

No. 19-35460
(Consolidated with Nos. 19-35461 and 19-35462)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LEAGUE OF CONSERVATION VOTERS, et al.,
Plaintiffs/Appellees,

v.

JOSEPH R. BIDEN, in his official capacity as
President of the United States, et al.,
Defendants/Appellants.

Appeal from the United States District Court for the District of Alaska
No. 3:17-cv-00101 (Hon. Sharon L. Gleason)

FEDERAL APPELLANTS' RESPONSIVE SUPPLEMENTAL BRIEF

Of Counsel:

DENNIS DAUGHERTY
SUSAN HOVEN CASON
Attorneys
Division of Mineral Resources
Office of the Solicitor
U.S. Department of the Interior

JEAN E. WILLIAMS
Acting Assistant Attorney General
JUSTIN D. HEMINGER
Attorney
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7415
Washington, D.C. 20044
(202) 514-5442
justin.heminger@usdoj.gov

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In response to the Court’s January 27, 2021 Order, the parties filed supplemental briefs on “the impact of the January 20, 2021 Executive Order on these appeals.” Docket No. 82. The Court’s Order further provided that the parties “may” file responsive briefs. *Id.* In response to the parties’ supplemental briefs, the Federal Appellants submit two brief points.

1. All parties agree that President Biden’s Executive Order 13990, which revoked Executive Order 13795, has rendered these consolidated appeals moot. *See* Federal Appellants’ Supplemental Brief 3-9, Docket No. 88 (Mar. 15, 2021); State of Alaska’s Supplemental Brief 1-2, Docket No. 90 (Mar. 15, 2021); Supplemental Brief for Plaintiffs-Appellees League of Conservation Voters, et al. 2-9, Docket No. 92 (Mar. 15, 2021); American Petroleum Institute’s Supplemental Brief 3-4, Docket No. 93-1 (Mar. 15, 2021). Thus, for the reasons stated in the parties’ supplemental briefs, the Court should dismiss the appeals and remand to the district court with instructions to dismiss the case as moot.

2. All of the Defendant-Appellants—the Federal Appellants, Alaska, and American Petroleum Institute (API)—request that the Court follow the “established practice” of federal courts and “vacate the judgment below.” *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39 (1950). *See* Federal Appellants’ Supplemental Brief 9-10; Alaska’s Supplemental Brief 2-6; and API’s Supplemental Brief 4-8. Plaintiffs-Appellees (collectively, the League) did not

address vacatur in their supplemental brief. *See* The League’s Supplemental Brief 1-9. For the reasons stated in the Defendant-Appellants’ supplemental briefs, the Court should grant *Munsingwear* vacatur.

In summary, the Court should dismiss the appeals, vacate the decisions below, and remand the matter with instructions to dismiss the case as moot.

Respectfully submitted,

s/ Justin D. Heminger

JEAN E. WILLIAMS

Acting Assistant Attorney General

JUSTIN D. HEMINGER

Attorney

Environment and Natural Resources Division

U.S. Department of Justice

Post Office Box 7415

Washington, D.C. 20044

(202) 514-5442

justin.heminger@usdoj.gov

Of Counsel:

DENNIS DAUGHERTY

SUSAN HOVEN CASON

Attorneys

Division of Mineral Resources

Office of the Solicitor

U.S. Department of the Interior

March 29, 2021

DJ 90-1-18-14968

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Signature s/ Justin D. Heminger

Date March 29, 2021