

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
MAR 31 2004
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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ELOUISE PEPION COBELL, et al.,)
)
Plaintiffs-Appellees,)
)
v.)
)
GALE A. NORTON,)
Secretary of the Interior, et al.,)
)
Defendants-Appellants.)

Nos. 03-5262, 04-5084
[Civil Action No. 96-1285 (D.D.C.)]

**REPLY IN SUPPORT OF GOVERNMENT'S EMERGENCY MOTION FOR
CONSOLIDATION OF APPEALS**

As we explained in our motion to consolidate, the court's order of March 15, 2004 purports to "supersede" and "replace" the preliminary injunction of July 28, 2003. The government's appeal from the July 28 order is proceeding on an expedited basis, and the government's opening brief is due on April 6, 2004. The government's appeal from the structural injunction, No. 03-5314, is proceeding on the same expedited briefing schedule as the appeal from the July 2003 preliminary injunction, No. 03-5262. Because the appeal from the March 15 injunction involves the same subject matter as the July 28, 2003 injunction, we have asked that the appeals from both orders be consolidated. In this way, the appeals from all related orders can be heard expeditiously. If the Court grants our motion to consolidate No. 03-5262 and No. 04-5084, the government will file one brief in those consolidated appeals on April 6, 2004.

Plaintiffs do not oppose this motion. Without explanation, however, they ask that the word limit for their responsive brief be enlarged to 20,000 words. The government takes no position on this request. However, we seek no similar enlargement of the word count. In the structural injunction appeal, which is proceeding simultaneously, the Court, at the government's request, expanded the word count to 20,000 words. The government requested that expansion because of the length and breadth of the opinions on review. We do not require a similar expansion here. Because

the government will be able to set out the background of the case fully in its structural injunction appeal, any need for an enlargement is obviated.

CONCLUSION

The appeals in Nos. 03-5262 and 04-5084 should be consolidated, and the two appeals should proceed on the briefing schedule already in existence for No. 03-5262.

Respectfully submitted,

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MARCH 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of March, 2004, I caused copies of the foregoing reply to be sent to the Court and to the following by hand delivery:

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