



## NEPA Lawsuit Seeks to Block Tar Sands Project

**On the eve of President Obama's scheduled visit to Ottawa, a look at how the Sierra Club and the Indigenous Environmental Network are challenging a proposed tar sands project in Utah's Uintah Basin**

President Barack Obama is scheduled to travel this Thursday to Canada for his first foreign visit as the nation's chief executive. Climate change will be at the top of the agenda during Obama's meetings in Ottawa with Canadian Prime Minister Stephen Harper. In a series of speeches since he was elected, Obama has made it abundantly clear that he intends to follow through on his campaign pledge to attempt to reduce greenhouse gas emissions and to develop a plan to reduce the nation's reliance on imported oil.

In 2008, the U.S. imported about 780,000 barrels a day of tar sands oil, 60 percent of Canada's total production, according to the Canadian Association of Petroleum Producers. Alberta's tar sands may hold the equivalent of 173 billion barrels, enough to supply the U.S. for 24 years, according to some industry and government estimates. Only Saudi Arabia, the biggest producer in the Organization of Petroleum Exporting Countries, has more oil reserves, estimated at 250 billion barrels. Extracting and processing the tar sands requires significantly more energy than regular crude oil. The RAND Corp. estimates that greenhouse gases produced by tar sands development could be up to 30 percent greater than for conventional crude.

In an interview with the Canadian Broadcasting Corp. yesterday, Obama said he believes that technologies such as carbon sequestration can contain emissions from tar sands processors. "I think that it is possible for us to create a set of clean-energy mechanisms that allow us to use things not just like oil sands but also coal," Obama said.

In contrast, Pat Gallagher, legal director for the Sierra Club, was recently quoted as saying that "[i]f we move toward an energy-efficient and low-carbon economy, as the President is proposing, there is no room for tar sands."

While most tar sands development has been concentrated in Canada, there has been a growing interest, especially in the western United States, in extracting tar sands. U.S. tar sands deposits are largely concentrated in eastern Utah.

On January 15, 2009, the Sierra Club and the Indigenous Environmental Network filed a lawsuit in Utah federal district court, challenging approval of the proposed Antelope Creek Tar Sands Project in Utah's Uintah Basin.

The complaint alleges that the U.S. Bureau of Indian Affairs, which manages the land slated for the development, approved the project without conducting a comprehensive analysis of the project's environmental impacts. The complaint states that the Department of the Interior and other defendants violated the National Environmental Policy Act ("NEPA") and the Administrative Procedures Act ("APA") by failing to prepare an Environmental Impact Statement ("EIS") and failing to allow for public participation in the agency's decision.

According to the Sierra Club, the Antelope Creek Tar Sands Project, proposed by Petroglyph Gas Partners, would drill 300 new wells within 720 acres of tribal land, using energy intensive deep injection thermal extraction techniques unprecedented in the state. The Project site is home to 13 species proposed or listed under the Endangered Species Act, and an extensive network of creeks that drain into the Duchesne and Green Rivers.

In the complaint, the plaintiffs allege that approval of the Project was based on an Environmental Assessment (“EA”) conducted in 2003. Plaintiffs allege that NEPA requires the preparation of a more comprehensive EIS, and that an EA can only be relied upon if the proposed action will not “significantly impact” the environment. Here, the plaintiffs allege that the EA prepared by the defendants was insufficient because it “failed to even attempt to characterize or address greenhouse gas emissions from the specific processes Petroglyph proposes to employ.”

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