United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 03-5314 **September Term, 2003**

96cv01285

Elouise Pepion Cobell, et al.,
Appellees

v.

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

Filed On: April 21, 2004 [817548]

BEFORE: Henderson, Randolph, and Tatel,
Circuit Judges

ORDER

Upon consideration of the motion for reconsideration of the court's stay order filed January 28, 2004, it is

ORDERED that the motion be denied. As evidenced by our citations to Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977), and D.C. Circuit Handbook of Practice and Internal Procedures 33 (2002) in the stay order, we determined that a stay should be granted under the traditional four-factor analysis and that the potential harm to the appellees is outweighed by the other factors in the analysis. This determination is not inconsistent with prior judicial statements concerning delay-related harm to the appellees, as the harm to the appellees is only one of the factors to be considered in the stay analysis, and the other factors – including the effects of the November 2003 Appropriations Act on the appellants – outweigh it in this case. Nor is the stay overbroad, as the appellants established their entitlement to a stay of the institutional reform provisions, and the stay does not prohibit the appellants from conducting the historical accounting activities that have been funded by Congress.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

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Deputy Clerk/LD