

BACKGROUND INFORMATION

North Dakota's lawsuit to recover costs related to DAPL pipeline protests

July 18, 2019

1. For nearly eight (8) months, the USACE allowed three large illegal encampments to be established on federal USACE-managed lands near the DAPL route and adjacent to the Cannonball River and Lake Oahe (the Oceti Sakowin, Rosebud, and Sacred Stone encampments). At their peak, the population of these illegal camps was estimated to be as high as 10,000 people, or about the population of the 10th largest city in North Dakota.

2. These trespassers were illegally on federal land – they did not have the permits required by USACE's regulations. The trespassers' sprawling encampments, with virtually no sanitation facilities, and their contamination of the land and water during their "occupation," were all in violation of federal and state law designed to protect public health, safety, and the environment. Certain of these trespassers then used these illegal camps on federal lands to stage unlawful and often violent conduct on federal, State and private lands. When the trespassers finally left, they left behind a spoiled environment and a vast quantity of dangerous waste, garbage and debris that had to be cleaned up by the State at considerable cost.

3. The USACE was well aware of the extent of the trespassers' illegal occupation of federal lands and unlawful conduct stemming from that occupation from the outset in August of 2016, yet it knowingly did nothing and allowed, and in some cases encouraged, these trespassers to unlawfully remain on Federal lands and use them as a "safe haven" from which to conduct their illegal activities.

4. USACE completely failed to enforce mandatory legal requirements governing private conduct on the federal lands under its jurisdiction, which, if enforced from the outset, would have prevented or minimized the trespassers' unlawful conduct and resulting damages to North Dakota.

5. As a result, North Dakota was obligated to mobilize hundreds of law enforcement and emergency response personnel to protect public safety and the environment and provide necessary law enforcement, sanitation services and first responder services, at a cost of over \$38 million to the citizens of North Dakota.

6. USACE's failure to do its duty and enforce the law attracted criminal elements from all over the nation, criminals that North Dakota had to deal with at great expense to protect public safety.

7. This case is **not** about the lawful and peaceful exercise of the rights of freedom of speech and political discourse. Rather, it is about how for 8 months the USACE:

- knowingly allowed large numbers of trespassers to illegally occupy federal lands,
- knowingly allowed these trespassers to live in unsafe and unsanitary conditions that violated public health and environmental regulations,
- knowingly allowed criminal elements among these trespassers to use these illegal camps as safe havens from which to engage in unlawful and often violent conduct on federal, State and private property, and
- knowingly allowed those same criminal elements to violate the rights of other individuals, and then expected the taxpayers of North Dakota to foot the bill.