

EARTHWORKS JOURNAL

SUMMER 2014

Why we sued to
protect Montana's
Smith River



EARTHWORKS™



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- EPA says stop fracking with diesel
- Take action: switch to renewable energy today

➔ **Frackquakes: fracking is shaking things up**



EARTHWORKS™

Earthworks is a nonprofit organization dedicated to protecting communities and the environment from the adverse impacts of mineral and energy development while promoting sustainable solutions.

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EARTHWORKS
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ON THE COVER

Montana's Smith River is renowned for its blue ribbon trout fishery and spectacular scenery. But this beloved Montana river is at risk from a small Canadian mining company that seeks to develop a major copper mine, called the Black Butte Project, at the river's headwaters. Find out more about what we're doing to Save Our Smith and how you can help on page 11. Photo by B. Pfeiffer



You make all the difference!

As an Earthworks supporter, you should give yourself a pat on the back: you make our successes possible.

While communities and the environment aren't completely protected from the destructive impacts of mineral and energy extraction, we have taken some huge steps in the right direction. And we've had quite a few successes this year. Maybe the biggest: the Environmental Protection Agency has



If Texans can't live with fracking, no one can."

decided to investigate using the Clean Water Act to protect the world's largest wild sock-eye salmon fishery by blocking the proposed Pebble Mine. And even if EPA doesn't act definitively, the mine's largest financial backers –

Anglo American and Rio Tinto – have dropped the mine as a bad investment, serving as a big red flag to the rest of the mining industry.

We've also had our 100th (and 101st, 102nd, 103rd, and 104th) jeweler sign on to the No Dirty Gold campaign's Golden

Rules for more responsible metals sourcing. That's really good news because the more jewelers that sign on, the greater the pressure on the mining industry to clean up its act.

We've also played central roles in the democratic uprising against fracking that is catching fire across the country. President Obama may be pursuing an "all of the above" energy policy, but communities across Colorado's Front Range, Dallas (!) and Los Angeles adopted a "none of the below" fracking policy – either through winning directly in the voting booth through ballot initiative, or by convincing officials to change government policy. These victories were big news, even outside the cities that adopted them, because they took place in areas that know the oil and gas industry well. The fracking industry is very concerned because if, for instance, Texans can't live with fracking, it's very likely that no one can.

There's much more that we've accom-

plished – including a groundbreaking report on oil and gas development's health impacts in the Eagle Ford Shale, another on the earthquake risk from fracking wastewater disposal in California, and wild and scenic rivers protected from mining in Oregon – so read on! And take heart that it's not all gloom and doom for the environment these days.

Thanks for all you do.

Jennifer Krill, Executive Director



Chetco River, Oregon. Photo by: Northwest Rafting Co.

Got 2 minutes? That's enough time to switch to clean energy.



Earthworks is a proud partner of Ethical Electric, America's only progressive clean energy company. Founded by organizers from groups like MoveOn.org, Ethical Electric makes it easy for you to get 100% of your electricity from clean, renewable sources like wind and solar.

It's easy. We buy clean wind and solar energy through your local utility. Nothing else changes. Same bill, same wires, same meter. Switching is Easy and Seamless!

Do good. When you enroll for renewable energy through Earthworks, a portion of all your electric bill payments will support our work on an ongoing basis.

Break Free from Dirty Energy!
Sign up at www.ethicalelectric.com/earthworks



Reckless Endangerment In the Eagle Ford Shale

By Alan Septoff

There is a disturbing national pattern regarding the oversight of fracking-enabled oil and gas development: regulators, charged with protecting the public, are actively avoiding evidence that fracking is harming the public.

Our research in Texas' Karnes County, which used state reports and independent environmental testing, revealed:

- Residents faced with industry pollution are desperate for help,
- Regulators documented pollution so dangerous that they immediately evacuated,
- Regulators took no recorded action to protect or warn residents, or penalize polluting companies
- Residents are still living with the dangerous air pollution including, cancer-causing toxics like benzene.

The report, available at EagleFordReport.earthworksaction.org, also includes a video interview of the Cernys, an affected family, and infrared video of polluting facilities.



