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Counsel for TransCanada Keystone Pipeline, LP and TC Energy Corporation

**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 JOSEPH R. BIDEN, 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

**TC ENERGY CORPORATION
AND TRANSCANADA
KEYSTONE PIPELINE, LP'S
STATUS REPORT**

Defendants TransCanada Keystone Pipeline, L.P. and TC Energy Corporation (jointly “TC Energy”) respectfully submit this status report to provide the Court with an update concerning activities and decisions pertaining to the Keystone XL Pipeline Project (“Project”). This report addresses developments since TC Energy’s last status report of August 4, 2021, specifically TC Energy’s plans to remove the buried segment of the pipeline at the international border and to relinquish the right-of-way grant and temporary use permit acquired from the Bureau of Land Management (“BLM”) for the Project.

On August 31, 2021, the BLM approved TC Energy’s decommissioning plan and authorized removal of the buried pipeline pursuant to the decommissioning plan and additional stipulations imposed by BLM. *See* Attachment A. Additionally, on September 2, 2021, BLM approved TC Energy’s request to relinquish its right-of-way and temporary use permit over federal lands beyond the segment of land at the international border. *See* Attachment B.

On September 3, 2021, the Montana Department of Environmental Quality also approved TC Energy’s decommissioning plan. *See* Attachment C. Following this approval, TC Energy engaged a contractor to perform the work.

TC Energy plans to begin ground-disturbing activities on September 22, 2021, and to complete removal of the pipeline and restoration of the land in

accordance with the decommissioning plan and BLM stipulations in November 2021.

When this removal and restoration work is completed, TC Energy will relinquish to BLM the last portion of its right-of-way over the land at the international border.

Dated: September 17, 2021

Respectfully Submitted,

CROWLEY FLECK PLLP

SIDLEY AUSTIN LLP

/s/ Jeffery J. Oven
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Counsel for TransCanada Keystone Pipeline LP and TC Energy Corporation

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(d)(2)(E), I certify that this filing contains 317 words, excluding the caption and certificates of service and compliance.

/s/ Jeffery J. Oven
Jeffery J. Oven

CERTIFICATE OF SERVICE

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

/s/ Jeffery J. Oven
Jeffery J. Oven

ATTACHMENT A



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Miles City Field Office
111 Garryowen Road
Miles City, Montana 59301
<http://www.blm.gov/montana-dakotas>

August 31, 2021

Re. 2880 (MTC02200)
MTM-98191
MTM-98191-01

CERTIFIED MAIL NO. 70180360000228207783
RETURN RECEIPT REQUESTED

Meera Kothari, Project VP – Liquids Projects
TCE Energy / TransCanada Keystone Pipeline LP
700 Louisiana St, Ste 1300
Houston, TX 77002-2700

Dear Ms. Kothari:

On August 25, 2021, the Bureau of Land Management (BLM), Miles City Field Office received the Decommissioning Plan (DP) for the International Border Crossing (IBC) segment of the pipeline. On August 26, we received your request to relinquish right-of-way (ROW) grant MTM-98191 and temporary use permit (TUP) MTM-98191-01.

Removal of the IBC segment is authorized subject to the provision of the DP and the following stipulations:

1. Provide to the BLM Authorized Officer, a copy of project approval/authorization from Montana Department of Environmental Quality prior to initiation of decommissioning activities.
2. Any additional soil needed to fill the pipeline void may not be borrowed from BLM lands.
3. Notify Northern Border Pipeline and BLM tenants (Appendix E of IBC Notice to Proceed, February 20, 2020) no less than 10 days prior to decommissioning activities.
4. Adhere to the Applicable BLM Special Stipulations (Appendix B) of the ROW grant/TUP signed February 7, 2020.
5. Follow the BLM construction and reclamation unit specifications for glaciated plains (Unit Code BLM-GP) found in Appendix F of the POD.
6. Ensure environmental inspection contractors are on-site during decommissioning activities.

Schedule a post-stabilization and reclamation on-site inspection with the BLM Authorized Officer, or other appropriate BLM representative(s) at least 10 days in advance.

This authorization only applies to decommissioning and reclamation activities as proposed in the IBC DP submitted on August 25. The BLM has begun to process your relinquish request on the Federal lands for ROW MTM-98191, TUP MTM-98191-01 and TUP MTM-98191-02 that are excluded from the IBC decommission work. The BLM will notify TransCanada when the relinquishment of those lands are complete.

If you have any additional questions, please contact Kathy Tribby, at (406)654-5124 or ktribby@blm.gov.

