

Plaintiff Tribes, to produce a thorough and comprehensive EIS.

2. In response to the Court's second question, on November 20, 2020, the Corps filed an opposition to Plaintiffs' request for an injunction on the basis that Plaintiffs have not met the applicable standard as set forth in *Monsanto Co. v. Geerston Seed Farms*, 561 U.S. 139 (2010). ECF No. 573. As represented by the undersigned counsel at the April 9 status conference, the injunction motion is fully briefed. Tr. of April 9, 2021 hearing at 15:9-14. This question now rests in the "sound discretion" of the Court. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

3. As to whether an injunction should issue, the EIS process in which the Corps is currently engaged examines many factors including some that may be relevant to the permanent injunction standard. It is possible that in the EIS process the Corps would find new information, but to date the Corps is not aware of information that would cause it to evaluate the injunction factors differently than in its previous filing. ECF No. 573 (citing *Monsanto Co. v. Geerston Seed Farms*, 561 U.S. 139 (2010)).

Date: May 3, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Reuben Schifman, hereby certify that on May 3, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and copies will be sent electronically to the registered participants as identified in the Notice of Electronic Filing.

By: /s/ Reuben S. Schifman
REUBEN SCHIFMAN