



Coal River Mountain Watch
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May 4, 2009

Environmental Protection Agency
Attn: Lisa Jackson
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Department of the Interior
Attn: Ken Salazar
1849 C. St. NW
Washington, DC 20240

Dear Ms. Jackson and Mr. Salazar:

We are grassroots groups and citizens that have a stake in the areas of West Virginia that are being destroyed by steep slope strip mining/mountaintop removal and other forms of irresponsible mining.

Some of us live and work in the affected area. Ms. Jackson and Mr. Salazar, you are our last hope for justice at this point. The West Virginia Department of Environmental Protection is not doing its job in protecting the environment here in West Virginia, and as a result the people are suffering from Environmental Injustice. We are asking that the EPA and/or OSMRE take primacy from the WV DEP to protect us, the people of West Virginia.

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

Below are just some examples of the WVDEP's lax enforcement, most recently under Randy Huffman and Governor Joe Manchin.

Recently, in response to announced EPA reviews of permits, WV DEP Cabinet Secretary Randy Huffman said, "Mainly what we're concerned about as regulators is the ability to develop land after mining. You need valley fills if you're going to have a viable post mining economy. You need flat land. And in order to have flat land you need to have valley fills, and one of our biggest concerns is that EPA is wanting to reduce the size and number of valley fills in Appalachia."

Since when is DEP's primary concern the ability to develop land after mining? We thought DEP's job was to protect the environment. What good is developable land if the entire watershed was destroyed during the mining process? During the mining process residents are suffering from the blasting, and the air and water pollution.

Mountaintop removal is out of control because for years DEP did not do its job, by failing to enforce the approximate original contour reclamation standard and post-mining land development rules already on the books.

If DEP was doing its job, why did it take the EPA and the Justice Department to come in and fine Massey Energy \$20 million for thousands of water pollution violations across southern West Virginia coalfields?

The DEP simply allowed "discharge monitoring reports" that the coal companies filed to accumulate, never bothering to check and see if Massey and other companies were complying with their pollution permit limits. We the citizens suffer. How many more examples are hidden at DEP?

WV DEP has repeatedly missed legislative deadlines to complete a study on whether coal slurry that is injected underground is polluting water supplies and making people sick. Clean water is a human rights issue, and people living near mining communities are sick and dying from toxic water.

It is a fact that it took a federal court order for DEP to even consider beginning to write permits and comply with water pollution limits at the abandoned mine sites it controls under its Special Reclamation Program. DEP also proposed legislation this year that does not go nearly as far as its own advisory panel said was needed to fix finances of the Special Reclamation Program.

The Federal Office of Surface Mining, Reclamation, and Enforcement found serious problems with the way DEP polices coal-slurry impoundments, which is one of the agency's most important jobs.

The citizens have repeatedly asked WV DEP to fill the 90 plus open positions at WV DEP. How can any agency do a good job without proper staff?

Mr. Huffman's job is not to run interference for the coal industry. It is to protect the environment. As a people who must depend upon the DEP, we are very concerned.

At a recent DEP/citizens conference a DEP inspector was asked by a citizen to view, on foot, a permitted surface mine site that was obviously breaking the law. This citizen was told by the inspector (witnesses present) that his knees were bad and that he was not about to walk below a

blast area anyway. A week later the citizen contacted the federal Office of Surface Mining. They then walked up the mountain, on foot, as requested, and their inspection resulted in four violations against the coal company.

The fact is that for years, WV government has enabled and protected coal operators and created the very circumstances that are now forcing the EPA to act. If WV had adequate regulators, an adequate regulatory structure, and leadership committed to environmental protection, the EPA's involvement would not be necessary. If you need more information regarding the WV DEP's failure to regulate, please contact us and we can provide you with further details.

However, we need the EPA and Dept. of Interior to restore environmental protection in West Virginia. The DEP has repeatedly placed industry profits ahead of environmental protection, Environmental Justice, and citizens' health and safety. The urgent situation requires urgent remediation, which will only come with swift federal action to take primacy from a failed agency.

Sincerely,

Vernon Haltom, Co-Director, Coal River Mountain Watch

A handwritten signature in black ink, appearing to read "Janet Keating". The signature is fluid and cursive, with a large loop at the beginning and end.

Janet Keating, Executive Director, Ohio Valley Environmental Coalition