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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,<sup>1</sup> <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><b>DEFENDANTS' STATUS REPORT IN RESPONSE TO THE COURT'S FEBRUARY 17, 2021 ORDER</b></p>
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<sup>1</sup> 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 17, 2021 Order, ECF No. 158. The Court instructed the parties to submit status reports indicating whether a further stay is warranted prior to April 5, 2021. For the reasons set forth below, Defendants submit that a continued stay is warranted.

The claims in this case challenge President Donald J. Trump's issuance of the 2019 Presidential Permit for the Keystone XL Pipeline to TC Energy. *See* First Am. Compl. for Declaratory, Injunctive, and Mandamus Relief ¶¶ 60-88, ECF No. 37. The 2019 Presidential Permit authorized TC Energy to construct, operate, and maintain pipeline facilities at the international border of the United States and Canada. On January 20, 2021, President Joseph R. Biden revoked the 2019 Presidential Permit. *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 Because the only action challenged by Plaintiffs has been revoked, the case is now moot.

As indicated in Defendants' prior status report, the issue of mootness is currently before the Ninth Circuit on Plaintiffs' appeal of this Court's preliminary injunction ruling. *See Indigenous Environmental Network v. Biden*, No. 20-36068

(9th Cir.) (appeal docketed Dec. 14, 2020). Defendants moved to dismiss the appeal and the case as moot on February 24, 2021. Plaintiffs sought an extension of time to respond to that motion, and their response is currently due April 7, 2021. Defendants' reply in support of the motion is due April 23, 2021. Thus, the Ninth Circuit is not likely to issue a ruling regarding the motion until at least May. The Ninth Circuit's ruling on that motion may resolve the issue of whether the claims in the case are moot. If it does not, then the parties could brief that issue in this Court based on any direction provided by the Ninth Circuit. 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 an additional sixty days.

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. The Court granted a sixty-day stay 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. The stay in the *Rosebud Sioux Tribe* case expires on April 5, 2021, and Defendants plan to seek an extension of the stay in that case as well. If a further stay is granted, at the

end of the sixty-day period, Defendants will submit a status report indicating whether the case should continue to be stayed or, alternatively, proposing a schedule for briefing the issue of whether the case is moot.

Respectfully submitted this 30th day of March, 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 563 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 March 30, 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  
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