

Special interests threaten New Mexico's energy industry with frivolous court actions

Written by By Carla J. Sonntag President and Founder, New Mexico Business Coalition
Friday, 12 January 2018 07:37



New Mexico's vibrant energy sector, which helped lead the state's economic recovery, is facing a new threat.

Despite being a critical source of jobs and providing millions of dollars of revenue for the state's schools, the energy industry is being challenged, not only through regulation, but through little-known lawsuits funded by deep-pocketed special interest groups aimed at ending the industry altogether.

One group in particular is seeking to initiate a federal case and proceedings in all 50 states, filing lawsuits in eight of them, including Oregon, Colorado and right here in New Mexico.

Behind the activist activity is a group called Our Children's Trust. They are financially backed by the "who's who" of wealthy anti-fossil fuel foundations, including the Rockefeller Brothers Fund and the Wallace Global Foundation. They even have the support of Hollywood elites like Leonardo DiCaprio and climate alarmists like James Hanson.

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In an attempt to make their case a little more PR-friendly, they've enlisted dozens of kids to file the complaint as plaintiffs, deemed the "Climate Kids" in media reports.

The overall purpose of this campaign amounts to a coordinated attempt to legislate through the courts—using legal avenues to set climate and energy policy. All the while, their legal maneuverings are exhausting judicial resources and tying up courts throughout the country.

We saw this process unfold firsthand here in New Mexico in just the past few years.

Back in 2011, a teenage activist sued Gov. Susana Martinez and the state government alleging they did not do enough to protect the Earth's atmosphere, and thus were in violation of the public trust doctrine—a principle that resources must be protected for use by the public.

The case made it to the New Mexico State Court of Appeals, which sided with the state, ruling in 2015 that the courts "cannot independently regulate greenhouse gas emissions."

But that hasn't marked the end of Our Children's Trust's actions in New Mexico. This summer, 28 young people submitted a petition to the state's Environmental Improvement Board (EIB) demanding drastic cuts in New Mexico's emissions. The petition makes the intent of the lawsuit clear—this is about attacking the energy industry, not about protecting resources or alleged rights. The proposal by the new crop of young petitioners—to mandate a 91 percent cut in emissions by 2050—is unrealistic, and would harm business, manufacturing and job creation in our state.

While New Mexico's Court of Appeals saved the state from undue hardship, the push by activists to bring these frivolous lawsuits forward is nowhere near the end. The Ninth Circuit Court of Appeals is set to decide whether or not a federal case will proceed to trial in the new year after hearing arguments on the matter last week.

This ongoing federal case, Juliana vs. United States, asserts that that the government's actions have led to climate change and that those impacts have violated their Constitutional rights to "life, liberty, and property, as well as failed to protect essential public trust resources."

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The case also argues that the young people are being discriminated against, since future impacts of climate change will disproportionately affect that generation.

But, as we've seen in other states, many aren't buying that argument. In an editorial about the related case in its own state, the Colorado Gazette wrote, "What the students asked for in their petition is beyond unreasonable. If turned into a rule, it would cripple Colorado's oil and gas industry, which seems to be their intent... All human activity has a cumulative effect on the environment. One cannot power a city without affecting the environment."

We don't yet know if the federal case will proceed or how far each state case will progress. But as this legal campaign wages on, we should remember that those behind it are trying to destroy the source of many jobs and livelihoods in New Mexico—and we should be prepared to fight back.

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