



Public Lands

Kaplan Kirsch & Rockwell's work in the public lands arena is diverse. It involves representation of parties on all sides of public lands issues, including local governments, owners of mountain property, public land permittees, recreation companies and outfitters, environmental organizations, and others with an intense interest in the management and use of state and federal public lands. We counsel clients on major development projects on or adjacent to public lands; land exchanges with governmental entities; opposing and supporting proposals for federal actions or approvals affecting public lands and resources; obtaining rights-of-way across public lands; and those whose land or water resources are affected by activities on public land.

Our public lands practice overlaps with our other practice areas, including airports, environment and conservation, project development, and litigation. We frequently advise affected parties during the environmental impact review process on public lands issues. We have developed special expertise in the complex statutory schemes, and associated regulations, governing public lands and their resources: the Federal Land Policy and Management Act (FLPMA); the Wilderness Act; the National Forest Management Act (NFMA); the National Environmental Protection Act (NEPA); the Endangered Species Act; Section 4(f) of the Transportation Act; the National Historic Preservation Act; the Clean Water Act; the Mining Law; and state laws affecting state and local park land, school trust land, and open space.

Representative Experience

- Represent municipal utility in federal permitting of infrastructure project including procuring right-of-way on BLM land.
- Represent residents and business owners in opposing a development on the rim of the Grand Canyon.
- Represent nonprofit organizing challenging the Bureau of Land Management's approval of a motorized trail through a pristine area.
- Represent a local government invalidating old mining claims.
- Represent a nonprofit organization seeking to protect roadless areas in national forests from oil and gas development.
- Represent a biological laboratory performing climate change-related research in a national forest.
- Represent local governments seeking to ensure consistency of energy development projects with local plans and infrastructure.
- Represent artists seeking a federal permit to install a work of art on public lands.
- Represent rafting companies seeking access to run trips using public land.
- Represent a business seeking to develop school trust lands while preserving large tracts as natural prairie.
- Represent municipal entities concerned about Grand Canyon overflight regulations.
- Represent a ranch participating as an affected party in a federal land exchange to recruit a conservation buyer to take title to a portion of the exchanged lands.
- Represent a homeowners' association protecting instream flows in a river through the area.
- Advise nonprofit organization on strategies to require reduction of greenhouse gas emissions from uses of public lands.
- Advise nonprofit organization in commenting on and opposing permit application for proposed interstate water pipeline.
- Represented nonprofit organization in preparing protest of Bureau of Land Management Resource Management Plan, largely as to climate implications of proposed management of mineral resources.



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- Represented nonprofit organization on analysis required for construction of mountain-bike trail network in Colorado Roadless Areas.
- Represented clients in precedent-setting RS 2477 litigation in federal district court in Utah and in the Tenth Circuit
- Firm attorney represented ski areas and operators in acquiring permit approvals from the Forest Service and BLM for changes and expansions in operations.
- Firm attorney successfully acquired renewed special use permit for historic cabin operations.
- Firm attorney challenged oil and gas lease sales in areas proposed by citizen groups for inclusion in the National Wilderness Preservation System.
- Firm attorney led negotiations on a state-specific federal rule as to the management and conservation of 4.2 million acres of roadless lands of the U.S. Forest Service.
- Firm attorney represented state agency participating as a Cooperating Agency for adoption or revision of Bureau of Land Management Resource Management Plans, U.S. Forest Service Land and Resource Management Plans, and the like.

Representative Cases

Center for Biological Diversity v. U.S. FWS, Nos. 19-7585, 19-17586 (9th Cir., filed Sept. 18, 2020) (filed amicus brief on behalf of a group of law professors in support of plaintiff's position that national forest lands without any mineral value cannot be used to dispose of tailings from a mine on other federal lands)

Mass. Lobstermen's Ass'n v. Ross, 945 F.3d 535 (D.C. Cir. 2019) (filed amicus brief on behalf of National Audubon Society in support of President's authority to designate Northeast Canyons and Seamounts Marine National Monument)

Dvorak Expeditions, Inc. v. BLM, IBLA Nos. 2019-0104; 0105; 0106 (represented rafting expedition company in successfully staying BLM's cancellation of special recreation permits and resolving Board of Land Appeals proceeding with agreement reinstating permits).

Wilderness Society v. Trump, No. 17-cv-02587 (D.D.C., filed 2017) (filed amicus brief on behalf of archeological groups supporting plaintiffs' position that the President does not have the authority to diminish national monuments)

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 permittee's interest in permit for temporary installation of a public work of art on Bureau of Land Management (BLM) land)

Rags Over the Ark. River, Inc. v. Colo. Parks & Wildlife Bd., 360 P.3d 186 (Colo. App.2015) (represented state permittee as an intervenor/appellee in case challenging the permit)

Seherr-Thoss v. Teton County Board of County Commissioners, 329 P.3d 936 (Wyo. 2014) (represented Teton County in gravel permitting matter)

Clark County v. FAA, 522 F.3d 437 (D.C. Cir. 2008) (successfully challenged federal agency approval of siting of towers near end of proposed new airport runway)

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 allocation of permits and management prescriptions for Colorado River through Grand Canyon National Park)