

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 05-5068

September Term, 2004

96cv01285

Filed On: April 7, 2005 [888042]

Elouise Pepion Cobell, et al.,
Appellees

v.

Gale A. Norton, Secretary of the Interior, et al.,
Appellants

BEFORE: Sentelle, Randolph, and Rogers, Circuit Judges

ORDER

Upon consideration of appellants' emergency motion for stay pending appeal and expedition, the response thereto and motion to remand, the reply to the response to the motion for stay pending appeal and expedition and opposition to the motion to remand, and the reply to the opposition to the motion to remand, it is

ORDERED that the motion to remand be denied. It is

FURTHER ORDERED that the emergency motion for stay pending appeal be granted. The district court's order filed February 23, 2005, reissuing the historical accounting provisions of the court's structural injunction, is stayed pending resolution of this appeal, except to the extent that Part 3 of the order requires additional briefing on topics other than the historical accounting. Appellants have shown sufficient likelihood of success on the merits and irreparable harm to warrant the issuance of a stay pending appeal. See Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977); Virginia Petroleum Jobbers Association v. FPC, 259 F.2d 921 (D.C. Cir. 1958) (per curiam). It is

FURTHER ORDERED that the motion for expedition be granted. The following briefing schedule shall apply:

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Appellants' Opening Brief	May 18, 2005
Appellees' Brief	June 17, 2005
Appellants' Reply Brief	July 1, 2005
Deferred Appendix	July 1, 2005
Final Briefs	July 8, 2005

The Clerk is directed to schedule this case for oral argument on the first available date on the court's September calendar.

Per Curiam