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**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,

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

Defendant-Intervenors.

CV 19-28-GF-BMM

**Status Report In Response to
Order of February 2, 2021**

Defendant-Intervenors TransCanada Keystone Pipeline, LP and TC Energy Corporation (“TC Energy”) respectfully submit this Status Report in response to the Court’s Order of February 2, 2021.

1. As the Court’s Order notes, President Biden issued Executive Order No. 13990 on January 20, 2021. Section 6(a) of that Executive Order states that the Presidential permit for the Keystone XL pipeline issued by the President on March 29, 2019 “is hereby revoked in accordance with Article 1(1) of the Permit.” 86 Fed. Reg. 7037, 7041 (Jan. 20, 2021). TC Energy announced that in light of the revocation of the presidential permit, “advancement of the [Keystone XL] project will be suspended.” *See* TC Energy News Release, *TC Energy Disappointed with Expected Executive Action Revoking Keystone XL Presidential Permit* (Jan. 20, 2021), <https://www.tcenergy.com/announcements/2021-01-20-tc-energy-disappointed-with-expected-executive-action-revoking-keystone-xl-presidential-permit/>. The company further stated that it would review the President’s decision, “assess its implications, and consider its options.” *Id.*

2. TC Energy respectfully submits that the question whether President Biden’s decision has rendered moot plaintiffs’ challenge to the presidential permit issued by President Trump cannot adequately be addressed in a 500-word submission, and instead should be the subject of full briefing. TC Energy further respectfully submits that any such briefing should be coordinated with similar

briefing in the related *Rosebud Sioux Tribe* case, which also challenges President Trump's issuance of the presidential permit.

3. On February 3, 2021, this Court granted a 60-day stay of proceedings in the *Rosebud Sioux Tribe* case to allow the parties to consider their options and to discuss whether further litigation is necessary in light of President Biden's decision. *See Rosebud Sioux Tribe v. Biden*, No. 4:18-cv-00118-BMM (D. Mont. Feb. 3, 2021), Doc. 180. At the end of that 60-day period—which is April 5, 2021—the parties are to advise the Court whether a further stay is warranted or to propose a schedule for proceeding with the litigation. *Id.*

4. TC Energy respectfully submits that a similar stay of proceedings until April 5, 2021 is appropriate in this case. Plaintiffs would not be harmed by such a stay, because TC Energy does not intend to construct any new pump stations or do any further construction of the Keystone XL pipeline over the next sixty days while it considers its options for the project in light of the President's decision. *See Joint Motion for Stay at 2, Rosebud Sioux Tribe v. Biden*, No. 4:18-cv-00118-BMM (D. Mont. Feb. 3, 2021), Doc. 179. The Court can further protect plaintiffs by issuing an order in this case like the stay in *Rosebud Sioux Tribe* that requires TC Energy to “notify the Court sixty days in advance of any construction of the main pipeline or new pump stations.” *Rosebud Sioux Tribe*, Doc. 180 at 1.

5. Accordingly, TC Energy requests that the Court enter an order (1) staying the proceedings in this case until April 5, 2021, and (2) directing the parties to submit a joint status report no later than April 5 advising the Court whether a further stay is warranted or, if it is not, proposing a schedule for briefing the question whether plaintiffs' challenge to President Trump's issuance of the presidential permit is moot.

February 12, 2021

Respectfully Submitted,

CROWLEY FLECK PLLP

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/s/ Jeffery J. Oven

/s/ Peter C. Whitfield

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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