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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>JOINT STATUS REPORT AND MOTION TO EXTEND STAY</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 August 18, 2021 Order, ECF No. 70, 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 its announcement regarding the termination of the project, TC Energy has taken significant steps to wind down authorizations that the company obtained or sought from federal agencies. As previously reported, 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* August 6, 2021 Status Report at 2-3, ECF No. 69. Further, at the end of August, BLM accepted TC Energy's relinquishment of a temporary use permit for an access road to the pipeline right-of-way and approved TC Energy's decommissioning plan for the international border segment of the pipeline. *See* Defs.' Reply in Supp. of Sixth Mot. for an Extension of Time to File a Resp. to Pls.' Compl. at 2, *Indigenous Environmental Network v. U.S. Bureau of Land Mgmt.*, No. 4:20-cv-115-BMM, ECF No. 19. And on September 1, 2021, BLM accepted TC Energy's relinquishment of the right-of-way, except for the border segment. *Id.* at 2-3.

Subsequently, the Montana Department of Environmental Quality also approved TC Energy's decommissioning plans for the border segment of the pipeline. *See* TC Energy Corp. and TransCanada Keystone Pipeline, LP's Status Report at 1, *Indigenous Env'tl. Network v. Trump*, No. 4:19-cv-28-BMM, ECF No. 176. TC Energy has stated that work on the removal of the pipeline would begin on September 22, 2021, and that the removal of the pipeline and restoration of the surrounding land would be completed by sometime in November 2021. *See id.* at 1-2. On September 22, 2021, TC Energy began removing the pipeline consistent with the approved decommissioning plan. After completion of the decommissioning and remediation, TC Energy will relinquish the remaining portion of the right-of-way. *Id.* at 2.

Defendants request this extension of the response deadline in order to allow the TC Energy to complete the removal of the pipeline in the border segment and remediate the disturb area pursuant to the decommissioning plan approved by BLM. After the decommissioning of the border segment is completed, BLM would accept TC Energy's relinquishment of the final segment of its right-of-way. At that point, Defendants will confer with Plaintiffs to discuss whether any further proceedings are necessary.

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 18th day of October, 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 733 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 October 18, 2021, a copy of the foregoing 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