



*A proposed mega-development could threaten the Grand Canyon's water supply.
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EARTHJUSTICE IN THE ROCKY MOUNTAINS

The southern Rocky Mountains and Southwest are home to an array of majestic landscapes, from snow-capped peaks and lush forests to fantastically sculpted red rock canyons and austere desert. Earthjustice's Rocky Mountain office, based in Denver, is committed to defending this region's remarkable natural heritage for generations to come. Our long-term efforts help protect these iconic western landscapes and the wildlife native to them from threats like roads, destructive off-road vehicle (ORV) use, and dirty fossil fuel development. As we defend the West from polluting fossil fuels, we're also working hard to encourage the growth of renewable energy sources like solar power.

SAFEGUARDING SPECIAL PLACES AND WILDLIFE

The Grand Canyon

Earthjustice is committed to protecting the Grand Canyon, one of the most beloved of our nation's natural wonders. We continue to defend the Department of Interior's withdrawal of 1 million acres of public lands near the Canyon from new uranium mine claims, which industry is challenging. Contamination from past uranium mining already has polluted the region's water resources, including streams inside Grand Canyon National Park, and threatened the water supply of one of our clients, the Havasupai Tribe. In 2014 the court ruled in our favor, but industry appealed the ruling to the 9th Circuit, where we will defend our victory.

In March, the U.S. Forest Service rejected a permit application that would have paved the way for a mega-resort near Grand Canyon National Park's southern entrance, transforming the small community of Tusayan into a major tourist destination. The proposal, which includes 2,200 new homes and 3 million square feet of new commercial development, would require huge amounts of water from groundwater or the Colorado

River—already overtapped sources. While much or all of the development would be on private land, the developer needed a permit across Forest Service land for infrastructure to support the town. The combined advocacy efforts of Earthjustice and our partners were important factors in the agency’s decision to reject the permit.

The Grand Canyon’s renowned scenic views draw millions of tourists from around the world each year. Unfortunately, air pollution from coal-fired power plants and other regional industrial sources often obscures its iconic vistas. Congress required many of these large and outdated pollution sources across the country to clean up their haze-causing emissions, and we have several ongoing cases to ensure that power plants clean up or retire units. As a result of our work, several coal-fired units in Arizona have recently retired or stopped burning coal, and others will do so soon. These victories will not only protect and improve the vistas at the Grand Canyon and other parks, but also result in cleaner air for millions of Arizonans to breathe.

Utah’s Red Rock Country

Earthjustice is providing legal representation to 11 conservation groups seeking to safeguard magnificent wilderness-quality lands in Utah’s red rock country from the harmful impacts of off-road vehicles and oil and gas drilling. In 2009, we won an injunction that stopped oil and gas leasing in sensitive areas, which led to important BLM reforms. Then, in 2013, we won a significant victory in a lawsuit challenging six Bureau of Land Management land-use plans that opened nearly 11 million acres of eastern and southern Utah public lands to oil and gas development and ORVs. A federal district court in Utah rejected one of the plans for, among other issues, failing to minimize the impacts of ORVs throughout the planning area.

In a subsequent victory in May 2015, the court ruled that the BLM must conduct comprehensive environmental and archaeological site surveys before designating off-road vehicle routes, and it must complete them over the next one to three years rather than the five to 30 years the agency claimed it would take. These victories are promising for our legal challenge to the remaining five plans, which all suffer from the same legal flaws. The BLM has appealed the requirement that it inventory the archaeological sites, but as we defend our victory on appeal, we nonetheless hope to brief our challenge to the remaining five plans—which opened vast expanses of canyon country to fracking—by the end of the year.

Colorado’s Roan Plateau and Thompson Divide

Roan Plateau: In 2014 we reached a very favorable settlement agreement with the BLM and energy companies that will protect the large majority of the Roan Plateau from drilling, conserving important wildlife habitat both on top of the plateau and in areas at its base. The plateau has been the focus of one of the most intense and protracted conflicts over energy development on public lands in the West. It is home to dozens of threatened fish and wildlife species, some of the rarest plants in North America, thousands of acres of wilderness-quality lands, and prized hunting and angling opportunities. However, it was targeted for drilling by the oil and gas industry because it also contains significant amounts of natural gas.

According to the BLM, this settlement involves the largest cancellation of oil and gas leases (in both acreage and dollar value) in the agency’s history. The agreement also sets the stage for the BLM to adopt a new management plan that would preclude new leasing atop the plateau. We will actively engage in this process to ensure the BLM follows through and effectively implements a plan that is consistent with the settlement.

