

MEPA Litigation Summary
1971 to present

Legal Question Raised:

Questions of State Authority	Case Name	Case No.	SUPCO	Decision	Outcome
	Cabinet Resource Group vs DSL	Case No 43914	No	MEPA does supplement the agency's permitting/license authority	Loss
	Kilpatrick, Great Bear Adventure Inc v Vincent, DFWP	Cause No BDV-93-637	No	MEPA does supplement the agency's permitting/license authority	Win
	Friends of the Wild Swan, et al v DNRC and Board of Land Commissioners	Cause No. CDV-95-314	No	Agency should not be enjoined from further timber sales until programmatic review is completed	Win
	Skyline Sportsmens Assn, et al v Board of Land Commissioners, et al (Turner land exchange)	Cause No CDV 96-499; SUPCO 286 Mont 108	Yes	SUPCO decided on other merits	N/A
	Friends of the Marias and Missouri River Citizens, Inc. v. DNRC	Cause No CDV-2001-390	No	Dismissed in favor of state	Favor of state

Was a public hearing required?	Case Name	Case No.	SUPCO	Decision	Outcome
	Murphy, et al. v DHES	Cause No. BDV-92-1204	No	Hearing not required but license request reconfigured and case dismissed	Favor of state

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Did the state have authority?	Case Name	Case No.	SUPCO	Decision	Outcome
	MT Wilderness Assn, Gallatin Sportsman's Assn vs Board of Health, DHES	District Court Cause No 38092; SUPCO No 13179	Yes	The agency did not have the authority	Loss

Was a MEPA analysis required? (non specific)	Case Name	Case No.	SUPCO	Decision	Outcome
	Funke v DHES	Cause No 9575	No	Decided on other merits	N/A
	MT Environmental Information Center and Labor Union vs MT Power Co and Haines Pipeline Co (DSL)	Cause No 49784	No	Settled/dismissed	
	Friends of the Wild Swan v. DSL and Montana Wood Products Assn	DV-89-074(A)	No	No MEPA analysis required	Win
	Ravalli Co Fish and Game Assn, et al v DSL, et al	Cause No. DV-93-148; SUPCO	Yes	EIS required	Loss
	MT Environmental Information Center, Clark Fork-Pend Oreille Coalition, Women's Voice for the Earth v DEQ, Seven-Up Pete Joint Venture	Cause No BDV-95-1184	No	Resolved by stipulation, dismissed without prejudice	
	Friends of the Wild Swan, Alliance for the Wild Rockies, Clark Fork-Pend Orielle Coalition v DEQ and Yellowstone Pipeline	Case No BDV 1999-670	No	Settled	

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Friends of the Wild Swan, Inc., Alliance for the Wild Rockies, Inc., The Ecology Center, Inc. v. Arthur Clinch, Montana Department of Natural Resources and Conservation, Montana Board of Land Commissioners	Cause No BDV-2000-369	No	Split Decision: No additional MEPA analysis necessary, but compliance with MAPA ordered	Win on MEPA question
Brekke and Gryder v Spanish Peaks Sand and Gravel, Cameron Springs LLC, DEQ, Opper	DV-08-385-C	No	Dismissed with prejudice at request of plaintiffs	Favor of state
Northern Plains Resource Council, National Wildlife Federation v Board of Land Commissioners, Ark Land Co, Arch Coal (Cause No DV-38-2010-2480) combined with Montana Environmental Information Center, Sierra Club v Board of Land Commissioners, Ark Land Co, Arch Coal (Cause No DV-38-2010-2481)	DA - 12- 0184 and 12-0185	Yes	EIS not required	Win

Was an EIS required?	Case Name	Case No.	SUPCO	Decision	Outcome
	MT Wilderness Assn vs Board of Land Commissioners and DSL	Cause No 38544	No	EIS not required	Win
	Kadillak v Anaconda Co, DSL	SUPCO 184 Mont. 128	Yes	EIS not required but decided on other merits	N/A
	Guthrie vs DHES	District Court No. 40471; SUPCO No. 14816	No	EIS not required	Win
	Friends of the Earth vs DSL	Cause No 44384	No	Dismissed, failure to establish cause, harm	Favor of state

