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

<p>BOLD ALLIANCE, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>v.</p> <p>THE U.S. DEPARTMENT OF THE INTERIOR, <i>et al.</i>,</p> <p>Defendants,</p> <p>and</p> <p>TRANSCANADA KEYSTONE PIPELINE, LP, <i>et al.</i>,</p> <p>Defendant-Intervenors.</p>	<p>CV 20-59-BMM</p> <p><b>JOINT STATUS REPORT AND MOTION TO EXTEND STAY</b></p>
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Defendants U.S. Department of the Interior *et al.* (“Defendants”), Plaintiffs Bold Alliance *et al.*, and Defendant-Intervenors TC Energy *et al.* hereby submit this status report pursuant to the Court’s June 16, 2021 Order, ECF No. 68, and request that the case be stayed for an additional sixty days.

This case involves the U.S. Bureau of Land Management’s (“BLM”) approval of a right-of-way for the Keystone XL Pipeline and actions taken by the U.S. Fish and Wildlife Service (“FWS”) regarding the pipeline. The deadlines in this case were extended following President Biden’s revocation of the 2019 Presidential Permit allowing the pipeline to operate and cross the border. *See* Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, 86 Fed. Reg. 7,037, 7,041 (Jan. 20, 2021). The parties agreed to stay the case after TC Energy announced the termination of the Keystone XL Pipeline Project on June 9, 2021. *See* TC Energy Corp. and TransCanada Keystone Pipeline, LP’s Notice Regarding Termination of Keystone XL Pipeline, *Indigenous Env’tl. Network v. Trump*, No. 4:19-cv-28-BMM, ECF No. 167 (“June 9, 2021 Notice”).

Since the filing of the parties’ joint stay motion, TC Energy has taken additional steps to wind down authorizations that the company obtained or sought from federal agencies. TC Energy has relinquished an incidental take permit authorized by the U.S. Fish and Wildlife Service pursuant to section 10 of the

Endangered Species Act. *See* July 12, 2021 Letter and July 26, 2021 Letter, Ex. 1 & 2. Further, as TC Energy recently informed the Court in a separate case, it is currently in discussions with BLM about relinquishing the right-of-way and expects to submit a decommissioning plan as part of the relinquishment process by the end of this month. *See* TC Energy Corp. and TransCanada Keystone Pipeline, LP's Status Report at 1-2, *Indigenous Envtl. Network v. Trump*, No. 4:19-cv-28-BMM, ECF No. 167 ("August 4, 2021 Status Report"). TC Energy also has terminated several leases that it previously planned to use for pipe yards, workforce camps, and contractor yards. *Id.* at 2-3. It also has sold properties that it purchased to operate pump stations. *Id.* at 3. Further, the U.S. Army Corps of Engineers previously deemed TC Energy's application for an individual permit under section 404 of the Clean Water Act to be administratively withdrawn. *See id.*

Defendants request this extension of the stay in order to allow the discussions between TC Energy and BLM regarding the relinquishment of the right-of-way to continue. After BLM approves the decommissioning plan and TC Energy relinquishes the right-of-way, the parties will confer to discuss whether any further proceedings are necessary. Defendants expect that these discussions will take several more weeks, but anticipate that all of the cases could ultimately be dismissed without the need for further proceedings. Plaintiffs agree that the

requested extension is reasonable, given that TC Energy has announced that it has no plans to construct the pipeline “now or at any time in the future,” June 9, 2021 Notice at 3, and in any event TC Energy and Defendants remain obligated to comply with certain notice provisions, including that TC Energy would provide the parties and the Court with sixty days’ notice in advance of any theoretical construction of the main pipeline or new pump stations.

In light of these developments, the parties respectfully request that the Court continue the stay of the litigation deadlines for sixty days, so that the parties may determine what further proceedings may be necessary in this case. *See Landis v. N. American Co.*, 299 U.S. 248, 254 (1936) (a court has inherent authority to stay litigation). At the end of the sixty-day period, the parties will advise the Court whether further proceedings are necessary and, if so, propose a revised briefing schedule. If the parties need additional time to discuss potential further proceedings, the parties will submit a status report and request additional time to continue their discussions.

Respectfully submitted this 6th day of August, 2021,

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Local Rule 7.1(d)(2)(E), the foregoing brief is proportionately spaced, has a typeface of 14 points, and contains 633 words, excluding the tables, caption, signature, certificate of compliance, and certificate of service.

/s/ Luther L. Hajek  
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U.S. Department of Justice



**CERTIFICATE OF SERVICE**

I hereby certify that on August 6, 2021, a copy of the foregoing was served on all counsel of record via the Court's CM/ECF system.

*/s/ Luther L. Hajek* \_\_\_\_\_  
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