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From: POLITICO Pro Energy Whiteboard
Sent: Fri 7/28/2017 8:11:46 PM
Subject: 9th Circuit takes next step in Trump attempt to shut down climate suit

By Alex Guillén

07/28/2017 04:08 PM EDT

The 9th Circuit Court of Appeals today said the Trump administration's request to stop a trial over the federal government's culpability for climate change "raises issues that warrant an answer."

A three-judge panel, which earlier this week paused the lower court's ongoing trial preparation, said in a two-page order that the group of children and young adults who are suing the federal government in an Oregon federal court have 30 days to reply to the Trump administration's complaint.

Federal lawyers in June argued that the trial was a "clearly improper attempt to have the judiciary decide important questions of energy and environmental policy to the exclusion of the elected branches of government."

The court also directed the children to address whether the district court has the jurisdiction to hear their constitutional challenge to Section 201 of the Energy Policy Act of 1992, which covers the Energy Department's authority to approve natural gas exports. Only appellate courts have jurisdiction to hear challenges to LNG export approvals, the Trump administration argued.

In addition, the 9th Circuit asked for an update on trial discovery, the review of government documents by the children's attorneys. The judges specifically want to know about upcoming deadlines and "ongoing or expected discovery disputes."

The order was issued by Judges Alfred Goodwin, a Richard Nixon appointee; Alex Kozinski, a Ronald Reagan appointee; and Marsha Berzon, a Bill Clinton appointee.

WHAT'S NEXT: The children and young adults fighting the government have 30 days to respond to the Trump administration's petition. The administration will then have 14 days to file a reply.

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