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

ROSEBUD SIOUX TRIBE, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT
OF STATE, *et al.*,

Defendants,

and

TC ENERGY CORPORATION, *et al.*

Defendant-Intervenors.

CV 18-118-GF-BMM

**TC ENERGY'S RESPONSE TO
PLAINTIFFS' MOTION FOR
STATUS CONFERENCE**

On January 24, 2020, Plaintiffs Rosebud Sioux Tribe and Fort Belknap Indian Community filed a request (Doc. 100) asking this Court to conduct a telephonic status conference at its earliest convenience.

TC Energy does not oppose this request; a telephonic status conference is likely to facilitate a prompt and final resolution of all currently outstanding claims in this matter.

At the same time, Plaintiffs' expressed concerns about TC Energy's "puzzling brief purporting to renew their motion to dismiss" are misguided. TC Energy filed the document in question in response to the order of December 20, 2019, where the Court asked all parties for supplemental briefing on issues already raised and argued in the motions to dismiss. TC Energy added the word "renewal" to the caption of the filing because, in the absence of any pending motion for reconsideration, the questions posed by the Court in its December order indicated that the Court was willing to entertain further arguments on the Rule 12 motions.¹ And, as TC Energy's response makes clear, the answers to the questions the Court

¹ Although the Court's question concerning the scope of the 2019 Permit bore on some aspects of TC Energy's standing argument, the Court rejected that argument on other grounds. Accordingly, TC Energy did not understand this specific question as indicating that the Court was willing to entertain further arguments on standing, and TC Energy has not renewed its motion to dismiss with respect to that ground. *See also* Mot. for Summ. J. (Doc. 97) at 10 n.15.

posed demonstrated that there is no legally tenable basis for Rosebud's constitutional challenges to the 2019 Permit.

Notably, TC Energy did not file a separate Motion to Renew its earlier Motion to Dismiss. Rosebud need not file a separate Response in opposition to renewal of such a motion, since all of the arguments presented by TC Energy can be addressed and responded to by Rosebud in the Supplemental Reply Brief called for in the Court's December 20, 2019 order. As a result, Rosebud should have two briefs due on February 14, not three.

Finally, TC Energy sees no reason to delay the resolution of the issues raised by the Court's December 20 order, or the issues presented in the Motion for Summary Judgment. Rosebud has announced its intentions to again amend its complaint to add new claims against new parties. And, TC Energy has filed a status report with this Court outlining its plans for actions during 2020 with respect to constructing this project. With these new issues looming just over the horizon, TC Energy believes it is in the public interest to resolve all pending matters as quickly as possible.

Respectfully submitted this 28th day of January 2020,

CROWLEY FLECK PLLP

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 7.1(d)(2) of the United States Local Rules, I certify that this brief contains 455 words, excluding caption and certificates of service and compliance, printed in at least 14-point font and is double-spaced, including footnotes and indented quotations.

/s/ Jeffery J. Oven

CERTIFICATE OF SERVICE

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

/s/ Jeffery J. Oven