

# PASCUA YAQUI TRIBE



RESOLUTION NO. C09-146-16

**RESOLUTION OF THE PASCUA YAQUI TRIBE SUPPORTING AND HEREBY EXPRESSING SOLIDARITY WITH THE STANDING ROCK SIOUX TRIBE IN THEIR EFFORTS TO PROTECT THEIR COMMUNITY, WATER, ABORIGINAL LAND, AND THEIR TREATY RIGHTS, AND JOINING THEIR OPPOSITION TO THE DAKOTA ACCESS PIPELINE.**

**WHEREAS,** the Pascua Yaqui Tribal Council is vested with the power to adopt, resolutions, rules and regulations to protect and promote the peace, health, safety and general welfare of the Pascua Yaqui people (Constitution of the Pascua Yaqui Tribe, Article VI, Section 1(o)); and

**WHEREAS,** the Dakota Access Pipeline LLC commenced construction and development of a 1,100 mile pipeline with a capacity of 570,000 barrels of crude oil per day, to cross the Missouri River near the northern embankment that forms the mouth of the Cannonball River ('DAPL') and upon lands reserved for the Standing Rock Indian Reservation and impacting lands and natural resources within the Standing Rock Indian Reservation; and

**WHEREAS,** the Standing Rock Sioux Tribe has passed a resolution in opposition to the pipeline; and

**WHEREAS,** the Standing Rock Indian Reservation was established as a permanent homeland for the Hunkpapa, Yanktonai, Cuthead and Blackfoot bands of the Great Sioux Nation; and

**WHEREAS,** the efforts of the Standing Rock Tribal Council to restrain, enjoin, and oppose development of DAPL has received letters of support and Council Resolutions from numerous federally recognized Indian tribes including notably border tribes such as the Mohawks of Saint Regis (Tribal Council Resolution 2016-64); and

**WHEREAS,** the Standing Rock Tribal Council and all federally recognized Indian tribes are entitled to genuine and meaningful consultation in the development of natural resources within their traditional territory; that the right to genuine and meaningful consultation is found in the canons of customary indigenous law, federal Indian law, federal public land and natural resources law, international customary law, and international human rights law as evidenced by the United Nations Declaration on the Rights of Indigenous Peoples ('UNDRIP'); and

**WHEREAS,** the Standing Rock Tribal Council have raised legitimate environmental concerns regarding DAPL and in light of prior oil spills upstream, including the release of oil near Tioga, ND in October, 2013; oil released into the Yellowstone River upstream from Glendive, Montana in January, 2015; as well as the release of 1.1 million gallons of diluted bitumen, or heavy crude oil in Michigan's Kalamazoo

River in July, 2010, these events combined underscore credible environmental risk and danger to public health with respect to downstream communities and fish and wildlife; and

**WHEREAS,** the Army Corp of Engineers acknowledged the concerns of the Standing Rock Tribal Council regarding DAPL as being within the “public interest”, per their legal response to proceedings initiated by to the Standing Rock Tribal Council and their effort to restrain DAPL; and further that these concerns formed the basis in part of the United States District Court’s decision to restrain DAPL within and around the impacted area of the Cannonball and Missouri Rivers (Signed by Judge James E. Boasberg on 9/6/2016); and

**WHEREAS,** the Army Corp of Engineers has yet to engage in genuine and meaningful consultation with the Stand Rock Tribal Council and in particular following the Labor Day Weekend 2016 wherein DAPL retained private security contractors used excessive and unauthorized force against the peaceful constituents and representatives of the Standing Rock Tribal Council and other federally recognized Indian tribes within the impacted area; and

**WHEREAS,** DAPL proponents have yet to engage in genuine and meaningful consultation with the Standing Rock Tribal Council thus resulting in gaps of information material to the parties and which serves to further the lack of trust by Standing Rock Tribal Council; and

