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Court Gives Colorado Kids a Christmas Gift in Their Anti-Fracking Case Against the Colorado Oil and Gas Conservation Commission

For eight Colorado kids, Santa came a day early with a [win from the Denver District Court](#) in their case against the Colorado Oil and Gas Conservation Commission for not protecting the air, water, land and wildlife of Colorado from dangerous fracking. Last month, the Commission argued that the court should dismiss the youth's case in *Martinez et al., v. Colorado Oil and Gas Conservation Commission*. Today, the court rejected the Commission's arguments and ordered that the case proceed on the merits. Early next year the court will determine whether the Commission has a legal responsibility and obligation to protect the health and safety of Colorado's residents and preserve Colorado's air, water, wildlife, and land from harm due to oil and gas operations.

The case was brought by eight youth activists who are members of the Boulder-based organization Earth Guardians. Colorado attorneys Katherine Toan and Dan Leftwich are representing the youth.

"I think there are a lot of kids here in Colorado and around the world who would be so excited to get the gift of clean air and water, snow in the mountains, abundant wildlife and safe communities. Just last week New York showed us all that a state can value the health of kids as a top priority. That's what this whole thing is about, making Colorado a safe place to live for ours and future generations. It's fun to open presents, but the things that we need to start paying attention to and taking action on are keeping the places we love safe, insuring that our families are together and happy, and that climate disruption doesn't threaten our futures," said Xiuhtecatl Martinez.

The youth's case against the Commission arose out of a petition for rulemaking that asked the state agency to suspend the issuance of permits that allow oil and gas drilling until it is proven that drilling can be conducted without adversely impacting human health and safety and without impairing Colorado's atmospheric resources, climate system, water, soil, wildlife, and other biological resources. The Commission denied the petition, finding that it did not have the authority to issue the requested rule and that "other Commission priorities...must take precedence." The plaintiffs are now challenging this

conclusion and will argue in 2015 that the Commission must place human health and safety above the interests of the oil and gas industry in Colorado.

Last week Governor Andrew Cuomo announced a ban on fracking in New York State after a two-year investigation by the New York State Department of Health confirmed that fracking cannot be done safely. If the youth are successful in Colorado, they could compel a similar investigation and a halt on fracking to protect the public health and safety of all Coloradans, as well as the wildlife and water resources these young citizens treasure.

“The court has agreed with us that the youth’s case warrants review. Given the significant public health threat fracking poses, the outcome of this case will be critical in guiding future decisions by the Oil and Gas Commission,” said Katherine Toan, attorney for youth plaintiffs. “This case will determine whether young people’s health and safety really is our State’s priority as our legislature intended.”

The plaintiffs’ [complaint](#) was filed with the help of OUR CHILDREN’S TRUST, an Oregon-based nonprofit orchestrating a global game-changing, youth-driven legal campaign to secure the legal right to a healthy atmosphere and stable climate. The campaign seeks to address the climate crisis with government action that is based on scientific baselines and benchmarks, and to do so within timeframes determined by scientific analysis.

Short documentary films of Xiuhtezcatl and other young people taking legal action on climate change can be seen at <http://ourchildrenstrust.org/trust-films>.

***Earth Guardians** is a Colorado-based nonprofit organization with youth chapters on five continents, and multiple groups in the United States with thousands of members working together to protect the Earth, the water, the air, and the atmosphere, creating healthy sustainable communities globally. We inspire and empower young leaders, families, schools, organizations, cities, and government officials to make positive change locally, nationally, and globally to address the critical state of the Earth. www.earthguardians.org*

***Colorado Environmental Law** is the law practice of Katherine Toan, Esq., based in Boulder, Colorado. Katherine works on behalf of individuals (primarily farmers and ranchers), nonprofit organizations, and local governments in a variety of environmental and natural resource law issues, including oil and gas, wildlife, and land use.*

***MindDrive Legal Services** founder, Dan Leftwich, has decades of experience in complex litigation, class action, high profile mediations, jury trials, and appeals in state and federal courts around the country.*

***Our Children's Trust** is a nonprofit organization advocating for urgent emissions reductions on behalf of youth and future generations, who have the most to lose if emissions are not reduced. OCT is spearheading the international human rights and environmental TRUST Campaign to compel governments to safeguard the atmosphere as a "public trust" resource. We use law, film, and media to elevate their compelling voices. Our ultimate goal is for governments to adopt and implement enforceable science-based Climate Recovery Plans with annual emissions reductions to return to an atmospheric carbon dioxide concentration of 350 ppm. www.ourchildrenstrust.org/*

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