*., and any other provision of law that requires executive agency consultation or review (including the consultation or review required under section 7(a) of the Endangered Species Act of 1973, 16 U.S.C. 1536(a));

(iv) review and grant, to the extent permitted by law and as warranted, requests for waivers of notice periods arising from or related to USACE real estate policies and regulations; and

(v) issue, to the extent permitted by law and as warranted, any approved easements or rights-of-way immediately after notice is provided to the Congress pursuant to section 28(w) of the Mineral Leasing Act, as amended, 30 U.S.C. 185(w).

(b) *Publication.* The Secretary of the Army shall promptly provide a copy of this memorandum to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Majority Leader of the Senate, and the Governors of each State located along the Dakota Access Pipeline route. The Secretary of the Army is authorized and directed to publish this memorandum in the *Federal Register*.

(c) *Private Property*. Nothing in this memorandum alters any Federal, State, or local process or condition in effect on the date of this memorandum that is necessary to secure access from an owner of private property to construct the pipeline and facilities described herein. Land or an interest in land for the pipeline and facilities described herein may only be acquired consistently with the Constitution and applicable State laws.

Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

[Filed with the Office of the Federal Register, 11:15 a.m., February 16, 2017]

NOTE: This memorandum was originally filed with the Office of the Federal Register at 8:45 a.m. on January 27, 2017, and published in the *Federal Register* on January 30. Due to a discrepancy between the document the President signed and the electronic file used for publication, the signed document was republished in its entirety in the *Federal Register* on February 17, 2017.

Categories: Communications to Federal Agencies : Dakota Access Pipeline construction, memorandum.

Subjects: Energy : Oil and gas industry :: Dakota Access Pipeline project.

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