Earthworks Board Member Wilma Subra and Texas Organizer Sharon Wilson present the findings of their research to a packed house in Panna Maria, TX.

"This isn't living anymore. It's just existing, and wondering what you are going to breathe in next," said impacted Eagle Ford Shale resident Mike Cerny.

Upon release of the report, Texas media coverage forced the Texas Commission on Environmental Quality (TCEQ) regulators to respond:

... Marathon Oil personnel were contacted and made aware of the [TCEQ] team's findings" and the leaking valve was fixed

the same day, an agency statement said. TCEQ did not address why its inspectors apparently did not notify nearby residents or take canister samples. – *Texas Observer*, "Air Pollution from Fracking in Eagle Ford Shale Threatens Health, Report Claims," April 17, 2014.

Subsequent visits to the Eagle Ford Shale by Earthworks organizer Sharon Wilson indicate Texas regulators still refuse to take the action necessary to protect public health.

➤ read the report at EagleFordReport.earthworksaction.org

FRACKING THREATENS DRINKING WATER IN NATION'S CAPITOL

By Dusty Horwitt

On March 4, the Washington, DC, City Council passed a resolution opposing horizontal drilling and fracking in the George Washington National Forest, due to concerns that it might contaminate the Potomac River, the city's sole source of drinking water.

The council's action is part of a growing movement to prevent horizontal drilling and fracking in the 1.1 million-acre forest, located in Virginia and West Virginia, that contains headwaters of the Potomac and James Rivers. The Potomac provides drinking water for more than four million people in the metro DC area while the James provides drinking water for 500,000 in the Richmond area. About 260,000 people who live near the forest rely on the rivers directly for drinking water, according to Wild Virginia.

The early 2014 chemical spill that polluted water supplies for 300,000 people in West Virginia has only intensified concern about fracking near water sources.

In April 2011, as part of a draft update for the forest's 10 to 15-year management plan, the Forest Service recommended against horizontal drilling in the forest, citing water quality concerns as a major reason. However, after lobbying by more than a dozen drilling companies and trade associations including the American Petroleum Institute, Halliburton, and XTO Energy, a subsidiary of Exxon Mobil, the Forest Service is reconsidering its position. The Agency could make a final decision at any time, and it's critical that potentially affected communities make their voices heard.

- Earthworks has been raising awareness about the risks of fracking in the George Washington National Forest by working with citizens, local government officials and media outlets in the Washington, DC area. In December 2013, we helped DC's Advisory Neighborhood Commission 2A pass a resolution opposing horizontal drilling and fracking in the forest. We've also participated in and hosted public forums in Washington, DC, Arlington, VA, and Fairfax, VA.



Send your letter to the Forest Service today! Visit earthworksaction.org/action to ask them to protect the George Washington National Forest from fracking.

- We're not the only ones who oppose fracking in our National Forest. Visit GWForest.earthworksaction.org to learn more about the risks to the Forest and see letters and resolutions from local officials, counties, water providers and others.

➤ more at GWForest.earthworksaction.org

WATER—IT'S *still!* ON FIRE

By Lauren Pagel

As drilling and fracking have increased across the country, so has oil and gas related water pollution. The Environmental Protection Agency (EPA) went into three communities to investigate instances of water contamination, but then abandoned each investigation under industry and political pressure. Earthworks, along with the Stop the Frack Attack Network and Americans Against Fracking, has been pushing the EPA to reopen these investigations in Pavillion, WY, Parker County, TX, and Dimock, PA.

A recent EPA Inspector General report about the pollution in Texas revealed what the homeowner, and EPA, already knew – that the methane in his water well was the exact same composition as the methane from the surrounding oil and gas drilling, and that EPA was justified in issuing an emergency order when it was known that the family's water could be lit on fire. Steve Lipsky, the subject of the investigation, confronted EPA administrator Gina McCarthy at a recent event in DC, but was ignored. His water is still flammable.



