

Environmental Litigation



Selendy & Gay is committed to environmental justice and we leverage our plaintiff and defense-side expertise in pursuit of that goal, including by holding to account those who disregard environmental laws or regulations and harm individuals, communities, or property. Environmental disputes extend beyond the courtroom, encompassing a dizzying range of interest groups, local, state, and federal governments, regulators, and the media. We are well-positioned to work with those affected by environmental issues and we have extensive experience representing public entities in pursuing claims against private actors and in partnering with environmentally minded businesses and interest groups.

Our representative engagements include:

- **Vote Solar**, a clean energy nonprofit organization, in a precedent-setting case against Rocky Mountain Power (RMP) before the Utah Public Service Commission (PSC) to demonstrate the costs and benefits of solar energy in the state's net metering program. RMP, Utah's electricity utility, conducted a study of how customers with rooftop solar panels impact the grid and the utilities overall demand for power. In partnership with Vote Solar, Selendy & Gay prepared our own rigorously developed proposal to be evaluated in parallel with RMP's. The PSC, which traditionally sides with RMP, found in our favor that many of the values of customer generated solar do exist and included them in their export rate, including avoided generation capacity costs and avoided distribution capacity costs.
- **Cypress Creek Renewables**, a leading national solar company, in a suit against the Montana Public Service Commission for violating federal energy laws intended to promote small alternative energy projects. The Montana Public Service Commission denied the ability to contract to sell solar power at the appropriate rate to Bear Gulch Solar and other qualifying producers owned by Cypress Creek Renewables. Cypress Creek and those producers sued to uphold federal law and their right to contract to sell power to the utility at the correct rate and filed an appeal in the Ninth Circuit. In June 2019, the Ninth Circuit issued a decision finding that plaintiffs' claim was moot because, following the initiation of the action, Montana issued a new rule governing contract formation.
- **Maine People's Alliance**, a grassroots community action organization, and the **Natural Resources Defense Council**, an international environmental advocacy group, against HoltraChem Manufacturing Co. and Mallinckrodt US LLC, to address the cleanup of Maine's Penobscot River, which was suffering from high levels of mercury contamination from the Mallinckrodt chemical plant. After nine years of trial, the federal district court in Maine

ultimately ordered a remediation study and the appointment of an engineering firm to provide solutions to properly clean the remaining mercury in the river.