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PRESS RELEASE

FOR IMMEDIATE RELEASE

**NATIVE AMERICAN AND ENVIRONMENTAL GROUPS FILE SECOND SUIT TO  
 OVERTURN PRESIDENT TRUMP'S SECOND PERMIT FOR THE KEYSTONE XL PIPELINE**

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**SUMMARY**

On Thursday, June 6, 2019, the Ninth Circuit Court of Appeals dismissed the appeals filed by TC Energy (formerly TransCanada Corporation) and the U.S. Government and other parties in litigation challenging the original Presidential Permit issued for the Keystone XL Pipeline in March 2017 because that permit was revoked by President Trump following repeated court rulings that it was unlawful on multiple grounds. Although President Trump issued a new Presidential Permit on March 29, 2019, that second permit was promptly challenged in what all plaintiffs believe is an even stronger lawsuit. On Friday, April 5, 2019, the lead Plaintiffs in the original litigation that halted the Keystone XL (KXL) Pipeline – the Indigenous Environmental Network (IEN) and North Coast Rivers Alliance (NCRA) – filed a second lawsuit in Montana Federal Court challenging President Trump's decision on March 29, 2019 to approve a second Presidential Permit reapproving the KXL Pipeline without conducting the additional environmental reviews that the federal courts have previously ordered. The Complaint can be downloaded from the Volker Law website. The Keystone XL Pipeline would pose grave risks to the environment, including the climate, cultural resources, water resources, fish and wildlife, and human health and safety.

**BACKGROUND**

The Keystone XL (KXL) Pipeline would be an environmental disaster. The 830,000 barrels per day of toxic tar sands oil it would unleash would push global warming beyond the point of no return, propelling our Planet into an ecological tailspin. The Indigenous Nations and the conservation community are united in their condemnation of this reckless, unneeded and destructive project.

On March 27, 2017, the Indigenous Environmental Network and North Coast Rivers Alliance filed the first suit against President Trump's original Presidential Permit approving KXL. They won a series of rulings in Montana Federal Court, culminating in Judge Brian Morris' Final Judgment on November 8, 2018 overturning the approval because it violated federal environmental laws.

After TransCanada appealed Judge Morris' ruling, on March 15, 2019 these Plaintiffs won a second victory, when Judges Barry Silverman and Richard Tallman of the Ninth Circuit Court of Appeals rejected TransCanada's appeal.

Having lost in both the trial and appellate courts, on March 29 President Trump resorted to the extreme measure of openly defying those court orders by reapproving KXL without conducting the

additional environmental reviews that the courts had ordered.

Therefore, to save our Constitutional Democracy, and to save our Planet, the Indigenous Environmental Network and the North Coast Rivers Alliance have once again sought protection from the federal courts. Their lawsuit, filed on April 5 in Montana federal court, tells the courts that “President Trump . . . is not above the law.” They show that under Article III of the United States Constitution, President Trump’s unlawful conduct is subject to review by the federal courts. And, they demonstrate that President Trump’s attempt to reapprove the KXL Pipeline without compliance with the previous court rulings, and in disregard of this nation’s environmental laws, must be struck down as unconstitutional.

IEN and NCRA have confidence that the federal courts—long the protectors of our civil liberties—will once again rise to the challenge and enforce the Constitution and the laws of this land, and restore respect for the law as our Founding Fathers intended.

### **PLAINTIFFS**

Established in 1990, IEN was formed by grassroots Indigenous peoples and individuals to address environmental and economic justice issues both in North America and throughout the planet. IEN’s Executive Director Tom B.K. Goldtooth has been at the forefront of Native and environmental leaders who have called upon President Trump to renounce the KXL Pipeline. “KXL would be a disaster for the Northern Plains and a catastrophe for Mother Earth,” Mr. Goldtooth stated. “Our scientists have confirmed that carbon dioxide levels have now exceeded 400 parts per million, which many believe is the ‘tipping point’ beyond which global warming will accelerate beyond our control. We have already lost most of the glaciers in our great Glacier National Park, and sea levels are rising throughout the globe. The dirty tar sands crude oil that KXL would transport requires far more energy to process than other sources of petroleum, and its extraction has already destroyed hundreds of square miles of boreal forests and wetlands in Alberta. We need to keep our fossil fuels in the ground and shut down extraction of highly polluting tar sands at their source. President Trump’s attempt to sidestep the court rulings that overturned his earlier approval of KXL undermines our system of checks and balances, and must be defeated,” Mr. Goldtooth added.

NCRA is an association of conservation leaders from the western and northern United States and Canada which has advocated for decades on behalf of rivers and watersheds in jeopardy throughout North America. Its President, Frank Egger, has been fighting to save salmon and other endangered fishes in the Pacific Northwest for five decades. “Oil, water and fish do not mix. KXL poses an unacceptable risk to the Missouri River, Yellowstone and Cheyenne rivers and their fish and wildlife. No oil pipeline is safe. One major oil spill, and these rivers and their adjacent aquifers would be polluted for generations,” explained Mr. Egger. “President Trump must obey the law and comply with the court orders we have won,” he added.

### **PLAINTIFFS’ COUNSEL**

Stephan Volker, attorney for IEN and NCRA, stated that “The courts correctly rejected the Trump Administration’s false claim that the KXL Pipeline would not worsen global warming, impact Native American cultural resources, nor threaten hundreds of rivers and groundwater basins with oil spills. President Trump’s attempt to evade the courts’ orders attacks the very bedrock of our Constitutional Democracy. Our Founding Fathers understood the vital necessity of our system of checks and balances, where the courts protect our citizens from unlawful conduct by the President. President Trump has trampled on our Constitution by launching a frontal assault on the power of our courts to enforce the law.”

### **THE NEW LAWSUIT**

The Complaint for Declaratory and Injunctive Relief filed by IEN and NCRA can be downloaded from the Volker Law website. Additional documents pertaining to the litigation can be obtained by contacting Volker Law.