Top: Earthworks' Sharon Wilson at Steve Lipsky's home in Texas. Photo by Julie Dermansky

Bottom: Steve Lipsky holds photographs of his well during a briefing in Washington, DC calling on Congress, EPA and President Obama to reopen the fracking investigations. Photo by Chip Somodevilla



Ray Kemble from Dimock, PA, and John Fenton from Pavillion, WY, deliver their message to EPA Headquarters in DC. Photo by Laura Ponchick



Over 250,000 people have written EPA, but we still need your help to push them to reopen these investigations. Visit earthworksaction.org/action to send your letter to EPA Administrator Gina McCarthy.

EPA SAYS: Stop Fracking with Diesel

By Aaron Mintzes

In February, the Environmental Protection Agency (EPA) delivered their final Guidance for regulating fracking with diesel fuel. While fracking without diesel is exempt from the Safe Drinking Water Act (SDWA), Congress decided that when drillers use diesel fuel, they have to comply with the SDWA. This new Guidance suggests how to comply.

The bad news is that the oil and gas industry was fracking with diesel anyway, and denying it. In 2011, Reps. Waxman, DeGette, and Markey revealed the industry has fracked with 32 million gallons of fluids containing diesel between 2005 and 2009. And as recently as October of last year, they re-confirmed the problem. No one should have permitted any diesel use for fracking in the absence of a Safe Drinking Water Act permit.

But there is good news. First most important, EPA actually issued guidance. It is the first fracking oversight – well, suggestion at least – of any kind from EPA to take effect. Air rules promulgated by EPA take effect soon. Second, there is no de minimus standard. That means the guidance applies to the very first molecule of diesel. Third, it effectively closes the Halliburton loophole for diesel use at a fracked well. So, for these diesel fracked wells, permitting agencies may require seismic histories and testing, mechanical integrity testing, baseline water testing, and many other protections the SDWA applies to similar activities.

The guidance is a first step, but we need EPA to make a formal rule that has the force of law. Ultimately, we need EPA to ban diesel use in fracking, and you can help.



Diesel use in fracking poses an unnecessary risk to our water. Visit earthworksaction.org/action to write EPA and ask them to issue a formal rule to ban diesel.

WE MADE THE GROUND SHAKE IN AUSTIN

By Sharon Wilson

More than 800 rural Texans filled the high school auditorium in Azle on January 2, 2014. They came to a town hall held by the Texas Railroad Commission (the RRC is the agency in charge of regulating oil and gas) hoping to get answers about the recent swarm of over 30 earthquakes in their area. The audience booed when David Porter, Texas Railroad Commissioner, announced that he and his staff were there to hear from the people, but would not be answering any questions.

In the audience sat people in denim and flannel shirts whose homes and property were damaged from the earthquakes. On the stage sat several men from the RRC wearing suits, who announced the meeting would be short because tomorrow would be a busy day for them. It was as if there was an earthquake in the room and the fault line was at the stage's edge.

The denim and flannel clad folk spoke about sinkholes, cracked foundations and walls, busted water pipes, and their children's nightmares. These rural Texans called for fracking to stop. One man said, "Maybe if the ground shakes down in Austin we will get some results."

Led by Earthworks, several environmental and citizen groups in North Texas decided to hold a people's meeting in Azle to give residents information about induced earthquakes and help them organize to make the ground shake in Austin. Despite the short notice, and aided by a magnitude 3.1 earthquake just before the meeting, over 350 people attended and a core group decided to take a bus to Austin to speak at the next RRC meeting.

At 4:30 AM on January 21st, over 50 residents of the Azle area boarded a bus and private vehicles headed to Austin to compel the RRC to publicly declare how they were going to address the issue of fracking-related earthquakes, a.k.a frackquakes.

Despite scientific authorities linking fracking wastewater injection wells to earthquakes, including the United States Geological Survey and the National Academies of Science, the RRC announced at the meeting that they would not take action to protect the public until after their yet-to-be-hired seismologist had studied the issue in Texas.

The RRC still has not hired a seismologist and the frackquakes continue. The people of Azle formed a new group, Concerned Citizens for Responsible Industry. They're working on resolutions to stop injection well activity until the scientific studies are complete.

FRACK QUAKES

“

Maybe if the ground shakes down in Austin we will get some results.”



