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

<p>ROSEBUD SIOUX TRIBE, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>v.</p> <p>U.S. DEPARTMENT OF THE INTERIOR, <i>et al.</i>,</p> <p>Defendants.</p>	<p>CV 20-109-GF-BMM</p> <p>JOINT STATUS REPORT</p>
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Defendants U.S. Department of the Interior *et al.* (“Defendants”) and Plaintiffs Rosebud Sioux Tribe *et al.* hereby submit this joint status report pursuant to the Court’s June 7, 2021 Order, ECF No. 16, and request that the case be stayed for an additional sixty days.¹

This case involves the U.S. Bureau of Land Management’s (“BLM”) approval of a right-of-way for the Keystone XL Pipeline. The case has been stayed following President Biden’s revocation of the 2019 Presidential Permit allowing the pipeline to 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). In addition, 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

¹ The project proponent, TC Energy, has not yet moved to intervene in this case, but it supports this request.

Endangered Species Act. *See* July 12, 2021 Letter and July 26, 2021 Letter, Ex. 1 & 2. Further, as TC Energy has 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 the terms of a decommissioning plan as part of the relinquishment process by the end of August 2021. *See* TC Energy Corp. and TransCanada Keystone Pipeline, LP's Status Report at 1-2, *Indigenous Env'tl. 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, as previously reported, 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.

The requested extension of the stay will not prejudice any party because 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. Moreover, as discussed above, TC Energy has relinquished, or is in the process of relinquishing, the federal permits that would allow it to construct the pipeline. Further, Defendants and TC Energy remain obligated to 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 is proportionately spaced, has a typeface of 14 points, and contains 635 words, excluding the tables, caption, signature, certificate of compliance, and certificate of service.

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

CERTIFICATE OF SERVICE

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

/s/ Luther L. Hajek _____
LUTHER L. HAJEK
U.S. Department of Justice