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North Fork Preservation Assn v DSL	SUPCO 238 Mont 452	Yes	EIS not required	Win
Concerned Citizens of Pony v DHES	Cause No ADV 90-144	No	EIS not required	Win
Westview People's Action Assn v DSL	Cause No 72690	No	EIS not required	Win
Friends of the Wild Swan v. DSL*	DV - 89 - 073(B)	No	Settled/dismissed	
The Fund for Animals, Inc. v Lujan (Secretary US Dept of Interior) Yeutter (Sec US Agriculture), Cool (Director MT DFWP), Graham (Director, MT DOL), State of MT	No. 91-35283; 962 F.2d 1391	No	Decided on other merits	N/A
Friends of the Wild Swan v DSL and Champion International Corp	Cause No. DV- 93-361-B	No	EIS required	Loss
National Wildlife Federation, et al. vs DSL, Golden Sunlight Mine aka National Wildlife Federation v DEQ	Cause No. CDV-92-486	No	EIS required	Loss
Wallace/Big Velvet Ranch v DFWP	Cause No. CDV-92-486	No	EIS required	Win
Friends of the Wild Swan v DNRC & Plum Creek Manufacturing Co	Cause No CDV-97-558	No	Programmatic review not required but a supplemental EIS required	Loss
Little Snowies Coalition v DNRC & WTL Logging, Inc	Cause No BDV 99-10	No	EIS not required	Win
Montana Environmental Information Center, Inc., and Plan Helena, Inc. v. MDT	2000 MT 5	Yes	Supplemental EIS required	Loss
Montana Environmental Information Center, Inc., and Citizens for a Better Flathead, Inc. v. DNRC and Montana Board of Land Commissioners	Cause BDV 2000-396	No	EIS required	Loss

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Tongue River Water Users Assn, Northern Plains Resource Council, Montana Environmental Information Center v DEQ and Fidelity Exploration and Production Co, MDU Resources Group, DNRC, State of MT*	BDV 2001- 258	No	Dismissed	
Friends of the Marias and Missouri River Citizens, Inc. v. DNRC	Cause No CDV-2001- 390	No	Dismissed	N/A
Montana Environmental Information Center, Inc., et al v. DEQ and Cattle Development Center, LLC	Cause No ADV 2001- 210	No	Programmatic EIS ordered for general CAFO permit program and appropriate MEPA review for specific CAFO operations	Loss
Pennaco Energy, Inc., et al; Fidelity Explorations and Production Company; Montana Board of Oil and Gas Conservation v. Montana Board of Environmental Review, et al; Northern Plains Resource Council; and Tongue River Water Users	Cause No DV 06-68	Yes	Plaintiffs motions dismissed	Favor of state
Eastgate Village Water and Sewer Association Inc. v. DEQ, Richard Oppen, and John Does, 1 through 10*	7/3/2008; Cause No BDV-2008- 586	No	Dismissed by stipulation of parties	
Montana River Action Network, Paul Shennum, Roselee Faust, and West Gallatin Canal Company v. DNRC, Utility Solutions, Black Bull Run Development, LLC, and Circle F, LLC	Cause No CDV-2007- 602	No	Plaintiffs claim dismissed	Favor of state