Right: A concerned parent at the Texas Railroad Commission hearing on fracking-related earthquakes. Photo by Sharon Wilson



Left: California drilling. Photo by Andrew Grinberg/Clean Water Action California



ALREADY AT RISK: CALIFORNIANS ARE ON SHAKY GROUND

By Jhon Arbelaez

California is one state that doesn't need help making the ground shake.

But oil companies are increasing earthquake risk by injecting billions of gallons of oil and gas wastewater a year into hundreds of disposal wells near active faults around Los Angeles, Bakersfield and other major cities.

More fracking in California would worsen the danger of earthquakes by greatly increasing oil wastewater production and underground injection. Extracting the Monterey Shale's oil could produce almost 9 trillion gallons of contaminated wastewater.

Not only are millions of Californians threatened by oil industry-induced earthquakes, but a majority of California's active wastewater injection wells are near recently active faults.

Inadequate research and lack of seismic monitoring at injection and fracked wells don't allow the state's Division of Oil, Gas, and Geothermal Resources (DOGGR) to fully understand the problem. As a result, the state and DOGGR cannot safely regulate fracking and wastewater disposal and protect Californians from induced earthquakes.

The best way to protect Californians and citizens all over the world is to halt fracking and acidizing.

These are just a few of the findings of our new report *On Shaky Ground*. Coauthored by the Center for Biological Diversity and Clean Water Action, it features maps of faults, fracked and acidized wells, and wastewater disposal wells. Find out more about frackquakes at www.ShakyGround.org.



➤ Get the report at ShakyGround.org



Left: This map by the FracTracker Alliance shows the proximity of oil and gas wells to known and active fault lines.

Distance of California's Active / New Wastewater Wells to Recently Active Faults	
Number of active / new wells	Distance to recently active fault
87 wells (6%)	Within 1 mile
350 wells (23%)	Within 5 miles
834 wells (54%)	Within 10 miles

Our Bristol Bay:

Two giant steps closer to protecting world's greatest wild salmon fishery



Help us reach the finish line—write the EPA in support of Bristol Bay! Go to earthworksaction.org/action

