

May 20, 2019

Via CM/ECF

Molly C. Dwyer
Clerk of the Court
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

Re: *Kelsey Cascadia Rose Juliana, et al. v. United States, et al.*,
No. 18-36082

Dear Ms. Dwyer,

Plaintiffs-Appellees submit this supplemental authority pursuant to Federal Rule of Appellate Procedure 28(j) and Circuit Rule 28-6. Plaintiffs bring the Court's attention to Executive Order 13868 of April 10, 2019 entitled *Promoting Energy Infrastructure and Economic Growth*, 84 Fed. Reg. 15495 ("E.O. 13868").

E.O. 13868 states the U.S. "surpassed production records set nearly 5 decades ago and is in all likelihood now the largest producer of crude oil in the world," as well as "the world's leading producer of natural gas," becoming "a net exporter in 2017 for the first time since 1957." After stating the U.S. will "be the undisputed global leader in crude oil and natural gas production for the foreseeable future," E.O. 13868 sets forth actions aimed at "construction of the infrastructure needed to move our energy resources through domestic and international commerce" to allow Defendants to extract the country's "energy resources, including abundant supplies of coal, oil, and natural gas." 84 Fed. Reg. 15,495, 15,495 (Apr. 10, 2019).

To further this policy, E.O. 13868 requires, *inter alia*: (1) revision of Clean Water Act section 401 Water Quality Certification regulations and guidance; (2) revision of safety regulations for liquefied natural gas (LNG) facilities; (3) streamlining processes for "energy infrastructure rights-of-way renewals or reauthorizations"; and (4) a report to the President on the barriers to a national energy market. *Id.* at 15,495–98.

E.O. 13868 is relevant to Plaintiffs' standing to challenge Defendants' policies and practices of "ongoing development of the fossil fuel-based energy system" and requested relief enjoining Defendants "from authorizing . . . mining or

Molly C. Dwyer
May 20, 2019
Page 2

extraction of coal on Federal Public Lands [and] development of new fossil fuel infrastructure.” *Urgent Motion for Preliminary Injunction*, Doc. 21-1, at 1–2. E.O. 13868 elucidates Defendants’ promotion of a national fossil-fuel based energy system that, thereby, causes Plaintiffs’ injuries. *See Answering Brief*, Doc. 37, at 17–18. E.O. 13868 further demonstrates Defendants’ ongoing conscious-shocking systemic policies and practices which knowingly and affirmatively endanger Plaintiffs’ lives, personal security, and other liberties.

Plaintiffs request this Court consider E.O. 13867 in evaluating both Plaintiffs’ Urgent Motion for Preliminary Injunction and interlocutory appeal.

Respectfully submitted,

s/ Julia A. Olson
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