

January 23, 2009

Public Justice has just won an important decision that will require West Virginia to clean up toxic acid mine drainage from abandoned coal mines so that discharges comply with water pollution limits. The January 14, 2009 ruling by the U.S. District Court for the Northern District of West Virginia could also force the State to increase coal taxes to fund millions of dollars of pollution reductions.



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

On behalf of the [West Virginia Highlands Conservancy](#) and the [West Virginia Rivers Coalition](#), Public Justice sued the West Virginia Department of Environmental Protection (WVDEP) for violating the federal Clean Water Act by not writing pollution permits with discharge limits at 18 abandoned mining sites in north-central West Virginia. WVDEP took over these sites after the mine operators went bankrupt, and is now saddled with the long-term problem of reclaiming the sites and treating storm water runoff contaminated with the mines' pollution. WVDEP did not require coal operators to post bonds sufficient to cover the costs of cleanup, or impose coal severance taxes high enough to function as a backup financing mechanism when the operators defaulted on those bonds. Instead, the State set the bond amounts and taxes artificially low to protect the coal industry. The State also tried to immunize itself from citizen enforcement actions by refusing to obtain federally-enforceable discharge permits after it took over the sites and began operating the treatment systems. The court agreed with us that, by so doing, the State was violating federal law.

To read the decision, [click here](#).

"The State was running these sites 'off the books' to try to escape accountability for necessary water treatment," said Jim Hecker, Public Justice's Environmental Enforcement Director and lead counsel in the case. "The court ordered the State to obtain the required discharge permits. Once it does, the State will have to comply with the water quality standards it is now violating."

"The State will have to increase coal taxes by large amounts to pay for these pollution control improvements," said co-counsel Joe Lovett of the [Appalachian Center for the Economy and the Environment](#) in Lewisburg, WV. "The court's ruling will require WVDEP to stop protecting the coal industry from the paying the full environmental costs of coal mining."

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