**WHEREAS,** the Standing Rock Indian Reservation sits upon the Ogallala Aquifer and in reference to similar experiences on the Rio Yaqui Aquifer involving environmental harms and human rights violations arising from natural resources development and includes oil and gas production, mining, and a transboundary freshwater basin transfer from the Rio Yaqui via an aqueduct; and

**WHEREAS,** violations of Yaqui human rights within the Rio Yaqui Aquifer - a shared binational oceanic aquifer between the United States and Mexico - the largest binational aquifer between Arizona and Sonora that is subject to the jurisdiction of Public Law 109, the United States Transboundary Aquifer Assessment Act and is the critical habitat for endangered binational species including the Yaqui catfish, the Yaqui beautiful shiner, the Yaqui chub, and the Yaqui topiminnow; and

**WHEREAS,** the Pascua Yaqui Tribal Council and the Traditional Authorities of the eight Rio Yaqui Pueblos of the traditional Yaqui territory situated within the lower Rio Yaqui basin of Sonora, Mexico entered into the Binational Agreement on the Rio Yaqui Basin, November 23, 2013 and ratified by the Pascua Yaqui Tribal Council, having the force of tribal law on July 29, 2015 (Resolution No. C01-13-14); and

**WHEREAS,** the Pascua Yaqui Tribal Council and the Traditional Authorities continue to work before the Inter-American Commission on Human Rights and the United Nations

regarding in response natural resources development conflicts similar to DAPL and the legitimate risks and harms DAPL raises to the Standing Rock Tribal Council; and

**WHEREAS**, the Pascua Yaqui Tribe supports the Standing Rock Tribal Council in restraining DAPL and likewise, recommends that the United States Army Corp of Engineers engage in genuine and meaningful consultation.

**NOW THEREFORE BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE PASCUA YAQUI TRIBE** that

- (1) based upon the foregoing the Pascua Yaqui Tribal Council supports the actions of the Standing Rock Sioux Tribal Council to restrain DAPL proponent from ongoing and future development on the permitted sections in and around the convergence of the Cannonball and Missouri Rivers as well as and including all surface, submerged, and subsurface lands formerly within the Treaty of Laramie, all lands within the traditional territory of the Standing Rock Sioux, all lands within Sioux County and extending east of the Missouri River within their traditional territory;
- (2) That the Pascua Yaqui Tribal Council calls upon the Secretary of the Interior, having regard to:
  - (a) the permanency of the Federal Trust responsibility to the Standing Rock Sioux Tribe and all other federally recognized Indian tribes;
  - (b) affirming that the Federal Trust responsibility cannot be delegated unilaterally in favor of non-state actors including private security contractors in the context of tribal dealings;
  - (c) that the Secretary of the Interior intervene directly and so doing issue a statement that condemns the unauthorized and excessive use force by non-state actors in the context of tribal dealings with the Standing Rock Tribal Council, their constituents, and begin a process of reconciliation; and
- (3) That the Pascua Yaqui Tribal Council call upon the Environmental Protection Agency to ensure that the Standing Rock Tribal Council are not precluded from adopting their own water quality code in the event that their right to access safe drinking water, and their right to utilize their water resources for spiritual and cultural purposes within the reservation, are subsequently harmed as a result of transboundary water pollution off the reservation.

**CERTIFICATION**

**THE FOREGOING** was on **September 7, 2016** duly adopted by a vote of **Seven** in favor, **Zero** opposed, and **Zero** abstained, by the Tribal Council of the Pascua Yaqui Tribe pursuant to authority vested in it by Article VI, Section 1(o) of the Constitution of the Pascua Yaqui Tribe as adopted on January 26, 1988 and approved by the Secretary of the Interior on February 8, 1988 pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).



\_\_\_\_\_  
**CHAIRMAN OF THE PASCUA YAQUI TRIBE**



\_\_\_\_\_  
**SECRETARY OF THE PASCUA YAQUI TRIBE**

