

TODD KIM
Assistant Attorney General
SETH M. BARSKY, Chief
S. JAY GOVINDAN, Deputy Chief
ALISON C. FINNEGAN, Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Division
Wildlife and Marine Resources Section
Ben Franklin Station, P.O. Box 7611
Washington, D.C. 20044-7611
Tel: (202) 305-0500; Fax: (202) 305-0275

Attorneys for Defendants

[Additional Counsel in Signature Block]

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

Northern Plains Resource Council, et)
al.,)
)
Plaintiffs,)
)
v.)
)
U.S. Army Corps of Engineers, et al.,)
)
Defendants,)
)
and)
)
TransCanada Keystone Pipeline, LP,)
et al.,)
)
Defendant-Intervenors.)

Case No. 4:19-cv-00044-BMM

**Motion to Vacate April 15, 2020
and May 11, 2020 Decisions and
Order**

The United States respectfully requests and hereby moves for an order vacating this Court's April 15, 2020 and May 11, 2020 Decisions and Orders (ECF Nos. 130, 151) in the above-captioned matter. The basis for this motion is that Plaintiffs' claims became moot on appeal, the case is no longer justiciable, and, under these circumstances, this Court should follow the established practice of vacating these two decisions and orders to clear the path for any future re-litigation of the issues between the parties. *See United States v. Munsingwear*, 340 U.S. 36, 39 (1950). This motion is supported by the pleadings and other matters on file herein, as well as a contemporaneously filed memorandum. All counsel were consulted in accordance with Local Rule 7.1; Plaintiffs will oppose this motion and Defendant-Intervenors will support this motion. *See* ECF Nos. 171, 172.

Dated: April 29, 2022

Respectfully submitted

MARK STEGER SMITH
Assistant U.S. Attorney
Office of the United States Attorney
2601 Second Ave. North, Suite 3200
Billings, MT 59101
Tel: (406) 247-4667
Fax: (406) 657-6058
mark.smith3@usdoj.gov

TODD KIM
Assistant Attorney General
KRISTOFOR R. SWANSON
(Colo. Bar No. 39378)
Senior Attorney
Natural Resources Section
Env't & Natural Resources Div.
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 305-0248
Fax: (202) 305-0506
kristofor.swanson@usdoj.gov

BENJAMIN J. GRILLOT
(D.C. Bar No. 982114)

Environmental Defense Section
Env't & Natural Resources Div.
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 305-0303
Fax: (202) 305-0506
benjamin.grillot@usdoj.gov

/s/ Bridget K. McNeil
BRIDGET KENNEDY MCNEIL
Senior Trial Attorney
Wildlife & Marine Resources Section
Env't & Natural Resources Div.
U.S. Department of Justice
999 18th Street
South Terrace, Suite 370
Denver, CO 80202
303-844-1484
bridget.mcneil@usdoj.gov

/s/ Alison C. Finnegan
ALISON C. FINNEGAN,
Trial Attorney
Wildlife & Marine Resources Section
Env't & Natural Resources Div.
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Tel: (202) 305-0500
Fax: (202) 305-0275
Attorneys for Federal Defendants

CERTIFICATE OF SERVICE

I certify that on April 29, 2022, I electronically filed the foregoing with the Clerk of the U.S. District Court of Montana using the CM/ECF system, which will send a Notice of Electronic filing to all counsel of record.

/s/ Alison C. Finnegan