

November 08, 2010

It's one of those things you learned in kindergarten: "Clean up after yourself."

Unfortunately, it doesn't always work that way in the coal mining industry.

But with a federal appeals court decision issued today, the State of West Virginia will no longer be able to look the other way while coal mine drainage pollutes local rivers. Now, the State will have to obtain federal discharge permits and follow applicable federal standards that will require it to clean up pollution from any abandoned mine that it reclaims.

In *West Virginia Highlands Conservancy v. Huffman*, Public Justice sued the West Virginia Department of Environmental Protection (WVDEP) for violating the federal Clean Water Act. The suit charges that the State failed to obtain federal permits for discharge from 21 abandoned mines and, as a result, ignored the water pollution control standards that those permits would have imposed.

The State had asked the court for an exemption from the Clean Water Act's permitting requirement, but the U.S. Court of Appeals for the Fourth Circuit flatly rejected the request:

"We are not in the business of rewriting laws whenever parties allege it is difficult to comply with them," says [the court's decision](#). "Exempting the state on those grounds risks sending the wrong message to mining companies: don't bother complying with the permits because the state won't either."



West Virginia must now clean up toxic acid mine drainage from abandoned coal mines

To read the Fourth Circuit's decision, [click here](#).

Public Justice's Environmental Enforcement Director Jim Hecker was lead counsel in the case. He says, "The state was running these sites off the books to try to escape accountability. It will now have to comply with the water quality standards it is violating." Co-counsel was Joe Lovett of the Appalachian Center for the Economy and the Environment in Lewisburg, WV.

In its decision, [the appeals court dismantled the various arguments made on WVDEP's behalf](#), writes Ken Ward of the Charleston Gazette's Coal Tattoo blog, including the argument that the state didn't create the abandoned mine sites in the first place and therefore should not have to obtain a permit with a discharge limit during the reclamation process:

"The statute takes the water's point of view: Water is indifferent about who initially polluted so long as pollution continues to occur."

In the end, it really comes down to money. Or, rather, the State of West Virginia underfunding the bond fund it has to use to reclaim and fix abandoned mines. Instead, the State set the bond amounts and taxes for mining companies artificially low to protect the coal industry. The low funding estimates were based on the State's illegal assumption that it did not need federal discharge permits at the mine sites and therefore did not need to treat the discharges to meet more stringent federal standards.

This victory for Public Justice will likely force WVDEP to increase charges on the coal industry to cover the full cost of coal mining -- that is, to finally clean up after themselves.

Congratulations and thanks to Jim Hecker and Joe Lovett for this great victory. Congratulations and thanks to you for helping make it possible. Keep fighting!

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