

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

**OHIO VALLEY ENVIRONMENTAL  
COALITION, COAL RIVER MOUNTAIN  
WATCH, WEST VIRGINIA HIGHLANDS  
CONSERVANCY, and THE SIERRA CLUB,**

**Plaintiffs,**

**v.**

**Civil Action No. 3:08-0979**

**UNITED STATES ARMY CORPS OF  
ENGINEERS; ROBERT L. VAN ANTWERP,  
Commander in Chief of Engineers, U.S. Army  
Corps of Engineers; DANA R. HURST,  
Colonel, District Engineer, U.S. Army Corps of  
Engineers, Huntington District,**

**Defendants,**

**and**

**FOLA COAL COMPANY, LLC,  
LOADOUT, LLC, and COAL RIVER  
MINING, LLC,**

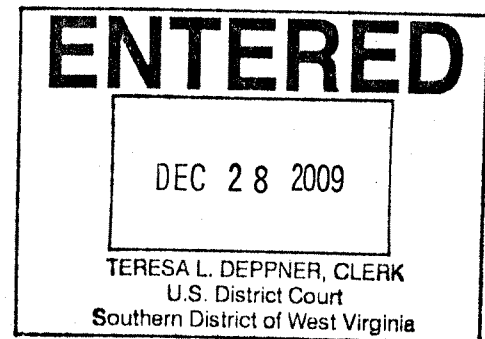
**Intervenor-Defendants.**

**ORDER**

Currently pending before the Court is Intervenor-Defendant Fola Coal Company, LLC's ("Fola") Motion for Relief from this Court's November 24, 2009 Memorandum Opinion and Order. [Docket # 166.] Fola has requested a limited stay of this Court's Order [Docket # 165] to allow Fola to continue its use of the valley fills on which Fola previously has been permitted to conduct mining activity during the course of this litigation.<sup>1</sup>

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<sup>1</sup> The valley fills at issue are Valley Fills 1, 2 and 3 on the Ike Fork No. 1 permit, and Valley Fills 2, 4 and 7 on the Ike Fork No. 2 permit.



On December 23, 2009, Plaintiffs Ohio Valley Environmental Coalition, Coal River Mountain Watch, West Virginia Highlands Conservancy and the Sierra Club ("Plaintiffs") filed a Response to Fola's Motion indicating that Plaintiffs do not oppose the relief sought by Fola through its Motion. [Docket # 167.] Neither the United States Army Corps of Engineers nor Loadout, LLC and Coal River Mining, LLC object to the granting of the limited stay to Fola as requested in its pending motion.

Noting the consent of Plaintiffs and for other reasons apparent to the Court, Fola's Motion is hereby **GRANTED**. The Court's previously granted stay to allow Fola to operate in Valley Fills 1, 2 and 3 on the Ike Fork No. 1 permit, and Valley Fills 2, 4 and 7 on the Ike Fork No. 2 permit is continued pending further order of the Court. The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

Dated: December 28, 2009.

  
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ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE

**Order prepared by:**

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**Seen and approved by:**

/s/Derek O. Teaney

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