Thompson Divide: Earthjustice is representing citizens who are fighting drilling and fracking on the Thompson Divide, a 220,000-acre forested wildland on the west slope of the Colorado Rockies. Its value as wildlife habitat, historic rangeland, and recreational destination—and as the headwaters of 15 watersheds—far exceeds that of the natural gas that could be extracted from it. The BLM auctioned off oil and gas leases for large parts of the Divide, but they have never been developed and would have expired in 2013. Instead, the

agency extended them despite widespread local opposition from a bipartisan coalition of ranchers, hunters, anglers, conservationists, and businesses. We are working to overturn this decision.

Meanwhile, the BLM is preparing a new analysis to reconsider its 2003 issuance of these leases and others on roadless lands in the White River National Forest that were issued with the same legal flaw. We're advocating for a new decision that fully protects Thompson Divide and roadless areas throughout the forest.

Mexican Gray Wolves

In 2014, on behalf of a coalition of groups, Earthjustice sued the U.S. Fish and Wildlife Service to demand stronger protections for Mexican gray wolves—the “lobo” of Southwestern lore and one of the most endangered mammals in North America. Once reduced to only seven individuals in a captive breeding program, this wolf of Mexico and the U.S. Southwest was reintroduced into the wild in Arizona. Since then, the FWS has imposed numerous restrictions on the Mexican wolf recovery program and it has foundered, leaving an isolated population of just over 100 wolves plagued by inbreeding and excessive killings by humans. Our lawsuit aims to hold the agency accountable for failing to produce a valid recovery plan for



Mexican gray wolves—the “lobo” of frontier legend—once roamed the American Southwest.. (Scott Prokop/ Shutterstock)

the imperiled wolf, as required under the Endangered Species Act. In January 2015, we filed another lawsuit, challenging a new FWS management rule that imposes restrictions that will obstruct Mexican wolf recovery.

San Pedro River

Southern Arizona's San Pedro River, the last undammed river in the Southwest, is a biological hotspot—a critical stopover for millions of migratory birds and a crucial resource for a variety of wildlife.

Nearly 45 percent of the 900 total species of birds in North America use the San Pedro at some point in their lives. The San Pedro basin also provides habitat for a number of species protected under the ESA, including the southwestern willow flycatcher and the jaguar. In 2014, Earthjustice successfully challenged the Arizona Department of Water Resources' approval of a water supply plan for a massive home subdivision that would have dried up the San Pedro River. This court win set important precedent and could force Arizona to meaningfully regulate groundwater pumping in this watershed for the first time, giving the Upper San Pedro and the San Pedro Riparian National Conservation Area a chance for survival as a healthy ecosystem. We are now defending this victory in the Arizona Court of Appeals.



*The San Pedro River is a critical stopover for millions of migratory birds.
(Robin Silver)*

West Elk Mine

In September 2014, Earthjustice won a major victory when a federal court rejected the government's approval of plans to expand the West Elk coal mine to remove 10 million tons of coal. Arch Coal planned to bulldoze roads and scrape well pads through 1,700 acres of western Colorado's pristine Sunset Roadless Area, transforming it into an industrial zone. Among other things, the court found that the agencies' failure to consider the project's climate impacts and assess the social costs of carbon pollution violated the National Environmental Policy Act. The Forest Service and BLM are working on a climate analysis now and we expect a new decision from the agencies in 2016. This groundbreaking decision could set a precedent that could require the government to consider climate change impacts before approving new energy development projects on public lands. Unfortunately, the Department of Interior's decision to pause coal leasing for three years carved out an exception for West Elk, making continued work on this case critical.

Although the court's ruling was a tremendous win, it left the door open for the Forest Service to revive a loophole to the Colorado Roadless Rule that would allow Arch Coal's plans for the mine expansion to proceed if the agency undertook a new analysis that adequately disclosed the climate pollution the activities would cause. Earthjustice is working with clients to keep the Colorado rule's loophole closed, and to protect the Sunset Roadless Area from Arch's destructive mining plan.

Oil Shale Development in Utah and Colorado—Not on Our Watch

Earthjustice is opposing proposals to mine oil shale and tar sands in sensitive areas of northeastern Utah's Uinta Basin and northwestern Colorado. The complex ecosystem of the region's desert badlands supports dozens of rare plants found nowhere else in the world, including the Graham's and White River beardtongue, which live only on oil shale outcroppings there. Representing seven conservation groups, in March 2015 we filed a legal challenge against the FWS for denying Endangered Species Act protections to these two imperiled wildflowers. In 2013, the service proposed to protect the wildflowers but reversed course in 2014, claiming that threats to the species were ameliorated by a weak and voluntary conservation agreement it entered into with the BLM and several pro-drilling state and county agencies.