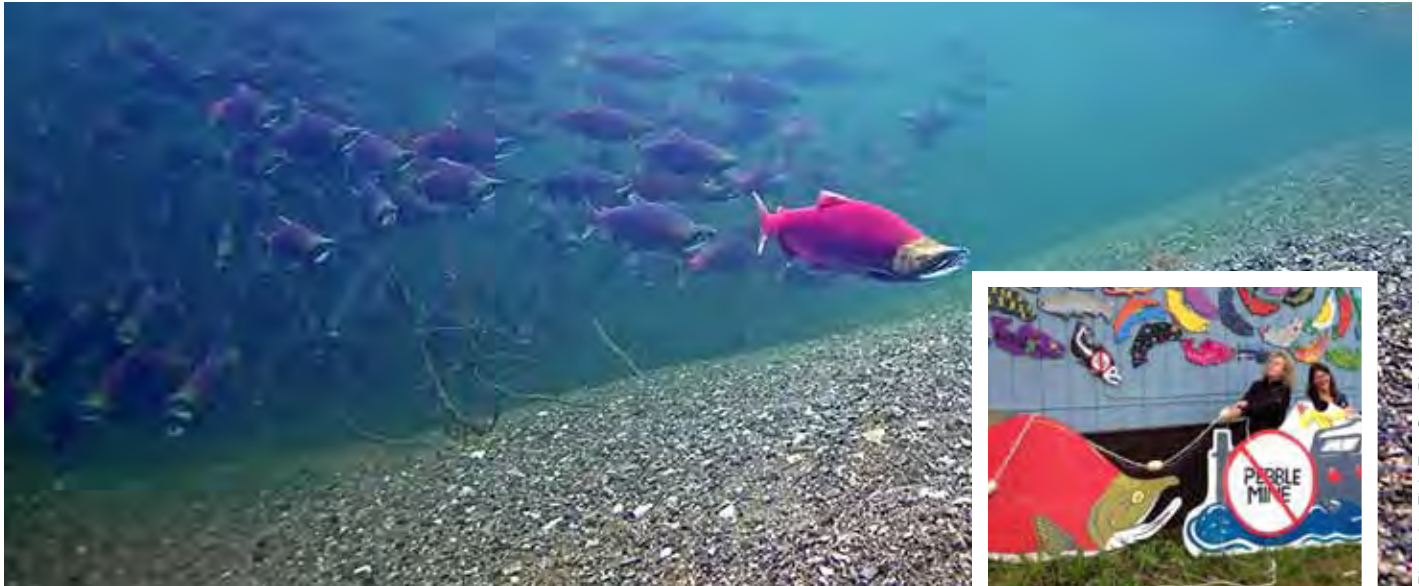


Photo by Fish Eye Guy Photography

By Bonnie Gestring

Every year, millions upon millions of wild salmon return to Alaska's Bristol Bay like no other place on earth. This remarkable fishery supplies nearly half of the world's wild sockeye salmon, generates 14,000 jobs a year, and sustains the Alaska Native communities that rely on it as their primary source of food.

Now, we're two giant steps closer to protecting the Bristol Bay fishery from the proposed Pebble mine – an open pit copper and gold mine that would devastate Bristol Bay salmon.

Anglo American and Rio Tinto pull out

For years, Earthworks has worked closely with Alaska Native leaders, commercial fishermen and other allies to apply corporate and investor pressure to UK-based mining giants Anglo American and Rio Tinto. We conveyed one simple message: the Pebble Mine is too risky. We traveled to London to meet directly with the CEO and Board Chair. We published investor risk reports, attended the company's annual shareholder meeting and placed full-page ads in key financial papers urging the companies to divest.

The relentless pressure paid off.

In September 2013, mining giant Anglo American withdrew from the project and in April 2014, Rio Tinto pulled out. This leaves Northern Dynasty, a small Canadian company with no major source of financing for the project, as sole owner of Pebble.

EPA takes first step to stop the Pebble Mine

The news gets even better. In response to the overwhelming public support and definitive science, the EPA announced in February 2014 that it was taking the first steps towards protecting the Bristol Bay fishery from the proposed Mine by initiating Section 404(c) of the Clean Water Act. This rarely used provision allows the EPA to restrict or prohibit mine waste disposal in the rivers, streams or wetlands that feed Bristol Bay to safeguard

Earthworks' Jennifer Krill and Bonnie Gestring visit Alaskan tribal organization Nunamta Aulukestai offices in Dillingham, Alaska. Photo by Kimberly Williams

the salmon fishery.

The 404(c) process will rely heavily on the EPA's scientific study on the impacts of large-scale mining on the Bristol Bay fishery, which was released in January. It found that even under routine mine operation, up to 94 miles of salmon streams would be destroyed, resulting in severe and lasting impacts to Bristol Bay salmon.

The fight isn't over. What's next?

Although the EPA has taken this giant step forward, the campaign to protect Bristol Bay isn't over. EPA will issue a proposed determination, which will outline their detailed plan for protecting the fishery. It will be circulated for public comment and undergo public hearings.

The mining company and its allies will be fighting this process tooth and nail. With your help, Earthworks will continue our efforts to urge the EPA and President Obama to complete the 404(c) process, and protect Bristol Bay from the Pebble Mine for good.



Earthworks joined a delegation of non-profits and Rio Tinto representatives in London to receive the good news.

Mining Giant Tramples Democracy in Costa Rica

By Shreema Mehta

Canadian company Infinito Gold is suing Costa Rica. **The crime?** Blocking the development of its proposed open-pit mine, which would be located in the pristine, protected forest area of Cerros Crucitas.

The Costa Rican Supreme Court ordered Infinito to halt construction at the Las Crucitas mining concession in late 2010, after Costa Rica banned open-pit mining. At that point, the company had already started destroying hectares of forest to make way for a pit and tailings dam. The ruling helped protect the yellow almond tree, which acts as a vital habitat and food source for the endangered Great Green Macaw. In addition, the Chief Prosecutor's Office began a criminal investigation of President Oscar Arias and his environment minister, who are accused of acting improperly when they gave Infinito approval to begin the clear-cutting.

In response to this court decision, Infinito Gold is suing the Central American country under investment agreements signed between national governments that circumvent local social and environmental regulations. It joins several other mining companies who, rather than respect local decisions, have taken officials to court in publicly inaccessible World Bank tribunals.

