

## Court halts West Elk Mine expansion

- DENNIS WEBB

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A judge has halted an expansion of underground coal mining in the North Fork Valley over the federal government's failure to consider requiring flaring of the methane that would be produced, which would reduce greenhouse gas impacts.

The decision Friday by Judge R. Brooke Jackson in the U.S. District Court of Colorado applies to the West Elk Mine's efforts to begin mining as early as January beneath some 2,000 acres in what's known as the Sunset Roadless Area in the Gunnison National Forest.

Ruling in a lawsuit brought by conservation groups, Jackson found that the federal Office of Surface Mining Reclamation and Enforcement violated federal law by failing to consider requiring the mine to burn off the methane produced during mining operations. Methane is a potent greenhouse gas. A supplemental environmental impact statement issued by the U.S. Forest Service and Bureau of Land Management had estimated that flaring could reduce the total global warming potential of the gas by about 87 percent.

That document didn't draw conclusions about the feasibility or economy viability of flaring, saying it was premature to consider at the coal leasing stage and should be considered later. But in recommending that the Interior Department approve the mining plan for the expansion, OSMRE said the earlier environmental document sufficiently addressed the methane flaring alternative.

Jackson found that neither OSMRE, the BLM or the Forest Service "put on the record any conclusions that justify excluding methane flaring from consideration as an alternative. Instead, it appears that one agency drew a faulty conclusion on the basis of other agencies' explicit lack of conclusion."

The mine is the largest single industrial point source of methane pollution in the state. The Forest Service has estimated the mine expansion would result in the release of nearly 12 million tons of methane. While the mining will take place underground, the mine has begun surface work in the roadless area, where it plans to build about 8.4 miles of roads and install 43 methane drainage wells.

The mine is owned by Arch Coal. It began pursuing the expansion a decade ago but has faced protracted legal challenges. Jackson previously ruled that federal agencies failed to account for the environmental costs of leasing and other decisions related to the mine expansion. That led to the supplemental environmental document being released. Conservation groups then sued to challenge that new environmental analysis and another federal judge ruled against them. That ruling is under appeal.

Jackson also ruled Friday in favor of conservationists over their contention that OSMRE didn't take a hard look at impacts to water resources from mining activities. OSMRE both relied on the supplemental environmental review's conclusion that there are no known perennial springs in the expansion area, and said perennial springs likely exist there.

"This ruling is a major victory for Colorado's climate, clean energy, and public lands," Jeremy Nichols, climate and energy program director at WildEarth Guardians, said in a news release. "More importantly, it's a resounding rebuke of the Trump administration's attempts to sidestep our environmental laws to appease the coal industry."

The suit was brought by WildEarth Guardians, High Country Conservation Advocates, the Center for Biological Diversity, the Sierra Club and the Wilderness Workshop.

Neither Arch Coal nor an OSMRE representative responded Friday for requests for comment.

Even as the case has played out in court, Arch Coal has begun to pursue the possibility of flaring at the mine. Jackson's ruling includes a footnote saying that the mine notified the court about a new methane flaring system it believes it might be able to successfully implement. The mine has proposed the system to the federal Mine Safety and Health Administration and is awaiting a ruling, and has no objection to flaring if it can be done without compromising miner safety, Jackson wrote in his footnote.

Nichols said in an interview, "With this ruling there is a much greater incentive to Arch Coal to genuinely and meaningfully explore and hopefully adopt better methane mitigation measures."

The West Elk Mine is currently the state's most productive coal mine. The latest monthly state Division of Reclamation, Mining and Safety coal report shows it employs 329 people. Nichols said the ruling doesn't shut down the mine, as it continues to operate outside of the expansion area.