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

<p>INDIGENOUS ENVIRONMENTAL NETWORK, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>v.</p> <p>PRESIDENT JOSEPH R. BIDEN,¹ <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 19-28-GF-BMM</p> <p>DEFENDANTS' STATUS REPORT IN RESPONSE TO THE COURT'S FEBRUARY 2, 2021 ORDER</p>
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¹ President Joseph R. Biden is substituted for his predecessor pursuant to Federal Rule of Civil Procedure 25(d).

Defendants President Joseph R. Biden *et al.* hereby submit this status report in response to the Court's February 2, 2021 Order, ECF No. 154. The Court instructed the parties to address the impacts on this litigation of President Joseph R. Biden's January 20, 2021 executive order revoking the 2019 Presidential Permit for the Keystone XL Pipeline. *See* Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, 86 Fed. Reg. 7,037, 7,041 (Jan. 25, 2021). All of the claims in this case challenge President Donald J. Trump's issuance of the 2019 Presidential Permit to TC Energy. *See* First Am. Compl. for Declaratory, Injunctive, and Mandamus Relief ¶¶ 60-88, ECF No. 37. Because the only action challenged by Plaintiffs has been revoked, the case is now moot.

The Court need not, however, issue a ruling regarding mootness at this time because that issue may be addressed by the Ninth Circuit in Plaintiffs' appeal of the Court's preliminary injunction ruling. *See Indigenous Environmental Network v. Biden*, No. 20-36068 (9th Cir.) (appeal docketed Dec. 14, 2020). Defendants' answering brief in the appeal is due March 8, 2021, and at present Defendants intend to move to dismiss the appeal and the case as moot prior to that date. The Ninth Circuit's ruling on that motion may resolve the issue of whether the claims in the case are moot. If the Ninth Circuit's ruling does not resolve the issue, then the parties could brief that issue in this Court.

In order to allow time for the appellate proceedings described above to take place, Defendants request that the Court stay the district court proceedings for sixty days, as it did in the *Rosebud Sioux Tribe* case, which also involves the 2019 Presidential Permit for the pipeline. See Order Granting Jt. Mot. for Stay, *Rosebud Sioux Tribe v. Biden*, No. 4:18-cv-118-BMM, ECF No. 180. No harm to the Plaintiffs' interests will occur during that time because TC Energy does not plan to do any further construction on the pipeline or construct any new pump stations over the next sixty days and has committed to providing sixty days' notice of any such construction plans. See Jt. Mot. for Stay at 2, *Rosebud Sioux Tribe v. Biden*, No. 4:20-cv-118-BMM, ECF No. 179. At the end of the sixty-day period, Defendants will submit a status report indicating whether the case should continue to be stayed and, if it is not, proposing a schedule for briefing the issue of whether the case is moot.

Respectfully submitted this 12th day of February, 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 417 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 February 21, 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