

University of Denver Law Students Win Logging Case, Defeat Federal Permit

By CHASE SQUIRES

Fresh from a fight to stall an industrial-scope art project on environmentally sensitive lands, students at the University of Denver's Environmental Law Clinic learned Feb. 9 they had successfully fended off a proposed logging operation that threatened a national forest and the headwaters of the Rio Grande.

The clinic at DU's Sturm College of Law filed suit in 2009 against the National Forest Service, looking to overturn a timber permit for more than 3,400 acres in the Handkerchief Mesa area of the Rio Grande National Forest. The permit would have also allowed for the construction of 11 miles of roads in the forest.

The area in question was damaged by logging in past decades and is suffering from beetle infestation, making recovery from logging more difficult. Students argued the Forest Service never took these stresses into account before issuing a permit. Protection of the area is especially important, students argued, because the area feeds the headwaters of a river that is a major source of drinking water for millions of people in Colorado, New Mexico and Texas, and provides water for agriculture in both the United States and Mexico.

The suit was prepared in June, 2009 by student Jacob Schlesinger and Environmental Law Clinic Fellow Ashley Wilmes, under the direction of Environmental Law Clinic Director Michael Harris. It named the U.S. Forest Service and Department of Agriculture. It was filed in federal court in Denver on behalf of environmental groups WildEarth Guardians and Colorado Wild, now known as Rocky Mountain Wild.

Student lawyers Mason Brown and Justine Shepherd argued the case in federal court in December, 2011 under a provision that allows students to practice in federal court while supervised by a licensed attorney. Brown and Shepherd are already involved in a new case, a suit that seeks to block federal permits that would allow the artist Christo from installing a massive art project called "Over the River" on federal lands in Colorado.

On Feb. 9, U.S. Judge William Martínez in the U.S. District Court for the District of Colorado ruled the Forest Service did not meet obligations spelled out in the National Forest Management Act and that an Environmental Assessment was inadequate. The ruling overturns issued permits for the Handkerchief Mesa, near Alamosa in southwestern Colorado.

Harris says stopping a permitted timber project in Colorado is extremely rare. The ruling, he says, sends a message to the Forest Service that its permitting process must take into account changing conditions, ongoing insect infestations and other ecological conditions.

"The court has told the Forest Service, the game has changed, and you need to change if you are going to continue to permit these projects," Harris says.