

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 28 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NORTHERN PLAINS RESOURCE
COUNCIL; et al.,

Plaintiffs-Appellees,

v.

UNITED STATES ARMY CORPS OF
ENGINEERS; TODD T. SEMONITE, In his
official capacity and U.S. Army Chief of
Engineers and Commanding General of the
U.S. Army Corps of Engineers,

Defendants-Appellants,

and

TRANSCANADA KEYSTONE PIPELINE,
LP; et al.,

Intervenor-Defendants.

No. 20-35412

D.C. No. 4:19-cv-00044-BMM
District of Montana,
Great Falls

ORDER

NORTHERN PLAINS RESOURCE
COUNCIL; et al.,

Plaintiffs-Appellees,

v.

UNITED STATES ARMY CORPS OF
ENGINEERS; TODD T. SEMONITE, In his
official capacity and U.S. Army Chief of
Engineers and Commanding General of the
U.S. Army Corps of Engineers,

No. 20-35414

D.C. No. 4:19-cv-00044-BMM

Defendants,
TRANSCANADA KEYSTONE PIPELINE,
LP; et al.,
Intervenor-Defendants,
and
AMERICAN GAS ASSOCIATION; et al.,
Intervenor-Defendants-
Appellants.

NORTHERN PLAINS RESOURCE
COUNCIL; et al.,

Plaintiffs-Appellees,

v.

UNITED STATES ARMY CORPS OF
ENGINEERS; TODD T. SEMONITE, In his
official capacity and U.S. Army Chief of
Engineers and Commanding General of the
U.S. Army Corps of Engineers,

Defendants,

STATE OF MONTANA; et al.,

Intervenor-Defendants,

and

TRANSCANADA KEYSTONE PIPELINE,
LP; TC ENERGY CORPORATION,

No. 20-35415

D.C. No. 4:19-cv-00044-BMM

Intervenor-Defendants-
Appellants.

Before: SILVERMAN and NGUYEN, Circuit Judges.

The motions to become amicus curiae submitted by American Fuel & Petrochemical Manufacturers; Energy Infrastructure Council; the Chamber of Commerce of the United States; the States of West Virginia, Texas, Alabama, Alaska, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, and Utah; Defenders of Wildlife, Virginia Wilderness Committee, West Virginia Highlands Conservancy, and West Virginia Rivers Coalition; and the Rosebud Sioux Tribe and Fort Belknap Indian Community (Docket Entry Nos. 28, 30, 31, 40, 51, and 53 in 20-35412) are granted.

The Federal Appellants' request to file an oversized reply in support of their motion for a stay pending appeal (Docket Entry No. 49 in 20-35412) is granted.

Appellants' emergency motions for a partial stay of the district court's April 15, 2020 and May 11, 2020 orders pending appeal (Docket Entry Nos. 11, 12, 19, and 34 in 20-35412) are denied. Appellants have not demonstrated a sufficient likelihood of success on the merits and probability of irreparable harm to warrant a stay pending appeal. *See Nken v. Holder*, 556 U.S. 418, 425–26 (2009).

The previously established briefing schedule remains in effect.