Judge Sides with Coal Industry in EPA Challenge

JOHN RABY,Associated Press

CHARLESTON, W.Va. (AP) — The U.S. Environmental Protection Agency went too far when it began reviewing individual Clean Water Act permits on mountaintop mining operations, a federal judge ruled Thursday.

In Washington, U.S. District Judge Reggie B. Walton issued a partial summary judgment in a lawsuit filed by a coal mining industry coalition against the EPA and its administrator, Lisa Jackson.

The National Mining Association had challenged a 2009 decision in which the EPA and the U.S. Army Corps of Engineers agreed to coordinate reviews of backlogged permit applications for waste disposal at Appalachia mountaintop mining operations that raise serious environmental concerns.

Walton ruled the EPA's 2009 process exceeded its statutory authority under the Clean Water Act. The process is limited to 29 permit applications in Kentucky and West Virginia.

U.S. Rep. Shelley Moore Capito, R-W.Va., praised the decision as a step re-establishing the Army Corps of Engineers' role as the primary permitting authority.

"This is a significant step in our efforts to rein in the EPA, which remains intent on rewarding a core constituency that doesn't want any coal mining, no matter the cost to West Virginia or our nation," the lawmaker added.

Last year, aides for then-Gov. Joe Manchin filed a similar lawsuit targeting EPA policies adopted since President Barack Obama took office that are designed to limit the practice of burying streams under excess rock removed while extracting coal at mines.

Critics say that practice destroys the environment. The mining industry defends it as an efficient way to produce cheap power and employ thousands in well-paying jobs.

Since Obama took office, the flow of water quality permits for Appalachian mines has slowed to a trickle.

Further arguments are scheduled later on the portion of the coal industry's lawsuit challenging EPA's water quality guidelines for Appalachian mining operations.

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