



Press Release

For Immediate Release

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NMA Files Suit Against EPA and Army Corps over Moratorium on Appalachian Coal Permits

Washington, D.C. - The National Mining Association (NMA) today filed suit against the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) for unlawfully obstructing permitting of coal mining operations in the Central Appalachian coal region and beyond jeopardizing thousands of jobs and a vital supply of fuel to meet the nation's electric power needs.

NMA's lawsuit, filed in the Federal District Court for the District of Columbia, contends EPA and the Corps have circumvented clear requirements for public notice and comment of a host of federal statutes and ignored calls for peer-reviewed science as part of a deliberate policy to substitute agency "guidance" for formal rulemaking.

"NMA members' efforts to navigate this unlawful process and obtain reasonable and predictable permit terms have been unsuccessful, leaving us no choice but to challenge the EPA and Corps policy in court," said NMA President and CEO Hal Quinn. "Detailed agency guidance is not a valid substitute for lawful rulemaking based on public notice and comment," Quinn explained. "The agencies' continued abuse of the law to impose arbitrary standards on mining operations, state agencies and other federal regulatory bodies threatens the entire region with further economic misery and stagnant employment."

Specifically, NMA says EPA and the Corps have violated the Administrative Procedures Act, the Clean Water Act, the National Environmental Policy Act and the Surface Mining Control and Reclamation Act by disregarding explicit requirements for public comment and formal rulemaking procedures. Moreover, EPA has usurped authorities clearly granted to the states and other federal agencies and has used technical benchmarks for assessing water quality that are both arbitrary and capricious.

In effect, said NMA, the result has been a *de facto* moratorium on coal mining that is irreparably harming NMA's member companies, the welfare of coal communities and the economy. According to a May 21 report by the Senate Environment and Public Works Committee Minority staff, nearly 18,000 new and existing jobs and more than 80 small businesses are jeopardized by the unlawful policy EPA and the Corps have applied to the 190 permits still awaiting action in mid-May. The loss of jobs and economic opportunity will continue to mount, as additional permits fall into the permitting nadir.

"The Corps is allowing EPA to impose unilateral control over coal mine permits throughout Appalachia, imposing a moratorium on jobs, energy production and the economic future of communities in the region. The faulty science at the heart of this policy serves no environmental good. These actions must be held to the same standard required of all substantive rules," Quinn concluded.

For a copy of NMA's complaint, see
http://nma.org/pdf/tmp/072010_NMA_Complaint_ECP_Guidance.pdf.

For a copy of the Senate Environment and Public Works Committee Minority Staff Report, see
http://nma.org/pdf/tmp/072010_Senate_Minority_Staff_Report.pdf.

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The National Mining Association (NMA) is the voice of the American mining industry in Washington, D.C. Membership includes more than 325 corporations involved in all aspects of coal and solid minerals production including coal, metal and industrial mineral producers, mineral processors, equipment manufacturers, state mining associations, bulk transporters, engineering firms, consultants, financial institutions and other companies that supply goods and services to the mining industry.

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