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December 5, 2017

Governor Dennis Daugaard
500 East Capitol Avenue
Pierre, S.D. 57501

Re: Protecting the land and people of South Dakota

Dear Governor Daugaard:

I write this letter in the wake of the catastrophic crude oil pipeline failure that spilled at least 210,000 gallons of toxic Alberta tar sands oil into the earth near Amherst, South Dakota on November 16, 2017. This was the third oil spill in South Dakota this year and the largest spill associated with the Keystone Pipeline project thus far. It occurred in our State, above the aquifer that millions of Americans rely on, and on my Tribe's aboriginal homeland.

This is a serious issue, Governor Daugaard—one that affects all of us who rely on water to drink, to water our stock and our crops, and for our very lives. The purpose of this letter is to urge you to exercise your executive authority to institute an immediate moratorium on the construction and operation of oil pipelines across South Dakota until scientists and technical specialists can ensure that the lands and resources that we all share are protected.

As you must understand, this is an emergency of the highest priority because TransCanada has announced that the federal Pipeline Hazardous Materials Safety Administration ("PHMSA") will permit it to begin flowing oil through the damaged pipeline as soon as next Tuesday, December 5, 2017 before the State Public Utilities Commission ("PUC")

The blue represents the thunderclouds above the world where live the thunder birds who control the four winds. The rainbow is for the Cheyenne River Sioux people who are keepers of the Most Sacred Calf Pipe, a gift from the White Buffalo Calf Maiden. The eagle feathers at the edges of the rim of the world represent the spotted eagle who is the protector of all Lakota. The two pipes fused together are for unity. One pipe is for the Lakota, the other for all the other Indian Nations. The yellow hoops represent the Sacred Hoop, which shall not be broken. The Sacred Calf Pipe Bundle in red represents Wakan Tanka – The Great Mystery. All the colors of the Lakota are visible. The red, yellow, black and white represent the four major races. The blue is for heaven and the green for Mother Earth.

has even completed its evaluation of the cause of the spill and whether TransCanada violated the terms of its license under State law. To allow TransCanada to resume operation of its pipeline would be a serious mistake in light of the abysmal safety of this pipeline, which values its own profits over the safety and welfare of this land that we both love.

The existing Keystone Pipeline became operational just eight short years ago and since that time has had a disturbing safety record. So far, PHMSA has opened 13 enforcement actions against TransCanada related to the company's failure to properly address such important issues as corrosion control, operations and maintenance, control room management, procedure manuals, fire protection, incident reports, design, and public awareness. An enforcement action related to operations and maintenance is currently open.

In June of this year, PHMSA assessed TransCanada a \$135,400.00 penalty for three major violations of federal pipeline safety regulations. First, PHMSA found that TransCanada failed to operate at the required level of safety because it had failed to properly or timely install cathodic protection to the pipeline pursuant to either PHMSA rules or even TransCanada's own procedures. Pipelines require cathodic protection to prevent corrosion caused by the numerous chemicals that make up crude oil. If the pipeline corrodes, it leaks. TransCanada had notice that the pipeline was not properly protected from corrosion in 2010 and did not do anything about it until 2012-13 according to PHMSA. A TransCanada investigation of itself revealed that its cathode protective system had not been designed properly and did not meet the company's own procedure.

Second, PHMSA found that, in addition to failing to properly protect its pipeline from corrosion in the first place, TransCanada had also refused to correct deficiencies in its corrosion controls for ***multiple years***. Finally, TransCanada failed to minimize the effects of stray electrical currents on various vulnerable parts of the pipeline. You may not be surprised to learn after reading all of this that stray electrical current contributes to corrosion of the pipeline, which leads to leaks.

TransCanada is a foreign corporation that stands to make billions of dollars from pipelines that cross through the heart of the lands that our constituents rely on for their homes, their health, and their livelihoods. In exchange for this privilege (which is borne on all of our backs), we ask TransCanada and other pipeline companies to follow minimal safety regulations.

TransCanada and other energy companies have proved to us that they will not follow these important regulations. And they have no incentive to. When they violate our laws and regulations, as TransCanada has for the last ten years, they are assessed a fine that their CEO could pay out of his checking account and nothing changes.

They will not follow regulations. They will not regulate themselves. So we must tell them no. They cannot exploit the lands and the people of South Dakota for profit while failing to follow our rules. We will not stand for it.

The South Dakota PUC has the authority and the right to revoke the existing permit for this pipeline as it is permitted to do if it determines that TransCanada violated the license. They are investigating now. In the meantime, TransCanada still has the permission of the State of South Dakota to use our land how it pleases.

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And South Dakota has granted them permission to build another oil pipeline – Keystone XL. That one is very personal to the people of the Cheyenne River Sioux Tribe. It will cross within 3 miles of our Reservation, though the last camp of our Chief Bigfoot before he was massacred at Wounded Knee, and under a tributary that flows into the Missouri at our water intake. **This is the same company. Same nonexistent commitment to the laws of South Dakota, the laws of the United States, and the safety of the lands, water, and people.**

That is why your action to issue an immediate moratorium is necessary. This already compromised pipeline and the ones that are planned are an existential threat to your people and to mine. The energy companies have shown us time and again their willingness to endanger our lands and skirt federal and state regulations in an effort to make a profit on our lands and on the backs of our people. This cannot be allowed. You cannot allow it. I will not allow it.

I urge you to stand with me against these pipelines. To stand up for the laws of South Dakota and the rights of its residents when the federal government will not. I also invite you to contact me at your earliest convenience so that we may schedule an in-person meeting to discuss this important matter on a government-to-government basis.

Sincerely,



Harold C. Frazier, Chairman
Cheyenne River Sioux Tribe

HF/ned