

FOR IMMEDIATE RELEASE

January 13, 2011

Contacts:

Liz Judge, Earthjustice, (202) 667-4500, ext 237 <mailto:ljudge@earthjustice.org>,  
[ljudge@earthjustice.org](mailto:ljudge@earthjustice.org)

Joe Lovett, Appalachian Center for the Economy & the Environment, (304) 645-9006,  
[jlovett@appalachian-center.org](mailto:jlovett@appalachian-center.org)

Deborah Mathis, Public Justice, (202) 797-8600, [dmathis@publicjustice.net](mailto:dmathis@publicjustice.net)

Oliver Bernstein, Sierra Club (512) 477-2152, (512) 289-8618  
[oliver.bernstein@sierraclub.org](mailto:oliver.bernstein@sierraclub.org)

Debbie Jarrell, Coal River Mountain Watch, (304) 854-2182, [debbiejarrell@gmail.com](mailto:debbiejarrell@gmail.com)

Jerry Hardt, Kentuckians For The Commonwealth, (502) 614-6637, [jhardt@kftc.org](mailto:jhardt@kftc.org)

Janet Keating, Ohio Valley Environmental Coalition, (304) 360-1979,  
[janet.ovec@gmail.com](mailto:janet.ovec@gmail.com)

Jane Branham, Southern Appalachian Mountain Stewards, (276) 679-7505,  
[jabah2@comcast.net](mailto:jabah2@comcast.net)

Christina Honkonen, Statewide Organizing for Community eMpowerment, (615) 260-4595, [christina@socm.org](mailto:christina@socm.org)

Cindy Rank, West Virginia Highlands Conservancy, (304) 924-5802, [clrank@hughes.net](mailto:clrank@hughes.net)

## **U.S. Environmental Protection Agency Vetoes Proposed West Virginia Mountaintop Removal Mine**

*Final action protects Appalachian waters and local community*

**Washington, D.C.** — Today the U.S. Environmental Protection Agency (EPA) took an historic step by vetoing the water pollution permit issued by the Army Corps of Engineers for the Spruce No. 1 Mine project in West Virginia, one of the largest mountaintop removal mines ever proposed in Appalachia. With today's action to enforce the law, EPA Administrator Lisa Jackson stopped a mountaintop mine that would have destroyed more than seven miles of vital streams and more than 2,000 mountain acres in an important part of Appalachia.

Even more significantly, this action shows that while the coal industry and past administrations have denied the impacts of mountaintop removal mining on local communities, the Obama administration and EPA Administrator Lisa Jackson are addressing the importance of environmental justice in Appalachia and taking steps to begin protecting these communities. This action completes the final stage of the EPA's process to veto the Corps' permit, which follows the law of the Clean Water Act.

This is the culmination of a fight to stop the mine that started in 1998 when a resident of Pigeonroost Hollow, one of the hollows that would be destroyed by the mine, sued the United States Army Corps of Engineers to revoke Arch Coal's Clean Water Act permit.

That lawsuit, the first ever brought by citizens to stop a mountaintop removal mine, sparked years of litigation against the Corps to stop the Spruce Mine and other illegal mountaintop removal mines. Remarkably, the Corps persists in trying to permit these mines which destroy the very streams that the Corps is supposed to protect.

“It is a relief after all of these years that at least one agency has shown the will to follow the law and the science by stopping the destruction of Pigeonroost Hollow and Oldhouse Branch,” said Joe Lovett, lawyer and executive director of the Appalachian Center for the Economy & the Environment, who has been fighting this mine for more than 12 years. “Today, the EPA has helped to save these beautiful hollows for future generations. Unfortunately, the Spruce Mine’s impacts are not unique. Although we are grateful for the EPA’s action today, EPA must follow through by vetoing the scores of other Corps permits that violate the Clean Water Act and that would allow mountaintop mines to lay waste to our mountains and streams.”

“This veto is fully justified by the enormous harm that the mine would inflict and is the culmination of a 12-year legal battle that began in 1999 when the Corps made the outrageous decision that this huge mine burying over 10 miles of streams would have only ‘minimal’ effects,” said Jim Hecker, a lawyer at Public Justice in Washington, DC, who along with Joe Lovett litigated the first lawsuit against the Spruce mine.

