



Environmental Impact Reviews

Kaplan Kirsch & Rockwell has developed a nationwide practice in the environmental review process. We represent clients ranging from proponents to affected parties to opponents of the kinds of transportation, development, and infrastructure projects that trigger preparation of federal environmental studies or similar reviews under counterpart state laws.

We address impacts to the complete range of environmental, historic, and social resources in settings from dense urban areas to wilderness. We have substantive expertise regarding the environmental issues that arise in all of these areas and how they affect the review process, including air quality, noise, environmental justice, wetlands, historic resources, endangered species, water quality, communities, and coastal resources.

Kaplan Kirsch & Rockwell is different from most law firms in that we regularly represent both project proponents and project opponents. As a result, our attorneys bring special expertise to our work on the environmental review process.

For project proponents, our experience representing opponents translates into an ability to anticipate litigation issues opponents may raise; to work with clients to develop solutions to opponents' concerns; to understand their potential legal arguments; and most importantly, to structure the environmental review process in a way to reduce the chance of a successful legal challenge. When representing project opponents, we are able to understand what hurdles represent mere inconveniences for a project and what hurdles could give project opponents substantial leverage over approval of the ultimate project.

We are frequently called upon to assist in the earliest stages of a project, to aid in defining and narrowing the scope of environmental review (in the case of project proponents), or to help ensure the broadest and most comprehensive environmental review (in the case of project opponents).

Representative Cases

Rags Over the Ark. River, Inc. v. BLM, No. 12-cv-0265-WJM, 2015 U.S. Dist. LEXIS 324 (D. Colo. Jan. 2, 2015) (defended the environmental review process for a client's permit for temporary installation of a public work of art on Bureau of Land Management (BLM) land)

River Runners for Wilderness v. Martin, 2007 Westlaw 4200677 (D. Ariz. 2007), *aff'd*, 574 F.3d 723 (9th Cir. 2009) (successfully defended agency's environmental study regarding allocation of permits and management prescriptions for Colorado River through Grand Canyon National Park)

Colorado Environmental Coalition v. Lujan, 803 F. Supp. 364, 1992 WL 231020, 22 ELR 21,542 (D. Colo. 1992) (represented citizens' organization in successful challenge to BLM's environmental review for the wilderness designation process in three western states)

Representative Experience

Airport Infrastructure

- Counseled airport sponsors on the preparation of Environmental Impact Statements (EIS), related environmental documentation, and responsive comments for runway development, terminal infrastructure, access roads, drainage facilities, collateral development, and other airport projects at major airports, including in Las Vegas; Chicago; Los Angeles; Philadelphia; Cincinnati; Cleveland; Denver; Dallas-Fort Worth; Seattle-Tacoma; Burbank; West Palm Beach; Homestead, Florida; and Raleigh-Durham.



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- Counseled airport sponsors on environmental reviews for new greenfield airports in Denver; Las Vegas; and Sun Valley, Idaho.
- Worked with airports throughout the country, including facilities located in Illinois, California, Nevada, Ohio, and Pennsylvania, on environmental review of multi-modal airport access roads and transit connections.

Transit and Rail

- Counseled clients around the country in navigating environmental review and permitting requirements for new or expanded transit projects.
- Represented the Seattle transit agency in preparing documentation related to Section 4(f) of the Transportation Act and Section 6(f) of the Land and Water Conservation Fund Act, and successfully defended subsequent federal court challenge to Federal Transit Agency approvals of a project to build a new light rail line in suburban Seattle.
- Represented a California transit agency in ensuring compliance with environmental review requirements associated with infrastructure and service expansion.
- Represented a Georgia district in strategies for compliance with environmental requirements arising in conversion of rail property to transit, park, and other uses.
- Represented transit agencies and airports nationwide to ensure compliance with environmental impact reviews for airport transit connections.

Highways

- Developed and implemented effective strategies for the approval of, or opposition to, highway projects throughout the country.
- Worked with private entity proposing innovative public–private partnership concession to address capacity needs in a complex mountain corridor.
- Represented a Colorado local government seeking to implement a preferred alternative to improvements to a critical freeway, including litigation regarding project review requirements under the Colorado Areas and Activities of Statewide Interest statute.
- Represented a Colorado local government seeking to stop or mitigate detrimental beltway proposal and implement preferred highway improvements.
- Represented one of the largest entertainment firms in the world on National Environmental Protection Act (NEPA), Section 4(f), and National Historic Preservation Act issues for construction of a new highway interchange to serve a proposed theme park.

Airspace and Air Traffic Procedures

- Represented airports and local communities in the assessment of proposed airspace changes arising from both airport-initiated programs to reduce noise impacts and FAA-initiated capacity enhancement efforts.

Energy Projects

- Represented a range of parties in the environmental review of energy projects, including transmission, wind, solar, and co-generation projects around the country.

Water and Utility Projects

- Represented Colorado municipality in NEPA process relating to a large water diversion project that would affect city drinking water infrastructure and park lands; helped secure analysis and measures to address concerns.



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- Assisted in securing a federal environmental assessment for Denver Water through an innovative applicant-led procedure that saved the client considerable time and reduced the controversy and mitigation requirements that would have been required had a full federal EIS been required.
- Represented nonprofit advocacy organizations in navigating the environmental review process and in litigation over the adequacy of environmental impact documentation for Federal Energy Regulatory Commission (FERC)-licensed power facilities in Maine and Nebraska.
- Represented a major water utility in designing one of the first applicant-prepared environmental reviews of a FERC relicensing for a water/power project in the Rocky Mountain region.

Other

- Assisted the real estate development affiliate of the PGA Tour in matters relating to several large real estate development projects, including the preparation of a federal EIS necessitated by a federal land transfer and federal wetlands permits.