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Alaska Basin Grazing Association, and Roger and Carrie Peters v. DNRC	Cause No ADV-2008-1151	No	EIS not required	Win
Northern Cheyenne Tribe, Tongue River Water Users' Association, and Northern Plains Resource Council, Inc. v. DEQ, Richard Opper, and Fidelity Exploration and Production Company	DV 06-34; DA 09-0131; 2010 MT 111	Yes	EIS not required; SUPCO reverses and remands on non MEPA issues	Win on MEPA issue
Missoula County, Montana Environmental Information Center, National Wildlife Federation, Sierra Club v. MDT	Cause No DV-11-424	No	More analysis ordered, but project resized to forgo wait; case dismissed as moot	Loss?*
Montana Wildlife Federation, National Wildlife Federation v BOGC and Fidelity Exploration and Montana Petroleum Association	DV 08-34; DA 11-0537; 2012 MT 128	Yes	Summary judgment granted to defendants, SUPCO affirms, but cautions BOGC on future analysis	Win*
Citizens for Balanced Use, Sen. Ripley, Hofeldt, Hansen, United Property Owners of Montana, Missouri River Stewards v Maurier, DFWP, FWP Commission	1/11/2012; Case No DV-2012-1	Yes	Preliminary injunction overturned by SUPCO, decided on other merits	N/A*
Park County Stockgrowers Assn v MDOL, DFWP, et al	DV 11-77	Yes	Dismissed by district court for insufficiency; SUPCO denies appeal on procedural basis	Win*

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Eckert, Lachenmaier, Berg, Olson, Miller, Foster v DEQ, DNRC, Bridger Pines County Water and Sewer District	DV-12-301A	No	Summary judgment granted to defendants	Win*
Protecting Paradise, Inc v DEQ	DV-12-123	No		pending*
Gateway Village, LLC v DEQ, Gallatin Gateway County Water and Sewer District	DV-13-657C	No		pending

**Was the MEPA analysis adequate?
(non specific)**

Case Name	Case No.	SUPCO	Decision	Outcome
Titeca vs DFWP	SUPCO 194 Mont. 209	Yes	MEPA analysis adequate	Win
MT Wilderness Assn vs Board of Natural Resources and Conservation (DNRC)	200 Mont 12	Yes	MEPA analysis adequate	Win
Friends of the Wild Swan v. DSL*	DV - 89 - 073(B)	No	Settled/dismissed	
Friends of the Wild Swan v. DSL and Montana Wood Products Assn	DV-89- 074(A)	No	MEPA analysis adequate	Win*
Gold Creek Resource Protection Assn v DSL	Cause No 76549	No	MEPA analysis not adequate	Loss
Mott v DSL	Cause No. CDV-93-1731	No	MEPA analysis adequate	Win
Pompeys Pillar Historical Assoc. v. Department of Environmental Quality, and United Harvest, LLC	ADV-2001- 550	Yes	Dismissed because court lacked subject matter jurisdiction	Favor of state
Montana Environmental Information Center vs. Montana Board of Oil and Gas Conservation, and Fidelity Exploration and Production Company.	Cause No DV 04-31	No	Dismissed plaintiff's motion	Favor of state

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Was the EIS adequate?	Case Name	Case No.	SUPCO	Decision	Outcome
	Coalition for Canyon Preservation v Karl S Bowers, Federal Hwy Administration, MT Dept of Highways, et al	No. 79-4843; 632 F.2d 774	No	EIS not adequate	Loss
	Upper Yellowstone Defense Fund, et al. v DHES (Church Universal and Triumphant)	Cause No BDV-89-261	No	EIS adequate	Win
	Friends of the Wild Swan v DNRC & Plum Creek Manufacturing Co	Cause No CDV-97-558	No	EIS not adequate	Loss*
	Assiniboine and Gros Ventre Tribes, Fort Belknap Community Council, National Wildlife Federation, Montana Environmental Information Center v. DEQ	BDV 97-34; 1997 Mont Dist Lexis 102	No	Dismissed	
	Northern Plains Resource Council & Stillwater Protective Assn v DEQ	Case No ADV 9900103	No	Dismissed	
	Skyline Sportsmens Assn, et al v Board of Land Commissioners, et al (West-Middle Fork Blacktail Creek)	Cause No BDV 99-146	No	EIS not adequate on old-growth analysis, but supplemental EIS not required	Loss
	Friends of the Wild Swan v. DNRC and Montana Board of Land Commissioners	Cause No BDV 2003-527	No	Temporary restraining order denied	Win

