Court Finds Plaintiffs Lack Standing To Bring Climate Change Claims

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Environmental plaintiffs seeking to bring judicial challenges to the climate change impacts of development projects suffered a significant setback in a recent federal court decision. On July 30, the U.S. District Court for the District of Columbia held that Plaintiffs claiming injury from the effects of climate change caused by coal mining and combustion did not have standing to pursue those claims. This ruling, which granted summary judgment to the defendants in *WildEarth Guardians v. Salazar*, could have far-reaching implications for other efforts to pursue climate change litigation.

The decision in *WildEarth Guardians* stemmed from plaintiffs' efforts to prevent the Bureau of Land Management (BLM) from leasing over 4,000 acres of land in Wyoming to a company that planned to conduct coal mining operations there. Before issuing its leasing decision, BLM prepared a 700-page Environmental Impact Statement (EIS) pursuant to the procedural requirements of the National Environmental Policy Act (NEPA). The EIS studied a variety of potential environmental issues that could be caused by the proposed mining operations, and concluded that the state of climate science did not permit the agency to assess the global climate change effect of the planned extraction and ultimate combustion of the coal on the site. After completing its EIS, BLM decided to offer the lands at issue for lease through a competitive bid process.

Plaintiffs filed a lawsuit challenging BLM's leasing decision, arguing, among other claims, that the analysis of climate change effects in the EIS was inadequate. Recognizing that Article III of the U.S. Constitution required them to demonstrate that they had suffered an injury-in-fact that was fairly traceable to BLM's actions, Plaintiffs claimed that they had recreational, aesthetic and economic interests in the areas near the leased lands and elsewhere in the American West. Plaintiffs argued that the mining and burning of coal from the leased lands would lead to, among other things, "greater drought conditions; increased invasive species and insect infestations; increased fire frequency, severity, and extent; and a concordant reduction in biodiversity and sensitive species."

The District Court concluded that Plaintiffs' theory of standing was fundamentally flawed in light of the "disconnect between Plaintiffs' recreational, aesthetic, and economic interests, which are uniformly local, and the diffuse and unpredictable effects of [greenhouse gas] emissions." In other words, the Court found that allegations of "widespread harm" from climate change were not sufficient to show that the mining of coal on the leased lands was causally linked to particular harms to Plaintiffs' interests. Rather, "the relationship between" Plaintiffs' "localized interests" and the effects of greenhouse gas emissions was "depend[ent] on the behavior of countless third parties." The "long chain of assumptions, suppositions,

and predictive judgments required to connect Plaintiffs' localized interests, the effects of global [greenhouse gas] emissions, and the leasing of" the BLM lands was simply "too attenuated" to support standing.

The Court did hold that plaintiffs' had standing challenge the EIS on more localized issues, such as the effects of the proposed leasing on local air quality, groundwater, and the adequacy of reclamation progress in the region. On the merits, the Court held that the EIS adequately considered all of these issues, and granted summary judgment to Defendants and Intervenor-Defendants on all counts. The decision sets a significant precedent for a large number of similar mining challenges to coal leasing in Wyoming and elsewhere in the west.

The Court's thorough opinion in *WildEarth Guardians* makes it difficult for any environmental group considering a challenge to a development project to establish standing to bring claims based on the local effects of global climate change. The ruling's implications should extend far beyond mining projects to any type of development that would lead to an increase in greenhouse gas emissions. Moreover, the decision not only limits the standing of plaintiffs in a potential lawsuit over such projects, but also limits the scope of any NEPA review that must take place before a project is approved.

Dorsey & Whitney LLP attorneys Michael Drysdale, William Prince, and Jay C. Johnson represented the National Mining Association as Intervenor-Defendant in WildEarth Guardians v. Salazar.

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