“A full veto of the proposed Spruce No. 1 Mine is a true victory for the communities nearby, and for all Americans across the country who are fighting to protect our precious natural resources from industrial pollution,” said Joan Mulhern, Earthjustice Senior Legislative Counsel. “While this is only one mine of many, we hope this veto will be the beginning of the end of the devastating practice of mountaintop removal mining by bringing the fundamental legal protection of the Clean Water Act to the whole Appalachian region, once and for all.”

Said Ed Hopkins, Sierra Club’s Environmental Quality Program Director: “In sharp contrast to the previous administration’s policies on mountaintop removal coal mining, EPA Administrator Lisa Jackson is showing a strong commitment to the law, the science and the principles of environmental justice. She deserves enormous credit for changing policies to protect Appalachia’s health, land and water.”

Said Cindy Rank, chair of the Mining Committee of the West Virginia Highlands Conservancy: “Judge Haden had it right back in 1999 when he recognized the irreparable harm that would be done by this mine. It is unfortunate that it’s taken more than a decade for our regulatory agencies to accept the multitude of legal, scientific and moral arguments against this permit, but I’m sure Judge Haden is smiling with us as we gratefully acknowledge EPA’s momentous and justifiable decision at long last.”

“Today’s decision was the right one,” said Cathie Bird, Statewide Organizing for Community eMpowerment’s E3 Committee Chair. “We are pleased to see that Appalachia’s land and water preservation are prioritized before dirty, cheap energy

production that threatens our environmental future. This Spruce Mine decision sets an example that represents a healthier and more sustainable Appalachia.”

Said Debbie Jarrell, assistant director of Coal River Mountain Watch: “While our politicians and coal companies grandstand and use fear mongering as a way to justify mountaintop removal, our most precious resource, water, is being contaminated at an alarming rate. It is a huge reassurance to see the EPA use the science that’s available, and to see it take this step to protect our water and our people of the Appalachians.”

“We breathe a huge sigh of relief today, and we thank the EPA and the Obama administration for enforcing the Clean Water Act. We are so pleased that this historic veto of the Spruce No. 1 Mine permit halts the destruction of Pigeonroost Hollow,” said Janet Keating, executive director of the Ohio Valley Environmental Coalition. “The science completely validates what we have been saying for more than a decade: These types of mining operations are destroying our streams and forests and nearby residents’ health, and even driving entire communities to extinction. This type of coal mining is destroying our cultural heritage and our future. We will continue our work to halt other illegal permits, both in-progress and pending.”

“We thank the EPA for standing up against big pressure from the coal industry to protect communities and people who suffer from the devastating impacts of mountain top removal,” said Jane Branham, vice president of Southern Appalachian Mountain Stewards.

#### ADDITIONAL INFORMATION:

In late March, the EPA released a proposal to veto the Spruce No. 1 Mine permit based on scientific and legal analysis showing that the mine would not adhere to Clean Water Act standards. In September, U.S. Environmental Protection Agency’s Regional III Administrator Shawn Garvin recommended that EPA veto the permit. EPA’s final decision to veto the permit focused on the science showing the irreparable harm that occurs when mining companies permanently bury and pollute natural headwater streams with mining waste.

In October 1999, the Spruce No. Mine became the subject of the first significant federal court decision on mountaintop removal mining. In this federal court decision, the late Judge Charles Haden ruled that the permits for the Spruce No. 1 Mine violated the surface mining law and the Clean Water Act. Since that decision, this permit has remained in litigation in the Southern District of West Virginia, where environmental and conservation groups, represented by the Appalachian Center for the Economy & the Environment, Public Justice, and Earthjustice, have challenged the initial decision by the Corps to issue the permit as unlawful, arbitrary, and capricious under the Clean Water Act, the National Environmental Policy Act, and the Administrative Procedure Act.

The EPA’s announcement on today’s action is here:

[http://water.epa.gov/lawsregs/guidance/cwa/dredgdis/404c\\_index.cfm](http://water.epa.gov/lawsregs/guidance/cwa/dredgdis/404c_index.cfm)

###

---

Liz Judge  
Campaign Manager, Communications  
Earthjustice  
1625 Massachusetts Ave. NW Suite 702  
Washington, D.C. 20036  
T: 202-667-4500, ext. 237  
C: 970-710-9002  
[www.earthjustice.org](http://www.earthjustice.org)

*Because the earth needs a good lawyer*