

UCLA Clinic persuades federal Administrative Law Judge to vacate approval of new coal mining permit on Indian land in Arizona | 1

I have some exciting news I can't resist sharing: UCLA's Frank G. Wells Environmental Law Clinic won a major administrative case last month, which is now final now that the time for appeal has run. All twelve of our clinic students spent a significant chunk of this fall working on it, along with me and Cara.

We convinced an Administrative Law Judge at the US Dept of Interior Office of Surface Mining to issue [a decision](#) vacating an agency action approving a new permit that would have consolidated two coal mines on Hopi land into one mining operation and set the stage for future mining activities on the site. The ALJ ruled that the Environmental Impact Statement was inadequate, adopting the arguments that our clinic made in its motion. Although previously-permitted mining activities will continue on part of the site, the decision is an impediment to future new approvals of strip-mining and a rebuke to an agency that had been making decisions without sufficient input from local interests and without sufficient regard for the environment. This is a significant victory that will affect both the policy and politics relating to future mining in the area.

Some minor media coverage of the successful motion is linked [here](#).

The story behind this case involves decades of strip-mining of coal on Hopi and Navajo lands in Arizona, resulting in severe impacts on water supply and quality and on other resources, and decades of efforts of some tribal members and environmentalists to return the land to proper stewardship. (See, e.g., [here](#), [here](#), [here](#), and [here](#), for more information on the situation.)

The clinic, under our direction, drafted the motion that won this case, the latest chapter in the Black Mesa Mine saga (we were not counsel of record- the motion was filed by local counsel who had been involved in the case for years but who lack the specific NEPA expertise we brought to the case, attorney David Abney and legal assistant Sean Gnant).

Our legal team represented a collection of individual members of the Hopi tribe, including former tribal chairman Ben Nuvamsa.

The ALJ found our motion for summary disposition to be dispositive, in an opinion that, interestingly, found all the 18 other motions filed by other parties to be moot (including some very persuasive motions submitted by attorneys for the Center for Biological Diversity and Energy Minerals Law Center, among others). OSM and the permit applicant have not appealed from the decision, and the time for administrative appeal has run. It's unclear what this means for the future of the area, as there is plenty of mining continuing in the area even without this decision, and OSM can always go back to the drawing board with a new plan. Ultimately, any long-term solution to the environmental issues caused by coal

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mining in the area will have to be in the political, rather than legal, arena. But the decision certainly leaves the Hopi and Navajo in a better position than before to help to achieve a higher degree of environmental protection in the area.