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United States v. United States Dist. Court (In re United States)

United States Court of Appeals for the Ninth Circuit

November 8, 2018, Filed

No. 18-73014

Reporter

2018 U.S. App. LEXIS 31961 *

In re: UNITED STATES OF AMERICA; et al. UNITED STATES OF AMERICA; et al., Petitioners, v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, EUGENE, Respondent, **KELSEY CASCADIA ROSE JULIANA**; et al., Real Parties in Interest.

Prior History: [*1] D.C. No. 6:15-cv-01517-AA. District of Oregon, Eugene.

Juliana v. United States, 2018 U.S. Dist. LEXIS 176508 (D. Or., Oct. 15, 2018)

Core Terms

district court, days, writ petition, Petitioners', mandamus, parties

Counsel: For United States of America, GINA MCCARTHY, in her official capacity as Administrator of the EPA, Office of The President of The United States, U.S. Environmental Protection Agency, U.S. Department of Energy, Donald J. Trump, Petitioners: Eric Grant, Sommer H. Engels, Robert Lundman, Andrew Christopher Mergen, Esquire, Attorney, U.S. Department of Justice, Environment & Natural Resources Division, Washington, DC.

For CHRISTY GOLDFUSS, in her official capacity as Director of Council on Environmental Quality, SHAUN DONOVAN, in his official capacity as Director of the Office of Management and Budget, JOHN HOLDREN, Dr., in his official capacity as Director of the Office of Science and Technology Policy, ERNEST MONIZ, Dr., in his official capacity as Secretary of Energy, United States Department of Interior, SALLY JEWELL, in her official capacity as Secretary of Interior, United States Department of Transportation, ANTHONY FOXX, in his official capacity as Secretary of Transportation, United States Department of Agriculture, THOMAS J. VILSACK, in his official capacity as Secretary of

Agriculture, United States Department of Commerce, [*2] PENNY PRITZKER, in her official capacity as Secretary of Commerce, United States Department of Defense, ASHTON CARTER, in his official capacity as Secretary of Defense, United States Department of State, JOHN F. KERRY, in his official capacity as Secretary of State, Petitioners: Sommer H. Engels, Eric Grant, Robert Lundman, Andrew Christopher Mergen, Esquire, Attorney, U.S. Department of Justice, Environment & Natural Resources Division, Washington, DC.

For **Kelsey Cascadia Rose Juliana**, XIUHTEZCATL TONATIUH M., through his Guardian Tamara Roske-Martinez, Alexander Loznak, Jacob Lebel, ZEALAND B., through his Guardian Kimberly Pash-Bell, AVERY M., through her Guardian Holly McRae, SAHARA V., through her Guardian Toa Aguilar, Kiran Isaac Oommen, Tia Marie Hatton, ISAAC V., through his Guardian Pamela Vergun, MIKO V., through her Guardian Pamela Vergun, HAZEL V., through her Guardian Margo Van Ummersen, SOPHIE K., through her Guardian Dr. James Hansen, JAIME B., through her Guardian Jamescita Peshlakai, JOURNEY Z., through his Guardian Erika Schneider, VICTORIA B., through her Guardian Daisy Calderon, NATHANIEL B., through his Guardian Sharon Baring, LEVI D., through his Guardian Leigh-Ann [*3] Draheim, JAYDEN F., through her Guardian Cherri Foytlin, NICHOLAS V., through his Guardian Marie Venner, EARTH GUARDIANS, a nonprofit organization, FUTURE GENERATIONS, through their Guardian Dr. James Hansen, Real Party in Interests: Philip L. Gregory, Senior Attorney, Gregory Law Group, Redwood City, CA; Julia Ann Olson, Attorney, Wild Earth Advocates, Eugene, OR; Andrea Rodgers, Attorney, Law Offices of Andrea K. Rodgers, Seattle, WA.

Judges: Before: THOMAS, Chief Judge, BERZON and FRIEDLAND, Circuit Judges.

Opinion

Glen Hansen

ORDER

Petitioners' motion for a temporary stay of district court proceedings (contained in Docket Entry No. 1) is granted in part. Trial is stayed pending this court's consideration of this petition for writ of mandamus.

The unopposed motion to file an oversized petition is granted (Docket Entry No. 2).

This petition for a writ of mandamus raises issues that warrant an answer. *See Fed. R. App. P. 21(b)*. Accordingly, within 15 days after the date of this order, the real parties in interest shall file an answer.

The district court, within 15 days after the date of this order, may address the petition if it so desires. The district court may elect to file an answer with this court or to issue an order and serve a [*4] copy on this court. Petitioners may file a reply within 5 days after service of the answer(s).

In addition, the parties, within 15 days after the date of this order, shall file a joint report on the status of discovery and any relevant pretrial matters.

The district court is also requested to promptly resolve petitioners' motion to reconsider the denial of the request to certify orders for interlocutory review. *See Order, In re United States, Applicant*, No. 18-065 (U.S. July 30, 2018) (noting that the justiciability of plaintiffs' claims "presents substantial grounds for difference of opinion"); *Order, In re United States, Applicant*, No. 18-410 (U.S. Nov. 2, 2018) (same).

The Clerk shall serve this order on the district court and District Judge Aiken.

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