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Citizens Sue for Black Canyon Protection

Agreement Between State & Feds Fails to Protect Park, Violates Federal Law

Gunnison, CO—A recent agreement between the United States and the Colorado Department of Natural Resources regarding water rights for Black Canyon of the Gunnison National Park is illegal, lawyers for five citizens' groups argued in a complaint filed today. The complaint, filed in Federal District Court in Denver, asked that the United States be ordered to secure larger stream flows for the national park.

In early April, officials from the United States and Colorado Department of Natural Resources announced that the United States had agreed to substantially reduce the federal government's claim to water rights in the Gunnison River, which over centuries has created the Black Canyon. The revised claim gave up a huge federal property interest, most of the water to which the Park is entitled to fulfill the many purposes for which it was first reserved in 1933. Under the agreement with the state, the federal government instead would rely mostly on a new state-held water right to protect Park resources. This state-held water right would allocate water to the park only after meeting every other water need, including potentially huge future diversions to Colorado's Front Range.

In June, the citizens' groups filed a brief with state water court, requesting that the state court reject the state-federal agreement. Today's federal court complaint alleges that the federal government violated several provisions of law, including the National Park Service Act, the 1999 Black Canyon Act, the Administrative Procedure Act, and the National Environmental Policy Act.

"The park was created specifically to protect the Black Canyon's spectacular gorges and additional features of scenic, scientific, and educational interest," noted Bart Miller, an attorney for four of the groups and Water Program Director for Western Resource Advocates. "The government's own scientific analysis shows that preserving these features of the Park requires preserving the natural flow patterns of the river. Yet the government has illegally given up these flows."

"The federal government has shirked its legal obligations to preserve the natural resources of the Park," said Drew Peternell, an attorney with Trout Unlimited, the other plaintiff in the case. "You can't preserve the Black Canyon of the Gunnison National Park without protecting the river that is its heart. Because it feared just such a move by the United States, earlier this year American Rivers named the Gunnison River as one of the four most endangered rivers in the county"

"In a natural system, the Gunnison River would rage through the canyon in the spring, clearing out silt and non-native or overpopulated plants, and creating habitat important for trout. Under the federal proposal, the natural spring peak flows that are so important to the canyon's ecology would be lost," Miller explained.

“Through federal legislation, Congress has made it clear that the highest standard of protection must be provided for national parks and monuments. Yet, the United States is abandoning almost all of its reserved water right, which would provide for the park’s needs for present and future generations,” said Wendy McDermott, Executive Director for High Country Citizens’ Alliance, an Upper Gunnison Basin environmental organization. McDermott continued, “The communities surrounding the Black Canyon rely heavily on tourist dollars. Every year, the park generates as much as \$12 million in revenue to a rural part of Colorado. If Black Canyon water rights truly becomes secondary to the Aspinall-Unit’s at Blue Mesa, we could very well see massive water exports out of the Gunnison Basin to the bluegrass lawns of the Front Range, leaving us with a virtually empty canyon.”

“The Bush administration’s proposal for the Black Canyon is so inconsistent with the ecological needs of the park that we felt we had no choice but to file the federal complaint,” Peternell added. “We would love to see the federal and state governments working together to protect our natural resources, but in this case, we simply haven’t seen any genuine effort to protect the Gunnison River or the Black Canyon.”

The Plaintiffs to the case include High Country Citizens’ Alliance, The Wilderness Society, Western Colorado Congress, Western Slope Environmental Resource Council and Trout Unlimited. The Defendants are Secretary Gale Norton, the Interior Department, National Park Service Director Fran Minella and the National Park Service.

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