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Fracking operation in Colorado. (photo: Shutterstock)

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Historic Win in Colorado Fracking Lawsuit

By Our Children's Trust
25 March 17

In a 2-1 [decision](#) Thursday, the Colorado Court of Appeals reversed the Colorado Oil and Gas Conservation Commission's order denying a youth-brought rulemaking petition against fracking and a lower court's order upholding the denial. The court remanded the case to the district court and the commission, finding that the commission erred in its interpretation of Colorado law:

"We therefore conclude that the commission erred in interpreting [the Oil and Gas Conservation Act] as requiring a balance between development and public health, safety and welfare."

"The clear language of the act ... mandates that the development of oil and gas in Colorado be regulated subject to the protection of public health, safety and welfare, including protection of the environment and wildlife resources."

The commission had argued that the Oil and Gas Conservation Act required it to strike a balance between the regulation of oil and gas operations and protecting public health, the environment and wildlife resources.

The six plaintiffs in the case are Xiutezcatl Martinez, Itzcuahtli Roske-Martinez, Sonora Brinkley, Aerielle Deering, Trinity Carter and Emma Bray. All are members of the Boulder-based youth group [Earth Guardians](#).

The youth hand-delivered their [petition for rulemaking](#) in November 2013 to the commission. Their petition asked the commission to develop and implement a rule to stop the permitting of fracking until and if, oil and gas development can be done without causing harm to humans and without impairing Colorado's natural resources, including atmospheric resources and climate change.



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Bernie Sanders, Bernie Sanders's Facebook Page
25 March 2017

"By its decision today, the court has concluded that the commission has full statutory authority to adopt Petitioner's proposed rule," Julia Olson, plaintiffs' counsel and executive director of Our Children's Trust, said. "The commission can no longer decide to prioritize oil and gas development over the health and safety of Coloradans. This is an enormous victory for these youth. We look forward to helping the youth of Colorado go back before the commission on remand."

Martinez, youth director of Earth Guardians, shared his excitement on the win. "Our movement to fight for the rights of people and our environment is evolving," he said.

"From the streets to the courtroom, the voices of the younger generation will be heard and the legal system is a tool for our resistance. Small wins build up to create massive change. I'm very optimistic about the potential this lawsuit has to protect my Colorado. Now more than ever, we will see people reclaiming the power."

Martinez is one of 21 youth plaintiffs in Juliana v. United States, a climate case brought in federal court and headed to trial this fall in U.S. District Court in Oregon. The American Petroleum Institute (API) is an intervenor defendant in both Martinez's Colorado and federal case. API represents the interests of the oil and gas industry supporting the commission in Colorado and the Trump administration in federal court. On Friday, attorneys representing Martinez and his co-plaintiffs in that case, served API and the federal government with requests for emails to or from Secretary of State Rex Tillerson's pseudonym, Wayne Tracker.



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Judges ruling on the side of youth plaintiffs were Judge Terry Fox and Judge JoAnn Vogt, with Judge Laurie Booras dissenting. In Booras' dissent, she wrote:

"I respectfully dissent from the majority's conclusion that the statutory scheme of the Oil and Gas Conservation Act (the Act), §§ 34-60-101 to -130, C.R.S. 2016, requires protection of public health, safety and welfare as a determinative factor, instead of requiring balancing between those considerations and oil and gas production."

In this Colorado case, however, the youth won their right to have their health, safety and welfare take precedence over oil and gas drilling. They will head back to district court with the support of Coloradans from across the state, hundreds of whom marched in support of their case prior to their hearing before the Colorado Court of Appeals last month.



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Martinez v. Colorado Oil and Gas is one of many related legal actions brought by youth in several states and countries, all supported by Our Children's Trust, seeking science-based action by governments to stabilize the climate system.

Comments

We are going to return to our original fully-moderated format in the comments section.

The abusive complaints in the comment sections are just too far out of control at this point and have become a significant burden on our staff. As a result, our moderators will review all comments prior to publication. Comments will no longer go live immediately. Please be patient and check back.

To improve your chances of seeing your comment published, avoid confrontational or antagonistic methods of communication. Really that is the problem we are confronting.

We encourage all views. We discourage ad hominem disparagement.

Marc Ash

Founder, Reader Supported News



Skyelav 2017-03-25 22:22
Keep praying for a miracle

+6



ddd-rrr 2017-03-26 08:02
As a 75 year old "geezer", I heartily applaud these "kids" who appear to be far wiser than many of their elders when it comes to identifying what is more important in a "balancing of opposing interests"! BRAVO!!! Please keep up the good work!

+26



SusanT136 2017-03-26 08:54
Awesome! This young generation, and those in their 20's, are overwhelmingly concerned about climate change and the health of the planet, especially in comparison to those over 55. Lets hope us oldsters don't continue to ruin the planet for them and their children.

+9

This article also points up how incredibly important it is to not let the far right stack the courts with judges only favorable to corporate interests. Pay attention to races for elected judges, and take notice that many appointed judge positions often do not get filled due to political squabbling.



elizabethblock 2017-03-26 09:48
As a 72-year-old geezer I agree. I couldn't have done what they are doing when I was their age. (On the other hand, I didn't have to. Never forget how new fracking is.)

+6



laborequalswealth 2017-03-26 10:12
We learned long ago what "balancing" means: The public gets screwed and the polluters get rich.
How stupid do they think we are?

+6



Wise woman 2017-03-26 13:03
If the Planet is to be saved, these kids will be the wayshowers on how to get the job done! The youth can mobilize like no other group and generate great change. Keep it up guys!

+5



JJS 2017-03-26 15:31
Good for Colorado and yay kids!

+4

Maryland just saw a turnabout from our governor, Larry Hogan:
"Hogan has said in the past that he would support the practice, commonly called "fracking," in Western Maryland if he believed it could be done in an "environmentally sensitive matter." At a hastily called news conference Friday, he said he did not think there was a way to frack safely, and therefore would support a bill to ban the practice altogether." -Washington Post 3/17/17

We still have the formal process of the legislature to pass the ban, but Hogan's veto was the last obstacle.

What the article doesn't get into is that "Fracking" uses radioactive, depleted uranium in "dirty bombs" to fracture the earth to release the gas. Citizens of Maryland showed studies that proved this was the case where fracking had been performed elsewhere. NRC (Nuclear Regulator Commission) rules require populations that are affected by exposure to radiation need to be

informed. We can shut this down, state by state if needed. They can't blow up dirty bombs under ground without our informed consent. Just say no to fracking.

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