HOLDING THE LINE ON DIRTY FOSSIL FUEL DEVELOPMENT: ADDITIONAL CASES

Fort Collins Fracking Moratorium

At the request of the city of Fort Collins, Earthjustice is helping defend the city's five-year moratorium on hydraulic fracturing inside its limits from a challenge by an industry group. In 2014, a district court held that the moratorium is preempted by state law. Fort Collins appealed the ruling, which would severely limit the ability of local governments in Colorado to protect the public from unchecked oil and gas development. The Colorado Supreme Court heard oral arguments in December 2015.

BLM Fracking Rule

The BLM recently issued the first national regulations governing fracking on federal lands, which will apply to more than 750 million acres of public and tribal lands across the United States. While not perfect, the rule will regulate important aspects of oil and gas extraction. Companies will have to seek approval from the BLM before fracking on public lands, allowing the agency to review the proposed operation to ensure it doesn't threaten drinking water supplies or other types of contamination. The use of certain waste pits at oil and gas well sites will be banned in most cases and metal storage tanks required, to protect wildlife, clean water, and other resources. The rule also requires companies to disclose chemicals used in fracking fluids. Representing six conservation groups, Earthjustice is defending the rule against two legal challenges—one brought by industry, the other by several western states. In September, a district court judge granted a preliminary injunction against the rule, putting it on hold until a federal court can review its legality. We have appealed to the 10th Circuit Court of Appeals.

Regulating Methane from Oil and Gas Infrastructure

In response to the growing threat of air pollution related to oil and gas development, the Colorado Air Quality Commission proposed to strengthen its air quality regulations. We participated in a stakeholder process throughout 2013 that resulted in a proposal to the commission that significantly strengthens the existing rules. In 2014, we presented expert and legal testimony in formal hearings, after which the commission adopted strengthened ozone controls and the first-ever controls on methane—an extremely potent greenhouse gas—for the oil and gas industry in Colorado. We're monitoring implementation and are ready to defend any challenge to the new rules.

GROWING CLEAN ENERGY ALTERNATIVES

Colorado

Defending the Renewable Energy Standard: Colorado is a national leader in solar and wind power generation, due in part to strong clean energy policies and incentives like its renewable energy standard. Approved by voters in 2004, this standard requires Colorado's major utilities to meet 30 percent of their energy needs with clean, renewable power. It has helped reduce pollution and plays a major role in driving the state's renewable energy economy.

Earthjustice has twice defended the standard against a constitutional challenge in a lawsuit that is being closely watched as a national test case, as more than 30 states have similar laws. In 2014, we won a key

victory when a district court judge upheld the standard, and in 2015 we preserved our victory in the 10th Circuit Court of Appeals.

Encouraging Solar Power: In 2014, we represented solar advocates in several proceedings before Colorado utility regulators, who set electricity rates and approve energy investments, to ensure that the state continues to level the playing field for clean energy. In one proceeding, we won a definitive victory when the Public Utility Commission rejected an invitation by Xcel Energy, the state's largest utility, to revisit its net-metering program. Xcel was pushing for rate changes that would have killed incentives to install solar systems.

In another proceeding, we evaluated a proposed program that would offer utility customers short-term subscriptions to a central solar facility. While the proposal had the potential to provide an innovative pathway to solar energy for customers not able to install their own systems, it suffered from several flaws that could harm the growth of rooftop (or "distributed") solar generation in the state. We advocated for several modifications to the program that would ensure a level playing field for all solar providers. When the company indicated its unwillingness to make such changes, the commission rejected the proposal.

We are participating in other proceedings in which the utility commission is considering fundamental legal questions that will determine whether rooftop solar and other distributed generation remain feasible and economically attractive to Colorado consumers. We put forth the strongest possible arguments for the expansion of this increasingly popular source of green power, and are awaiting a proposed decision from the administrative law judge.

Arizona

The capacity for solar generation in Arizona is enormous, yet powerful utilities in that state have vigorously attacked existing net metering rates that provide incentives for rooftop solar and facilitate the growth of green, renewable energy. Major battles loom, but so far we have blocked Tucson Electric Power Company's proposal to reduce the compensation that customers get for the renewable energy they produce and send to the electric grid, which would discourage the growth of rooftop solar. We're currently opposing a similar proposal from UNS Electric.

ABOUT EARTHJUSTICE

Founded in 1971, Earthjustice fights for the right of all to a healthy environment. As the nation's premier nonprofit environmental law organization, Earthjustice takes on the biggest, most precedent-setting cases across the country. We wield the power of the law and the strength of partnership to protect people's health, preserve magnificent places and wildlife, advance clean energy, and combat climate change. We partner with thousands of groups and individuals to take on the critical environmental issues of our time and bring about positive change.