

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

INDIGENOUS ENVIRONMENTAL
NETWORK and NORTH COAST RIVERS
ALLIANCE,

Plaintiffs,

vs.

PRESIDENT DONALD J. TRUMP, et al.,

Defendants,

and

TRANSCANADA KEYSTONE
PIPELINE, LP, a Delaware limited
partnership, and TC ENERGY
CORPORATION, a Canadian Public
Company,

Defendant-Intervenors.

4:19-cv-00028-BMM

ORDER

Indigenous Environmental Network (“IEN”) and North Coast Rivers Alliance (“NCRA”) (collectively, “Plaintiffs”) brought this action against President Donald J. Trump and various government agencies and agents in their official capacities (“Federal Defendants”). Plaintiffs allege that President Trump violated the Property Clause of the U.S. Constitution, the Commerce Clause of the U.S.

Constitution, and Executive Order 13,337 when he issued a Presidential Permit in 2019 (“2019 Permit”) to Defendant-Intervenors TransCanada Keystone Pipeline, LP and TC Energy Corporation (collectively, “TC Energy”) to construct a cross-border segment of the Keystone XL oil pipeline (“Keystone”).

President Joseph R. Biden signed an Executive Order on January 20, 2021 to revoke the 2019 Permit. *See Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis*, Exec. Order 13,990, 86 Fed. Reg. 7,037, 7,041 (Jan. 25, 2021). President Biden’s revocation noted that the 2019 Permit included an express condition that the President could revoke that permit at “the President’s sole discretion.” *Id.*

Federal Defendants have filed a motion to dismiss the appeal of this Court’s decision to deny a preliminary injunction targeting the pipeline border crossing. *See Indigenous Environmental Network v. Biden*, No. 20-36068 (9th Cir.) (appeal docketed Dec. 14, 2020). Federal Defendants argue that President Biden’s revocation renders the case moot. Separately, Texas—along with 20 other states—filed a complaint in the Federal District for the Southern District of Texas to challenge President Biden’s revocation. *State of Texas et al. v. Joseph R. Biden, Jr.*, Case No. 3:21-cv-65 (S.D. Tex) (complaint filed Feb. 17, 2021). That case raises substantially similar constitutional issues to those presented in this case.

Considering the above developments, the Court now seeks briefing on whether the above-captioned case is moot.

IT IS HEREBY ORDERED that the parties shall submit simultaneous briefing, not to exceed 10,000 words, on or before May 5, 2021, on whether the above-captioned case is moot.

DATED this 7th day of April, 2021.

A handwritten signature in blue ink that reads "Brian Morris". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Brian Morris, Chief District Judge
United States District Court