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*Attorneys for Federal Defendants*

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

<p>INDIGENOUS ENVIRONMENTAL NETWORK, <i>et al.</i>,</p> <p>and</p> <p>NORTHERN PLAINS RESOURCE COUNCIL, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>v.</p>	<p>CV 17-29-GF-BMM CV 17-31-GF-BMM</p> <p>Consolidated</p> <p><b>FEDERAL DEFENDANTS' STATEMENT REGARDING THE HEARING ON DEFENDANT- INTERVENORS' MOTION FOR STAY PENDING APPEAL</b></p>
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UNITED STATES DEPARTMENT OF  
STATE, *et al.*,

Defendants,

and

TRANSCANADA CORPORATION, *et  
al.*,

Defendant-Intervenors.

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Federal Defendants hereby provide the following statement regarding the January 14, 2019 hearing scheduled on Defendant-Intervenors' Motion for a Stay Pending Appeal.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the Federal Defendants in this case. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees of the Federal Defendants are prohibited from working, even on a voluntary basis, except in very limited circumstances, including "emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342.

3. As represented in Defendant-Intervenors' motion, Federal Defendants

do not oppose the motion for a stay pending appeal.

4. Under the circumstances summarized above, Federal Defendants do not believe our participation at the January 14, 2019 hearing is necessary and do not object to the hearing proceeding without Department counsel present.<sup>1</sup>

Respectfully submitted this 7th day of January, 2019,

JEAN E. WILLIAMS  
Deputy Assistant Attorney General  
United States Department of Justice  
Environment and Natural Resources Division

SETH M. BARSKY, Section Chief

/s/ Bridget K. McNeil  
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<sup>1</sup> If the Court disagrees, the Department of Justice is required to request a stay of the hearing until Congress has restored appropriations to the Department and Federal Defendants. Federal Defendants will file a motion to that effect, if the Court requires. Alternatively, if the Court requires the participation of Department counsel and is not inclined to stay the hearing date, the Department of Justice respectfully requests permission to appear telephonically at the January 14, 2019 hearing.

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 7, 2019, a copy of the foregoing Federal Defendants' Statement Regarding the Hearing on Defendant-Intervenors' Motion for Stay Pending Appeal was served on all counsel of record via the Court's CM/ECF system.

/s/ Bridget K. McNeil  
Bridget Kennedy McNeil  
U.S. Department of Justice