If the company refuses to drop the suit and the parties are not able to reach an out-of-court resolution, a trial would follow in Washington, DC, at the World Bank's International Centre for Settlement of Investment Disputes.

75% of Costa Ricans oppose Infinito's proposal. The country's courts, including the Supreme Court, have blocked it.



TOP: Maria Jose protests the proposed mine. Her shirt says, "I can live without gold. No to the open pit metal mine." Photo by Costa Rica Conservation Network

RIGHT: These Great Green Macaws are the same species that is threatened by the planned Crucitas open-pit gold mine. Photo by Alois Staudacher



Since December, more than 6,000 Earthworks members have written to the CEO of Infinito Gold, demanding that the company drop this lawsuit. Add your voice at earthworkSACTION.org/action.

A Disaster Waiting to Happen

By Pete Dronkers

In December 2013, I travelled to Patagonia, Arizona, to meet the folks at the Patagonia Area Resource Alliance – a group working to protect their backyard mountain range from numerous mining exploration proposals. The most advanced of all these – Wildcat Silver’s Hermosa Project – appeared to be a disaster waiting to happen.

The proposed 1,600-foot deep open pit silver mine (with some manganese production) would be perched at the upper reaches of the town’s designated watershed, which supplies about half of its needs from municipal and private wells. Water that falls as rain at the mine site eventually works its way to town, picking up whatever pollutants may be in its path. The problem: the area is known for acid mine drainage, and most of the tiny historic mines that dot the mountain range have rendered surface and groundwater highly acidic and laced with heavy metals. Some have been tested at pH levels of 2.5 – the same as vinegar.

Beyond that, drought and existing water consumption in the broader region is depleting water well levels in Patagonia at an astounding 2-3 feet per year, yet the mine would consume at least 2,000 acre-feet of water per year – nearly 30 times more than the entire town. Not only does the mine appear to threaten water quality on a scale never before seen in the area, but it also threatens to greatly exacerbate already-problematic groundwater depletion rates.

With all this in mind, the Resource Alliance and Earthworks are collaborating on a research project that will clearly show the risks of this proposed mine and its impacts on the town’s future. We’re going to expose the truth. The mine cannot be built without extraordinary risks to this desert town’s most precious resource: water.



After experiencing 13 years of continuous drought, all water is precious.”

– Wendy Russell, coordinator for the Patagonia Area Resource Alliance

Ortiz: Public Risk, Private Reward

By Pete Dronkers

New Mexico’s Ortiz Mountains are full of wildlife. Just south of Sante Fe, the area boasts 285 vertebrate species including collared lizards, whiptails, corn snakes, cougar, deer, and fox. Eighty species of birds including wren, Say’s phoebe, blue grosbeak, Swainson’s hawk and prairie falcon and at least seven species of bats. But if built, the Ortiz gold mine:

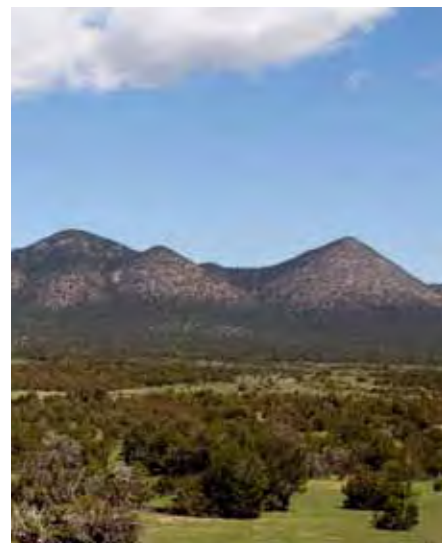
- would generate 169 metric tons of waste per ounce of gold recovered,
- could use as much water as nearly 8,000 New Mexicans and as much energy as over 5,000 households,
- is likely to emit over 600 million pounds of greenhouse gases over the life of the mine,
- would probably result in water pollution from acid mine drainage, which is prohibited by New Mexico state law.

Is the gold from this mine worth all the waste and destruction that it would cause? We don’t think so.

