

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL MINING ASSOCIATION,)	
)	
Plaintiff,)	
)	
v.)	No. 1:10-CV-1220-RBW
)	
LISA JACKSON, ADMINISTRATOR,)	
U.S. ENVIRONMENTAL PROTECTION)	
AGENCY, <u>et al.</u> ,)	
)	
Defendants.)	

UNITED STATES’ MOTION TO CONSOLIDATE CASES

The United States respectfully moves the Court to consolidate *Huffman v. United States Environmental Protection Agency, et al.*, 1:11-cv-295-RBW (D.D.C.), with this case. The grounds for this Motion are as follows:

1. In this case, the National Mining Association (“NMA”) filed suit under the Administrative Procedure Act (“APA”) against the U.S. Environmental Protection Agency (“EPA”) and the U.S. Army Corps of Engineers (“Corps”) challenging certain documents issued by those agencies in connection with Clean Water Act (“CWA”) permits associated with surface coal mining operations in Appalachia.

2. In *Huffman*, the West Virginia Department of Environmental Protection (“WVDEP”) filed suit against EPA and the Corps in the U.S. District Court for the Southern District of West Virginia, challenging the same agency documents, and raising essentially the same claims as NMA raises in the present case. In view of the near identity of the claims between *Huffman* and *NMA*, and in the interest of judicial efficiency, the United States moved to

transfer *Huffman* to this District for consolidation with *NMA*. By a Memorandum Opinion and Order issued on January 31, 2011, the West Virginia court granted the United States' motion and ordered that the *Huffman* action be transferred to this District. In doing so, the court noted the "overwhelming similarities" between the two cases. *Huffman v. United States Environmental Protection Agency, et al.*, Civ. No. 2:10-cv-01189, slip. op. at 15 n.5 (S.D.W. Va., Jan. 31, 2011); *see also id.* at 9-10 (detailing similarities between the claims in the two cases and noting that the requested relief in the two cases "overlaps almost entirely").

3. In light of the fact that *Huffman* and *NMA* involve similar challenges to the same agency documents, and consistent with the transfer order issued by the Southern District of West Virginia, the United States respectfully requests that the Court consolidate the *Huffman* action with the present case for disposition on the merits.

4. Counsel for *NMA* has advised that *NMA* consents to consolidation. Counsel for the plaintiff in *Huffman* was unable to state a position with respect to consolidation at the time of this filing. Counsel for the intervenors in *NMA*, and the prospective intervenors in *Huffman*, have advised that their clients consent to consolidation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2011, I caused a copy of the foregoing document to be served on counsel of record via the Court's CM/ECF system.

/s/Kenneth C. Amaditz