
News

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Corps accused of violating permit ruling

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The U.S. Army Corps of Engineers has issued at least three new mountaintop-removal mining permits in violation of a year-old federal court ruling, environmental groups alleged Wednesday.

Lawyers for the Ohio Valley Environmental Coalition and other groups asked U.S. District Judge Robert C. Chambers to issue a temporary restraining order to block the permits.

The environmental group lawyers also complained that the corps has refused to provide copies of two of the three new permits, making it impossible for citizens to examine their impacts and legality.

Corps officials have "systematically refused to disclose" information about new mining permits, the groups allege in court papers filed Wednesday evening in Huntington.

"The corps knows that any delays in notifying plaintiffs of issued permits have the effect of allowing coal companies to fill and destroy streams quickly before citizens can seek judicial review and injunctive relief to challenge the corps' permitting decisions," the lawyers told Chambers.

The permits at issue are for Tyler Morgan LLC near Standard, Kanawha County, Independence Coal Co. near Lindytown in Raleigh County, and Fola Coal Co. in Nicholas and Clay counties.

Environmentalists have obtained the Fola permit and said their review of it "shows that the corps is continuing the same pattern of unlawful conduct" previously cited by Chambers.

Citizen groups asked Chambers to order the corps to immediately turn over records concerning the other two permits, and asked the judge to block them for 10 days to give citizens time to review those records.

The request for a temporary order against those permits was filed as part of the existing case that resulted in two Chambers rulings now being appealed to the 4th U.S. Circuit Court of Appeals.

In his March 23, 2007, ruling, Chambers concluded the corps had not fully evaluated the potential environmental damage before issuing four Massey Energy permits.

Citing the "alarming cumulative stream loss" to valley fills, Chambers ruled the corps needed to more thoughtfully consider mining's potential impacts before granting a permit.

In a second ruling on June 13, 2007, Chambers concluded the Clean Water Act does not allow coal operators to build in-stream sediment ponds at the bottom of valley fills.

Arguments before the 4th Circuit are scheduled for May 13.

In their new court filing, environmental groups allege the corps stonewalls their Freedom of Information Act requests for information about pending and issued permits.

Environmentalists learned of the new permits only after receiving a phone call from a financial analyst who had read a trade journal report that noted the permits had been approved by the corps, the court filing states.

The corps' public Web site listing new permits has not been updated since September 2007, the filing says.

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