► Read our report at OrtizReport.earthworksaction.org

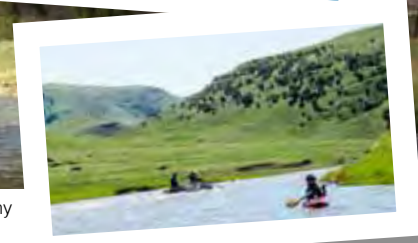


The author about to take flight over the Patagonia Mountains. Photos by Pete Dronkers



Ortiz Mountains, New Mexico. Photo by Orlando Diaz

Saving memories: WHY WE SUED TO PROTECT THE SMITH RIVER



Dylan H. Brown Photography

Photos top down: Tom Gagnon, MEIC, DH Brown Photography

By Bonnie Gestring

I jump at every chance to spend time on Montana's Smith River. Growing up, it was a family tradition. My dad would load up the truck, throw in a hefty supply of Snickers and canned stew, and off we'd go to explore that remote and beautiful stretch of river.

I have vivid memories of the towering cliffs, the spectacular rock art, abundant wildlife and the giant trout that make the Smith River such a unique and beloved place.

But the Smith River is at risk.

A mining company proposed a project that would jeopardize its pristine waters and the wildlife and ranchers that depend on it.

That's why Earthworks and the Montana Environmental Information Center filed a legal challenge, asking the court to require more rigorous analysis of the likely impacts of the project, including dewatering and water quality.

"Our livelihoods are dependent on stream flows and the quality of the water," said Mike Geary, of Lewis and Clark Expeditions. "You want DEQ (Department of Environmental Quality) to be as rigorous as possible, and I don't believe they're beyond reproach in this case." *Bozeman Daily Chronicle*, March 17, 2014.

In response to the litigation, the company withdrew its proposal for a large exploration tunnel, saying that it would obtain the information by less invasive measures. The company plans to complete a feasibility study, and submit a full plan of operations that will undergo environmental review.



Like Save Our Smith on Facebook, and visit SaveOurSmith.com to sign the petition to express support for protecting the Smith River from degradation.

100 Retailers Reject Dirty Gold!

The No Dirty Gold campaign hit a milestone on Valentine's Day: more than 100 jewelry retailers have signed the Golden Rules for responsible sourcing!

Companies from Tiffany & Co. to Target want the mining industry to clean up its act. That includes 8 of the country's top 10 retail jewelers representing annual

sales of \$9.2 billion.

For a complete list of companies and to take the No Dirty Gold pledge, visit NoDirtyGold.org. Just say no to dirty gold!

➤ Find more fun memes to share at facebook.com/nodirtygold. Credit: Irawan Subingar





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My Texas City Wants to Ban Fracking

By Adam Briggles, Denton Drilling Awareness Group

In May, I joined fellow members of the Denton Drilling Awareness Group (DAG) at City Hall in Denton, Texas, to turn in a petition bearing nearly 2,000 signatures supporting a city-wide ban on fracking. It was a pivotal moment in our campaign for a Frack Free Denton. The proposed ban will be put to a vote on the November ballot.

If we win, Denton will become the first major Texas city to implement a ban, and the first city in the country to do so after experiencing significant fracking activity. Currently, Denton has over 270 fracked wells within city limits.

DAG is a community-led group comprised of Denton residents concerned about the health and safety issues raised by shale gas development in urban areas. We started in 2011 by hosting educational forums and writing reports for City Council.

After years spent trying to devise rules that could make fracking compatible with our community, we found ourselves stuck in the same nightmare: this poisonous industry is still allowed to operate as close as 250 feet from homes. We learned that you can either have a safe and healthy community or you can have fracking, but you can't have both.



I have two young daughters – Gracie is six and Lulu is two. For me, Frack Free Denton is all about them. What kind of world are we creating for our children? Earthworks put our campaign on the national stage and provided local expertise and tireless activism to help us make a safer, more sustainable city.”



Adam Briggles and fellow Denton Drilling Awareness Group members deliver the fracking ban petition signatures to City Hall. Photo by Sharon Wilson

Earthworks is working with DAG to get out the vote this November. Your support can make a difference. Visit earthworksaction.org/denton.



Join the conversation

