United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-1357 **September Term, 2020**

EPA-85FR57018

Filed On: October 27, 2020

State of California, by and through Attorney General Xavier Becerra, and the California Air Resources Board, et al.,

Petitioners

v.

Andrew Wheeler, in his official capacity as Administrator, United States Environmental Protection Agency and Environmental Protection Agency,

Respondents

American Petroleum Institute, et al.,

Intervenors

Consolidated with 20-1359, 20-1363

BEFORE: Henderson, Rogers*, and Walker, Circuit Judges

O R D E R

Upon consideration of the emergency motions for a stay, the motion for summary vacatur, the combined responses in opposition thereto, and the replies; and the motions for leave to intervene filed by the state of North Dakota and the International Association of Drilling Contractors, et al., it is

ORDERED that the motion for summary vacatur be denied. The merits of the parties' positions are not so clear as to warrant summary action. See Cascade Broadcasting Group, Ltd. v. FCC, 822 F.2d 1172, 1174 (D.C. Cir. 1987) (per curiam). It is

FURTHER ORDERED that the administrative stay entered on September 17, 2020, be dissolved. It is

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* Judge Rogers would grant the motions for stay.

FURTHER ORDERED that the motions for stay be denied. Petitioners have not satisfied the stringent requirements for a stay pending court review. See Nken v. Holder, 556 U.S. 418, 434 (2009); D.C. Circuit Handbook of Practice and Internal Procedures 33 (2019). It is

FURTHER ORDERED that the motions for leave to intervene be granted. It is

FURTHER ORDERED that the following briefing schedule and format will apply in these consolidated cases:

Petitioners' Briefs (no more than two briefs, not to exceed a combined total of 16,000 words)	December 7, 2020
Respondents' Brief (not to exceed 16,000 words)	January 6, 2021
Intervenor-Respondents' Briefs (no more than two briefs, not to exceed a combined total of 11,200 words)	January 13, 2021
Petitioners' Reply Briefs (no more than two briefs, not to exceed a combined total of 8,000 words)	January 27, 2021
Deferred Joint Appendix	February 3, 2021
Final Briefs	February 10, 2021

The parties will be informed later of the date of oral argument and the composition of the merits panel.

The court reminds the parties that

> In cases involving direct review in this court of administrative actions, the brief of the appellant or petitioner must set forth the basis for the claim of standing. . . . When the appellant's or petitioner's standing is not apparent from the administrative record, the brief must include

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arguments and evidence establishing the claim of standing.

See D.C. Cir. Rule 28(a)(7).

All issues and arguments must be raised by petitioners in the opening brief. The court ordinarily will not consider issues and arguments raised for the first time in the reply brief.

To enhance the clarity of their briefs, the parties are urged to limit the use of abbreviations, including acronyms. While acronyms may be used for entities and statutes with widely recognized initials, briefs should not contain acronyms that are not widely known. See D.C. Circuit Handbook of Practice and Internal Procedures 42 (2019); Notice Regarding Use of Acronyms (D.C. Cir. Jan. 26, 2010).

Parties are strongly encouraged to hand deliver the paper copies of their briefs to the Clerk's office on the date due. Filing by mail may delay the processing of the brief. Additionally, counsel are reminded that if filing by mail, they must use a class of mail that is at least as expeditious as first-class mail. See Fed. R. App. P. 25(a). All briefs and appendices must contain the date that the case is scheduled for oral argument at the top of the cover. See D.C. Cir. Rule 28(a)(8).

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Manuel J. Castro
Deputy Clerk

United States Court of Appeals

District of Columbia Circuit
Washington, D.C. 20001-2866

Mark J. Langer
Clerk

(202) 216-7300

NOTICE TO COUNSEL:

SCHEDULING ORAL ARGUMENT

The court has entered an order setting a briefing schedule in a case in which you are counsel of record. Once a briefing order has been entered, the case may be set for oral argument.

You will be notified by separate order of the date and time of oral argument. Once a case has been calendared, the Clerk's Office cannot change the argument date, and ordinarily the court will not reschedule it. Any request to reschedule must be made by motion, which will be presented to a panel of the court for disposition. The court disfavors motions to postpone oral argument and will grant such a motion only upon a showing of "extraordinary cause." See D.C. Cir. Rule 34(g).

If you are the arguing counsel, and you will be unavailable to appear for oral argument on a date in the future, so advise the Clerk's Office by letter, filed electronically. The notification should be filed as soon as possible and updated if a potential scheduling conflict arises later, or if there is any change in availability. To the extent possible, the Clerk's Office will endeavor to schedule oral argument to avoid conflicts that have been brought to the court's attention in advance. See D.C. Circuit Handbook of Practice and Internal Procedures at IX.A.1, XI.A.

Counsel must notify the court when serious settlement negotiations are underway, when settlement of the case becomes likely, and when settlement is reached. Such notice allows for more efficient allocation of judicial resources. Additionally, counsel should promptly notify the court if settlement negotiations are terminated. Notice must be given in an appropriate motion or by letter to the Clerk at the earliest possible moment. See, e.g., D.C. Circuit Handbook of Practice and Internal Procedures at X.D., XI.A.

Rev. March 2017