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Montana Environmental Information Center and Environmental Defense Fund v DEQ and Bull Mountain Development	Cause No CDV 2003-138 (1st District); Cause No. DV 03-50 (14th District); No 04-247 SUPCO 2005 MT 96	No	Decided on other merits then dismissed by SUPCO after permit relinquished	N/A
Wild Eagle Mountain Ranch, LLC, Rock Creek Ranch I Ltc. LP, Engwis Investment Company, Ltd, and R.F. Building Company, LLP v. State of Montana, DNRC	Cause No DV 2010-09	No	Remanded back to DNRC for further analysis	Loss
Jefferson County v. DEQ and Northwestern Corp, d/b/a Northwestern Energy	Cause No DV-2010-52	Yes	SUPCO dismisses without prejudice	Favor of state

Was the EA adequate?	Case Name	Case No.	SUPCO	Decision	Outcome
	Friends of the Wild Swan v DSL and Champion International Corp	Cause No. DV-93-361-B	No	EA was not adequate	Loss*
	Greater Yellowstone Coalition, et al. v. DEQ, Simonich, Big Sky Water and Sewer District No 363	DV-99-123	No	Stayed in 2000; moot as permit let go	N/A
	Little Snowies Coalition v DNRC & WTL Logging, Inc	Cause No BDV 99-10	No	EA adequate	Win*

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Tongue River Water Users Assn, Northern Plains Resource Council, Montana Environmental Information Center v DEQ and Fidelity Exploration and Production Co, MDU Resources Group, DNRC, State of MT*	BDV 2001-258	No	Dismissed	
Montana Environmental Information Center, and Dan Edens v. DNRC, and Udell Sharp	No CDV-25-2001-309	No	Split Decision: Dismissed MEPA-related counts; continued on another account	Favor of state
Eastgate Village Water and Sewer Association Inc. v. DEQ, Richard Oppen, and John Does, 1 through 10*	7/3/2008; Cause No BDV-2008-586	No	Dismissed by stipulation of parties	
Montana River Action Network, Paul Shennum, Roselee Faust, and West Gallatin Canal Company v. DNRC, Utility Solutions, Black Bull Run Development, LLC, and Circle F, LLC	Cause No CDV-2007-602	No	Plaintiffs claim dismissed	Favor of state*
The Rattlesnake Coalition, Loreen Folsom, William Hollenbaugh, and Daniel Jensen v. City of Missoula, State of Montana, and DEQ	DA 08-0368; 2009 MT 189N	Yes	EAs were adequate	Win
Alaska Basin Grazing Association, and Roger and Carrie Peters v. DNRC	Cause No ADV-2008-1151	No	EA adequate	Win*
Northern Cheyenne Tribe, Tongue River Water Users' Association, and Northern Plains Resource Council, Inc. v. DEQ, Richard Oppen, and Fidelity Exploration and Production Company	DV 06-34; DA 09-0131; 2010 MT 111	Yes	EA adequate; SUPCO reverses and remands on non MEPA issues	Win on MEPA issue*

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Dennis Carver, Lower Vallye Properties, Inc. v. FWP, Flathead County	Cause No DV-10-667 (B)	No	Supplemental EA ordered, jurisdiction retained for review	Loss
Missoula County, Montana Environmental Information Center, National Wildlife Federation, Sierra Club v. MDT	Cause No DV-11-424	No	More analysis ordered, but project resized to forgo wait; case dismissed as moot	Loss?*
Montana Wildlife Federation, National Wildlife Federation v BOGC and Fidelity Exploration and Montana Petroleum Association	DV 08-34; DA 11-0537; 2012 MT 128	Yes	Summary judgment granted to defendants, SUPCO affirms, but cautions BOGC on future analysis	Win*
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Park County Stockgrowers Assn v MDOL, DFWP, et al	DV 11-77	Yes	Dismissed by district court for insufficiency; SUPCO denies appeal on procedural basis	Win*
Eckert, Lachenmaier, Berg, Olson, Miller, Foster v DEQ, DNRC, Bridger Pines County Water and Sewer District	DV-12-301A	No	Summary judgment granted to defendants	Win*
Protecting Paradise, Inc v DEQ	DV-12-123	No		pending*