

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 15 2019

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

INDIGENOUS ENVIRONMENTAL
NETWORK and NORTH COAST RIVERS
ALLIANCE,

Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF
STATE; et al.,

Defendants,

and

TRANSCANADA KEYSTONE PIPELINE,
LP and TRANSCANADA
CORPORATION,

Intervenor-Defendants-
Appellants.

No. 18-36068

D.C. No. 4:17-cv-00029-BMM
District of Montana,
Great Falls

ORDER

NORTHERN PLAINS RESOURCE
COUNCIL; et al.,

Plaintiffs-Appellees,

ROSEBUD SIOUX TRIBE and FORT
BELKNAP INDIAN COMMUNITY,

Intervenors-Pending,

v.

No. 18-36069

D.C. No. 4:17-cv-00031-BMM

THOMAS A. SHANNON, Jr., in his official
capacity; et al.,

Defendants,

and

TRANSCANADA KEYSTONE PIPELINE,
LP and TRANSCANADA
CORPORATION,

Intervenor-Defendants-
Appellants.

INDIGENOUS ENVIRONMENTAL
NETWORK and NORTH COAST RIVERS
ALLIANCE,

Plaintiffs-Appellants,

v.

UNITED STATES DEPARTMENT OF
STATE; et al.,

Defendants-Appellees,

TRANSCANADA KEYSTONE PIPELINE,
LP and TRANSCANADA
CORPORATION,

Intervenor-Defendants-
Appellees.

No. 19-35036

D.C. Nos. 4:17-cv-00029-BMM
4:17-cv-00031-BMM

NORTHERN PLAINS RESOURCE
COUNCIL; et al.,

No. 19-35064

D.C. Nos. 4:17-cv-00031-BMM

Plaintiffs-Appellants,
ROSEBUD SIOUX TRIBE and FORT
BELKNAP INDIAN COMMUNITY,
Intervenors-Pending,
v.
THOMAS A. SHANNON, Jr., in his official
capacity; et al.,
Defendants-Appellees,
TRANSCANADA KEYSTONE PIPELINE,
LP and TRANSCANADA
CORPORATION,
Intervenor-Defendants-
Appellees.

4:17-cv-00029-BMM

INDIGENOUS ENVIRONMENTAL
NETWORK; et al.,
Plaintiffs-Appellees,
ROSEBUD SIOUX TRIBE and FORT
BELKNAP INDIAN COMMUNITY,
Intervenors-Pending,
v.
UNITED STATES DEPARTMENT OF
STATE; et al.,
Defendants-Appellants,

No. 19-35099

D.C. Nos. 4:17-cv-00029-BMM
4:17-cv-00031-BMM

and

TRANSCANADA KEYSTONE PIPELINE,
LP and TRANSCANADA
CORPORATION,

Intervenor-Defendants.

Before: SILVERMAN and TALLMAN, Circuit Judges.

TransCanada Keystone Pipeline, LP, and TransCanada Corporation's (TransCanada) motion for a stay pending appeal is denied (No. 18-36068 Docket Entry No. 19). *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). The initial jurisdictional questions are complex, and TransCanada has not made the requisite strong showing that they are likely to prevail on the merits. The record shows that the district court carefully considered all applicable factors in denying the stay of its injunction. *Nken v. Holder*, 556 U.S. 418, 433-34 (2009). We see no abuse of discretion in refusing to stay the order. The district court has previously narrowed the scope of its injunction. Without prejudging the merits of this appeal at this preliminary stage, we deny TransCanada's motion that we narrow it further.

The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation's unopposed motion to file an amicus curiae brief in opposition to TransCanada's motion for a stay pending appeal is granted (No. 18-36068 Docket Entry No. 24-1). The Clerk shall file the amicus brief submitted on March 6, 2019 (No. 18-36068 Docket Entry No. 24-2).

Applicants Rosebud Sioux Tribe and Fort Belknap Indian Community's reply in support of their motion to intervene is now due March 28, 2019. The motion to intervene will be addressed by separate order.

The previously established briefing schedule remains in effect.

IT IS SO ORDERED.