Sincerely,



Eric Lepisto
Field Manager
Miles City Field Office

Cc:

James P White, Dir, US Regulatory Law – Liquids – CERTIFIED NO. 70180360000228207776
TransCanada Keystone Pipeline LP
1250 Eye St NW, Ste 225
Washington, DC 20005

Jon Schmidt, VP Env & Reg Svcs – CERTIFIED NO. 70180360000228207769
EXP Energy Services / TransCanada Keystone Pipeline LP
2639 N Monroe St, Bldg C
Tallahassee, FL 32303

Tom Darrington, Field Manager – EMAIL TRANSMISSION
Malta Field Office

Mark Albers, District Manager – EMAIL TRANSMISSION
North Central Montana District Office

Scott Haight, District Manager – EMAIL TRANSMISSION
Eastern Montana/Dakotas District Office

ATTACHMENT B



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Miles City Field Office
111 Garryowen Road
Miles City, Montana 59301
<http://www.blm.gov/montana-dakotas>

SEP 02 2021

CERTIFIED MAIL NO. 701803600000228207714
RETURN RECEIPT REQUESTED

DECISION

TransCanada Keystone Pipeline, LP	:	Partial Relinquishment of Crude Oil
Attention: Meera Kothari	:	Pipeline Right-of-Way Grant
700 Louisiana Street, Suite 1300	:	MTM-98191 and Temporary Use Permit
Houston, Texas 77002-2700	:	MTM-98191-01 in Montana, P.M.M.

Partial Relinquishment Approved

On August 25, 2021, the Bureau of Land Management (BLM), Miles City Field Office received a relinquishment request from TransCanada Keystone Pipeline, LP. The request is for a partial relinquishment of their crude oil right-of-way (ROW) MTM-98191 and temporary use permit (TUP) MTM-98191-01. This ROW and TUP are located in five counties in Eastern Montana. The ROW and TUP were issued on February 7, 2020 and were issued under the authority of Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185). No reclamation is required for the portions of the ROW and the TUP that were relinquished as the pipeline was never constructed in those areas. In accordance with Title 43 Code of Federal Regulation (CFR) 2885.21, any rental payments made for this project are nonrefundable; therefore, no refunds will be processed for this relinquishment. The request to relinquish portions of the ROW and the TUP are hereby approved and our records have been noted.

The following Federal lands will be retained in the ROW MTM-98191 and the TUP MTM-98191-01: T. 37 N., R.32 R., section 5, Lots 2-3, S½NE¼, E½SE¼ in Phillips County, Montana, P.M.M. These lands will still be covered by the stipulations in the ROW MTM-98191 and the TUP MTM-98191-01. After the decommission and removal of the pipeline, reclamation needs to be completed and approved before the ROW and TUP can be completely relinquished and closed. The ROW rental will be billed for January 1, 2022.

This decision may be appealed to the Interior Board of Land appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2881.10, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the

notice of appeal and petition for a stay must also be submitted to each party named in this decision and to IBLA and to the appropriate office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof in demonstrating that a stay should be granted.

Standards for obtaining a Stay

Except as otherwise provided for by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you have any questions, please contact Dalice Landers, Realty Specialist, at (406) 233-2836 or dlanders@blm.gov.

Eric D. Lepisto

Eric D. Lepisto
Field Manager
Miles City Field Office

Enclosure

CC:

James P. White, U.S. Regulatory Law – Liquids
TransCanada Keystone Pipeline, LP
1250 Eye Street NW, Suite 225
Washington, DC 20005

Certified No.
70180360000228207721

Jon Schmidt, VP Env and Reg Services
EXP Energy Services/TransCanada Keystone Pipeline, LP
2639 North Monroe Street, Building C
Tallahassee, FL 32303

Certified No.
70180360000228207738

Darrin McMurray
U. S. Army Corps of Engineers
301 East Kansas Avenue
Fort Peck, MT 59248

Certified No.
70180360000228207745

ATTACHMENT C

From: Jones, Craig <crajones@mt.gov>
Sent: Friday, September 03, 2021 5:26 PM
To: Michael Schmaltz; Meera Kothari; Jim White; John Muehlhausen; Jon Schmidt
Cc: Tim Drake; Stephanie Pesek; clarenceruhland@hotmail.com; Strait, James
Subject: [EXTERNAL] MT DEQ's Approval of KXL's Decommissioning IP

EXTERNAL EMAIL: PROCEED WITH CAUTION.

This e-mail has originated from outside of the organization. Do not respond, click on links or open attachments unless you recognize the sender or know the content is safe. If this email looks suspicious, report it.

Keystone staff,

This email serves as Montana DEQ's approval of Keystone's Pipeline and Facility Decommissioning Implementation Plan, dated August 16, 2021. Then subsequently supplemented with the Responses to Comments for Decommissioning IP, dated 8/31/21 and email of J. Schmidt to C. Jones, dated 9/3/21.

Please notify MDEQ and MDEQ's on-site inspector, Clarence Ruhland, of the kickoff meeting and location.

Thanks.

Craig Jones

MEPA/MFSA Coordinator

Office 406-444-0514 **Cell Phone:** 406-465-1168

Mailing Address: PO Box 200901, Helena, MT 59620-0901

