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New Mexico

Legal Updates

July 31, 2012

On Progressive Radio Network, CRAG's attorney Tanya Sanerib and our New Mexico youth plaintiff, Akilah Sanders-Reed, joined Sandy LeonVest to talk about Atmospheric Trust Litigation. Take a listen around **17:21 in the show**.

July 16, 2012:

Judge Sarah Singleton issued **her decision** denying the state's motion to dismiss and moving the case forward on the merits to determine whether the state has complied with its public trust obligation to protect the atmosphere. This is the first ATL case to proceed to the merits! Congratulations to Samantha Ruscavage-Barz of WildEarth Guardians and Plaintiff Akilah Reed-Sanders.

Check out the **press release**.

February 16, 2012:

Plaintiffs filed an **amended complaint** to address the concerns the court articulated in her response to the government's motion to dismiss.

January 26, 2012:

Hearing on State's motion to dismiss. Judge Sarah Singleton gave plaintiffs leave to amend the complaint to refine the relief they sought and to specify specific government actions causing harm. Importantly, the court acknowledged during the hearing that the case could be brought as a public trust case and that the atmosphere could be found to be part of the public trust.

July 2011:

Motion to dismiss has been filed by the State of New Mexico, and a response is in preparation by OCT partner attorneys. A hearing date has been set for January 26, 9am.

May 4, 2011:

Complaint was filed on behalf of plaintiffs by OCT Partners and **Wild Earth Guardians** Attorneys Sam Ruscavage-Barz and Jay Tutchton against the **Governor's Office** in the State of New Mexico.

Climate Change Impacts in New Mexico

The following points are taken from the complaint filed.

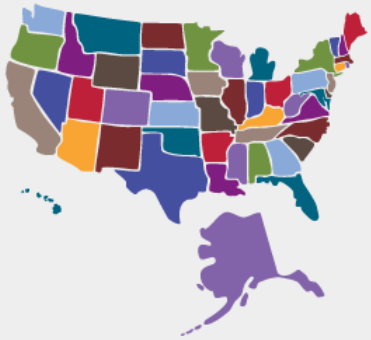
The State of New Mexico prepared a 2005 Report entitled Potential Effects of Climate Change on New Mexico. The 2005 Report identifies substantial and specific impacts from climate change to New Mexico's: (a) water resources; (b) infrastructure; (c) agriculture; (d) natural systems; (e) outdoor

Upcoming Events

August 27: Release TRUST Oregon film

October 5: Fall Internship Applications Due!

SEARCH Legal Campaigns



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recreation and related tourism; (f) environmental quality and health; and (g) environmental justice and native peoples.

In 2006, the New Mexico Office of the State Engineer and the Interstate Stream Commission published a report entitled The Impact of Climate Change on New Mexico's Water Supply and Ability to Manage Water Resources ("2006 OSE Water Report"). The 2006 report identified consensus-based findings that New Mexico will witness: (1) an increase in temperature and potentially, extreme heat waves; (2) a trend towards a higher freezing altitude and reduction in snowpack with delays in the arrival of snow season, acceleration of spring snowmelt, a decrease in total snowfall, and rapid and earlier seasonal runoff; (3) uncertain changes to precipitation, overall, but intensified evaporative losses from temperature increases that could counteract any increase in precipitation; (4) severe droughts; and (5) an increase in flood events.

In its Statement of Reasons for adopting Greenhouse Gas Cap and Trade Provisions issued on November 10, 2010, the New Mexico Environmental Improvement Board acknowledged that "[c]limate change caused by anthropogenic emissions of GHGs will have a particularly severe impact o[n] the American Southwest, including New Mexico. The warming trends in this region are double the annual global average."

According to the 2006 Greenhouse Gas Inventory for New Mexico, on a per capita basis, New Mexico produces nearly twice the GHG emissions as the national average. CO2 and methane comprise the bulk of GHG emissions. New Mexico's high per capita emissions are largely the result of its GHG-intensive gas, oil, and electricity production industries. Together, the production of electricity and fossil fuels accounted for two-thirds of New Mexico's gross GHG emissions in the year 2000. This percentage remained the same when the emissions inventory was updated in 2007. The State's Climate Change Advisory Group projected that total direct GHG emissions, particularly CO2, in New Mexico will increase 30 percent above 2000 levels by 2020.

Localized Impacts of Global Climate Change Already Occurring in New Mexico include Decreased Stream Flow and Reduced Snowpack.

The 2006 OSE Water Report indicates "significant" impacts to New Mexico waters resulting from climate change. These impacts include changes in water volume and timing of water availability, decreased spring runoff volumes and/or earlier runoff, and increased evaporative losses from stream flows and reservoirs from hotter and dryer conditions. In New Mexico, annual mean temperatures have been increasing in the mountains during the winter and early spring. As a result, snowpack is already below average in the Colorado and Rio Grande River basins. If this warming trend continues, regional climate models predict there will be no sustained snowpack south of Santa Fe and the Sangre de Cristo range by the end of this century. Increases in annual mean temperatures may shift the peak of snowmelt-driven stream flow to earlier in the year and may also decrease total stream flow. Lower flow levels and changes in the timing of peak flows will curtail water use that typically occurs in June at the peak of irrigation season.

Climate change ultimately results in decreasing water availability in the Rio Grande, exacerbating current water availability issues prompted by an already scarce water supply. In a recent report by the U.S. Department of the Interior, Reclamation, SECURE Water Act Section 9503(c) – Reclamation Climate Change and Water, Report to Congress (April 2011), the U.S. Bureau of Reclamation ("BOR") assessed climate change risks and how these risks would impact western water resources, including the Rio Grande. The BOR projected a temperature increase of 5-6°F for the Upper Rio Grande Basin in the 21st century, accompanied by a decrease in precipitation. These changes will result in reduced April 1st snowpack, especially in lower lying areas of the Basin.

Reduced snowpack will lead to decreased April-July stream flows in the Upper Rio Grande Basin, and these declines are expected to become greater in magnitude over the course of the 21st century. For the current century, the BOR predicts a 1 to 2.5 percent decrease in mean April-July runoff in the Rio Grande by 2020, a 13 to 15 percent decrease in runoff by 2050, and a 20 percent decrease in runoff by 2070.

Attachment	Size
New_Mexico_Complaint_Stamped.pdf	186.9 KB