

Nos. 20-35412, 20-35414, 20-35415, and 20-35432

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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NORTHERN PLAINS RESOURCE COUNCIL, et al.,  
*Plaintiffs/Appellees,*

v.

U.S. ARMY CORPS OF ENGINEERS, et al.,  
*Defendants/Appellants,*

and

TC ENERGY CORPORATION, et al.,  
*Intervenor-Defendants/Appellants.*

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Appeal from the United States District Court for the District of Montana  
No. 4:19-cv-00044 (Hon. Brian Morris)

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**SUPPLEMENTAL NOTICE CONCERNING RECENT DEVELOPMENT  
POTENTIALLY AFFECTING APPEALS**

In our reply brief filed January 15, 2021, Federal Appellants informed the Court that the U.S. Army Corps of Engineers had finalized a rule re-issuing twelve existing nationwide permits (including the nationwide permit at issue in this case) as well as issuing four new ones, and indicated that the rule was published in the Federal Register on January 13, 2021. ECF No. 129 at 1 n.1. In a March 17, 2021 Notice Federal Appellants informed the Court that this rule had since become

effective and proposed to inform the Court of the government's position on the appropriate disposition of these appeals (including any accompanying motion to the extent a motion is necessary) by April 9, 2021. ECF No. 147. Despite diligent efforts, Federal Appellants require a modest amount of additional time to reach a decision on this question as well as to finalize any accompanying motion(s). Accordingly, Federal Appellants now propose to provide the Court with their position and any accompanying motion(s) by April 30, 2021.

Respectfully submitted,

Dated: April 8, 2021

*s/ Andrew Marshall Bernie*

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