

Environmental groups sue state officials over oil, gas pollution in New Mexico

- By Daniel J. Chacón dchacon@sfnewmexican.com | May 10, 2023



A coalition of environmental organizations and New Mexicans living on the front lines of the extractive industry filed a lawsuit Wednesday accusing the state of violating its constitutional duty to control oil and gas pollution.

The lawsuit seeks compliance with a pollution control clause of the New Mexico Constitution, which states the Legislature “shall provide for control of pollution and control of despoilment of the air, water and other natural resources of this state.”

It names Gov. Michelle Lujan Grisham, the Legislature and others as defendants and seeks an order to stop new oil and gas production in New Mexico.

“We are calling on our governor, our Legislature and our state leaders and policymakers to fulfill their constitutional duty to control oil and gas pollution because we have an oil and gas pollution crisis in our state,” Gail Evans, a senior attorney at the Center for

Biological Diversity's Climate Law Institute, told a small crowd gathered for a rally Wednesday outside the state district courthouse in Santa Fe.

“We hear a lot about how the oil and gas industry is generating revenue for our state budget. We don't hear so much about the high price that we pay for that oil and gas money,” said Evans, the lead counsel on the case. “We pay with our health ... and it's not even going too far to say that we pay with our future because oil and gas produced in New Mexico is fueling the global climate crisis.”

In an interview after the rally, Evans said the groups' complaint is “very similar” to an education lawsuit that resulted in a landmark 2018 court ruling by a judge who found New Mexico wasn't doing enough to ensure at-risk students — the large majority of the state's public school population — were receiving a sufficient education.

In *Yazzie/Martinez v. State of New Mexico*, “the education clause said the state shall provide a sufficient system of education for all school-age children, and we sued the state saying it wasn't meeting that constitutional duty,” said Evans, who also served as lead counsel in that case. “Likewise in this case, the state has a duty to control pollution and protect our air, our water and our natural resources, and they haven't stepped up to that plate.”

Caroline Sweeney, a spokeswoman for the governor, wrote in an email the Lujan Grisham administration is proud of its record on the environment, including regulating the state's oil and gas industry.

“Frankly, this is a misguided lawsuit that will only serve to distract the state from conducting additional work on environment and climate solutions and from enforcing the nationally leading regulations this administration fought hard to get on the books,” she wrote.

A spokesman for the state Environment Department declined to comment, deferring to the Governor's Office.

New Mexico, which includes a portion of the Permian Basin, is the second-largest oil producer in the country and one of the country's top gas-producing states.

“Air quality in regions of the state that have heavy oil and gas production is atrocious,” Evans said. “It’s unhealthy; it’s making people sick.”

Plaintiff Samuel Sage, a resident of Counselor, an unincorporated community in Sandoval County, said he’s been “harmed” by what he called the state’s failure to control oil and gas pollution in the greater Chaco Canyon area of northwestern New Mexico.

“Right now, one of the physical things that I’m experiencing is that my nose is constantly running,” he said. “I have to blow my nose all the time, which is not normal for me, and it’s not normal for anybody else.”

As a kid, he said, the land was beautiful and pristine.

“You could actually see badgers and antelopes close to our homes,” he said. “Today, there’s none.”

Sage said the land is central to his identity and culture as a Diné, or Navajo, and it’s “being totally degraded by oil and gas.”

Jonathan Juárez, a member of Youth United for Climate Crisis Action and the Pueblo Action Alliance, both plaintiffs in the lawsuit, said the state constitution obligates the state to control pollution from the oil and gas industry.

“But for too long, our communities have suffered the devastating harms of this pollution,” he said.

Juárez, who described himself as a two spirit queer Indigenous land defender from Laguna and Isleta pueblos, said Lujan Grisham’s “promotion of oil and gas expansion” in New Mexico has “directly threatened” his ability to pass on his culture, religion and heritage to future generations.

Zephyr Jaramillo, 21, also a member of Youth United for Climate Crisis Action, or YUCCA, accused the state of choosing the oil and gas industry over its residents.

“YUCCA has met with state agencies numerous times to suggest policy proposals that would protect our communities from oil and gas pollution, but nothing changes,” she said.

“We have tried to hold agencies accountable for enforcing the regulations that do exist, but nothing changes. Legal action is our last recourse, and it’s time to demand accountability.”