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Appeals Court Strikes Down Forest Service Approval of Gold Drilling
in California's Eastern Sierra Nevada

Project Threatened Imperiled Wildlife, Endangered Fish

SAN FRANCISCO— A federal appeals court issued its opinion [reversing](#) the decision of a lower court that would have allowed exploratory drilling east of California's Sierra Nevada Mountains. The Court found the Forest Service violated the National Environmental Policy Act (NEPA) when it relied on two categorical exclusions for a single project to avoid the required environmental reviews. The 9th U.S. Circuit Court of Appeals reversed the district court's decision and overturned the U.S. Forest Service's 2021 approval that allowed gold-mining exploration in sensitive habitat in Inyo National Forest's Long Valley area.

The 9th U.S. Circuit Court of Appeals had issued an earlier [ruling](#) in September 2023, just one day after oral arguments, because the company had planned to begin drilling at that time.

In their [2021 lawsuit](#), conservation groups said the Forest Service's use of two categorical exclusions, rather than more detailed environmental review, effectively ignored the mining project's effects on Bi-state sage grouse in the area, as well as the potential harm to nearby Hot Creek where endangered Owens tui chub live.

The Forest Service had attempted to shoehorn the mining exploration into a "short-term" categorical exclusion lasting less than a year, even though the remediation of the drilling sites would take much longer than a year in this snowy, remote area; and then attempted to use a second categorical exclusion for restoration projects to cover the required mining reclamation and remediation.

"We are so thrilled that the appellate court overturned the illegal agency actions," said Wendy Schneider, executive director of Friends of the Inyo. "The impacts to the ecosystem, including sensitive species, and to the local community deserve an in-depth, detailed evaluation. Friends of the Inyo will keep working to protect this special area from destructive mining impacts."

"This is a win for the Sierra Nevada's imperiled wildlife, and the appeals court is absolutely right that the Forest Service shouldn't be able to pile on exclusions to avoid the legally required environmental review," said Lisa Belenky, a senior counsel at the Center for Biological Diversity. "Drilling here could harm the Owens tui chub, an endangered fish, and populations of bi-state sage grouse that rely on this area. The Forest Service should never have approved this project without thoroughly investigating the impacts."

“This is a precedent-setting decision that will have ramifications across the West and the country, as the Court correctly nipped in the bud the agency’s proposal to avoid the required ‘hard look’ of significant impacts to wildlife and the environment,” stated Roger Flynn, Director and Managing Attorney of the Western Mining Action Project.

The Court held that “The Forest Service asks us to adopt a view of categorical exclusions that will swallow the protections of NEPA. We decline to do such violence to NEPA’s procedural safeguards.” Court decision at p. 25. As the Court explained: “when an agency applies CEs in a way that circumvents NEPA’s procedural requirements and renders the environmental impact of a proposed action unknown, the purpose of the exclusions is undermined. That is the case here.” Court decision at p. 24.

Bi-state sage grouse, whose numbers have drastically declined in the past decade, live next to 12 proposed drilling pads, project roads and access roads. The birds are a genetically distinct population of greater sage grouse, famous for their showy plumage and mating dances, during which the males make popping sounds with large, inflated air sacs. They live only in an area along the California-Nevada border and face multiple threats.

Gold exploration and drilling would harm sensitive habitat for the imperiled Bi-State distinct population segment of greater sage grouse and could result in abandonment of this area by the species,” said Laura Cunningham, California director at Western Watersheds Project. “The bi-state sage grouse populations have been in severe decline across the Eastern Sierra due to mining, development of intact landscapes, livestock grazing in meadows and sagebrush habitats, and raven predation. This ruling gives the imperiled birds a reprieve from industrial disturbance.”

"We're gratified that the appeals court recognized the need to overturn the Forest Service’s hasty approval of this risky mining exploration,” said Lynn Boulton, chair of the Sierra Club’s Range of Light Group, Toiyabe Chapter. “Exploratory drilling for gold causes unnecessary harm to the environment and vulnerable species. If KORE Mining insists on continuing their drilling plans, there must be a comprehensive environmental assessment subject to full public review — as there should have been from the start.”

The groups were represented by Roger Flynn of the Western Mining Action Project, Talasi Brooks of Western Watersheds Project, and Lisa Belenky of the Center for Biological Diversity.

The Center for Biological Diversity is a national, nonprofit conservation organization with more than 1.7 million members and online activists dedicated to the protection of endangered species and wild places.

Western Watersheds Project is a nonprofit conservation group with over 14,000 members and supporters, as well as field offices across the western U.S. We work to influence and improve public lands management throughout the West with a primary focus on the negative impacts of livestock grazing on 250 million acres of western public lands, including harm to ecological, biological, cultural, historic, archeological, scenic resources, wilderness values, roadless areas, Wilderness Study Areas and designated Wilderness.

Founded in 1986, [Friends of the Inyo](#) is a nonprofit grassroots environmental organization. Our mission is to protect and care for the lands of Payahuunadu, also known as California's Eastern Sierra. Our working area covers Inyo and Mono Counties, stretching from Lone Pine to Bridgeport, including three national forests and two BLM field offices. On behalf of our approximately 4,000 members and supporters, we advocate for healthy environments across the diverse ecosystems that make up our working area. We also lead educational events and outings, including for local and visiting youth, and partner with federal agencies to engage in direct stewardship activities.

The Sierra Club was founded in 1892 and is the nation's oldest grass-roots environmental organization. Sierra Club's mission is to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and use all lawful means to carry out these objectives. [The Range of Light Group](#) is a group within the Toiyabe Chapter that covers the geographic region of Inyo and Mono Counties.