



Citizens for San Luis Valley Water
Protection Coalition

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US District Court Halts Drilling in Baca NWR

Alamosa, CO- Citizens and wildlife in the San Luis Valley obtained important protections for the Baca National Wildlife Refuge when Colorado Federal District Court Judge Walker D. Miller ruled that the US Fish and Wildlife Service “shall prohibit all ground disturbing activities related to the exploration and development of the mineral estate underlying the Baca National Wildlife Refuge during the National Environmental Policy Act process.”

Judge Miller issued the ruling in response to a lawsuit filed by the San Luis Valley Ecosystem Council (SLVEC) against US Fish and Wildlife Service (USFWS) to address Canadian owned Lexam Explorations, Inc’s. (Lexam) “high-risk” proposal to drill two 14,000-foot oil or gas wells in the newly established Baca National Wildlife Refuge (NWR). The suit asked the Colorado Federal District Court in Denver to ensure that USFWS prohibited impacts to the Baca NWR until the Lexam proposal is adequately assessed and the public has had an opportunity to participate in the formal decision-making process mandated by federal laws. These laws, including the National Environmental Policy Act (NEPA), require USFWS to disclose and invite public comment on whether a proposal serves a legitimate purpose, the environmental impacts, alternatives and mitigation measures.

SLVEC’s lawsuit is based on the premise that USFWS has ample legal authority to protect the Baca NWR - even where the minerals are owned privately. USFWS and Lexam had taken the position that the federal government has no authority to address the impacts due to the dual ownership, which is often known as a “split-estate.” The lawsuit asserted that, based on Colorado and federal laws, the USFWS has the legal duty to implement NEPA and that the public owners of these federal lands deserve to have input into what happens on the Baca NWR.

USFWS attempted to avoid a ruling on this issue by seeking remand to comply with NEPA and in August 2007, initiated a 30-day NEPA scoping process to gather comments from the public about potential impacts of drilling on the refuge. The agency was flooded with almost 50,000 public comments, virtually all opposed to drilling in the Baca NWR. Although attorneys for USFWS assured the Court that USFWS would not take any actions until the NEPA analysis was complete, the USFWS remained vague on whether or not Lexam could carry out well-pad preparations and road preparation while the NEPA analysis was being conducted. Judge Miller’s order is quite clear that the USFWS

“shall prohibit” all ground disturbing activities until the USFWS completes the NEPA analysis. The order retains jurisdiction over the case and sets forth dates for the parties to keep the Court updated on the USFWS progress in complying with NEPA.

Situated in the largest contained sub-alpine valley in the world, the Baca NWR is one of the largest and newest additions to the National Wildlife Refuge System and Colorado’s largest wildlife refuge. The Baca NWR contains over 15,000 acres of irrigated wetlands and another 10,000 acres of natural wetlands and playas considered to be among the most concentrated, pristine and biologically diverse wetlands in the entire southwestern United States. The refuge may also be an important recharge area for the San Luis Valley’s Closed Basin groundwater aquifer system. Lexam is currently proposing to locate its test wells in the midst of these sensitive wetlands and potential groundwater recharge areas.

United by their shared desire to protect rural lifestyles and the land, water and extraordinary beauty of the Baca, the Citizens for San Luis Valley - Water Protection Coalition has brought together an unusual cadre of citizens. Ranchers, Buddhist monks, school teachers, Japanese farmers, artists, business owners and scientists are just some of the unusual mix of people who have joined forces to oppose Lexam’s drilling proposal on the Baca NWR. The Crestone/Baca community adjacent to the Baca NWR and less than a mile from the proposed drilling sites, is home to the greatest concentration of retreat centers in the world and is currently featured in the Nov. 22 report on Sacred Places in US News & World Report. While a small community, the Crestone/Baca is also becoming known nation-wide as a center for green building and sustainable technology.

Until now, the relatively pristine San Luis Valley has not been directly impacted by oil and gas development. Recently rated as having the best solar exposure in Colorado, the San Luis Valley is poised to be one of the largest renewable energy centers in the US. Xcel Energy has already begun construction and several other international utility companies have plans to build large facilities in the valley. Oil and gas development would impact air quality and reduce the potential of the SLV to achieve its potential as leading center for renewal energy.

SLVEC was represented by attorneys Travis Stills and Brad Bartlett from the Energy Mineral Law Center, a non-profit public interest law firm located in Durango, Colorado.

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