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PUBLIC JUSTICE DIRECTOR CALLS MANCHIN EPA SUIT 'FRIVOLOUS'

By [Ken Ward Jr.](#)

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CHARLESTON, W.Va. -- Gov. Joe Manchin was wrong to sue the federal government to block the Obama administration's crackdown on mountaintop-removal coal mining, the head of a public interest law firm that has worked for tougher limits on the practice.

"The Chamber of Commerce spends a huge amount of time and money denouncing frivolous lawsuits," said Arthur Bryant, executive director of Public Justice. "They ought to look at this one."

Bryant said the U.S. Environmental Protection Agency has not overstepped its authority in conducting more rigorous permits reviews and writing guidance aimed at reducing mining's impact on water quality.

"The basic issue is whether the West Virginia government and the coal companies are going to comply with federal law," Bryant said. "Coal companies could mine coal and provide jobs without breaking the law. They just don't want to."

Bryant was in Charleston this week for a meeting of his group's board, which is chaired by local lawyer and Charleston City Councilman Harry Deitzler. Bryant and Deitzler visited the Gazette Thursday afternoon to discuss Manchin's lawsuit.

Funded by lawyers from around the country, Public Justice is a law firm that takes on a variety of consumer, environmental and civil rights cases that serve the public interest. **Jim Hecker, the group's environmental enforcement director, has represented West Virginia citizen groups in much of the litigation over mountaintop removal in the last decade.**

On Wednesday, the state Department of Environmental Protection -- on Manchin's orders -- filed a federal court lawsuit against EPA Administrator Lisa P. Jackson to try to block the agency's review of mining permits and EPA's new water pollution guidance on mining discharges. The case is being heard by U.S. District Judge John T. Copenhaver Jr.

Bryant noted that DEP hired private lawyers to handle the case, something that has drawn harsh criticism from business groups when state attorneys general, including West Virginia's Darrell McGraw, have done so to challenge practices of major corporations such as drug companies or the makers of lead-based paint.

Among other things, Bryant said DEP officials might have saved taxpayer dollars by intervening in an ongoing case against EPA by the National Mining Association, instead of filing a separate suit.

But Bryant added that Manchin and DEP would have been better off trying to more rigorously enforce the Clean Water Act on mining operations, and that he thought perhaps the timing of the suit being filed related to Manchin's U.S. Senate campaign.

"This is not really about jobs," Bryant said. "It's about politics and manipulation."