

## **EPA Turns the Lights on Mountaintop Removal**

by **JEFF BIGGERS**

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The Environmental Protection Agency made good on its promise today to assert greater scrutiny and "use the best science and follow the letter of the law" with regard to controversial mountaintop removal mining permits in the Appalachian coalfields. In a highly anticipated announcement, the agency declared that all seventy-nine pending permits in four states would "likely cause water quality impacts" and sent them on for additional review under the Clean Water Act.

Does today's big announcement end the practice of mountaintop removal--which has clear-cut more than 1.2 million acres of deciduous forests, employed billions of pounds of ammonium nitrate/fuel oil explosives to blow up 500 mountains, packed and sullied an estimated 2,000 miles of streams with mining waste, and left coalfield communities in economic ruin?

The short answer from the EPA: no.

But while the agency has gone out of its way to make clear that this announcement does not "constitute a change" in policy or usurp the Army Corps of Engineers's authority over such permits, today's news comes as a telling harbinger that the rule of science, law and interagency cooperation just might be returning to the Appalachian coalfields.

"The administration pledged earlier this year to improve review of mining projects that risked harming water quality," EPA administrator Lisa Jackson announced in a statement. "Release of this preliminary list is the first step in a process to assure that the environmental concerns raised by the seventy-nine permit applications are addressed and that permits issued are protective of water quality and affected ecosystems."

According to the EPA, this preliminary list of projects will be evaluated over the next 15 days, at which time "issues of concern regarding particular permit applications will be addressed during a 60-day review process triggered when the Corps informs EPA that a particular permit is ready for discussion."

For many in Appalachia, the announcement is a watershed of sorts, a strong signal that the Obama administration intends to consider scientific data in its decision-making rather than simply to succumb to century-old pressure by the Big Coal lobby and entrenched coalfield politicians. It is also, as Stephanie Pistello, national field director of Appalachian Voices and legislative associate at the Alliance for Appalachia, points out, "a testament to the spadework of coalfield residents" who have struggled to document and protest the Clean Water Act violations that have done such harm to their communities. "By coming to Washington, DC, to meet with EPA officials, among others, affected coalfield residents have played an important role in bringing

the truth out of the darkness of Big Coal public relations," she said.

Pistello added, "We applaud the new leadership at the Army Corps of Engineers, assistant secretary Jo-Ellen Darcy and principal deputy assistant secretary Terrence 'Rock' Salt, for working with EPA and bringing a community and environmental focus to their work."

The news came as a bit of a surprise to some coalfield activists. "Since January we've been skeptical about how serious the new administration would be about addressing mountaintop removal," said Teri Blanton of Kentuckians for the Commonwealth, a citizens' organization in the state where more than half of the designated permits are located. "It looks like EPA is prepared to do everything it can, within the existing regulatory framework, to protect the mountains and people of Appalachia. This is great news, but it will take more than regulations to end the destruction. Mountaintop removal and valley fills should be banned."

Many activists welcomed the announcement but, like Blanton, pledged to keep pushing legislators until the practice is abolished. Judy Bonds, co-director of Coal River Mountain Watch, said, "We will continue our fight for a total, complete reprieve for our children and for our beloved mountains and streams."

Thankfully, long-stalled efforts to consider the issue in Congress are moving forward. On June 22, at the first US Senate hearing on mountaintop removal in a generation, University of Maryland scientist Dr. Margaret Palmer concluded, "The impacts of mountaintop removal with valley fills are immense and irreversible, and there are no scientifically credible plans for mitigating these impacts."

A blockbuster internal memo that same month by West Virginia Department of Environmental Protection biologist Doug Wood concurred: "We now have clear evidence that in some streams that drain mountaintop coal quarry valley fills, the entire order Ephemeroptera (mayflies) has been extirpated, not just certain genera of this order." Wood added, "The loss of an order of insects from a stream is taxonomically equivalent to the loss of all primates (including humans) from a given area. The loss of two insect orders is taxonomically equivalent to killing all primates and all rodents through toxic chemicals."

More than 150 members of the House of Representatives have signed on as co-sponsors of the Clean Water Protection Act, a proposed bill that would end the creation of valley fills and polluted waterways from mine waste, and effectively end mountaintop removal. "I fully support EPA's decision to halt these permits and applaud the agency for recognizing the importance of protecting clean water. Clean and healthy water is a requirement for healthy people, especially growing children. Congress should follow through on this momentum and pass the Clean Water Protection Act to completely shut down the devastating practice of mountaintop removal and to preserve clean water," said New Jersey Democrat Frank Pallone Jr., who introduced the bill.

Eight years ago this week, US District Judge Charles Haden II issued a stunning ruling on the Office of Surface Mining's oversight on mining reclamation projects in West Virginia. Beyond the standing violations of "unreclaimed strip-mined land, untreated polluted water, and millions (potentially billions) of dollars of state liabilities," Haden wrote about his concern of a "a climate of lawlessness, which creates a pervasive impression that continued disregard for federal law and

statutory requirements goes unpunished, or possibly unnoticed."

For coalfield residents, today will be held up as a critical step by the Obama administration to end that climate of lawlessness.

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**About Jeff Biggers**

Jeff Biggers is the author of *Reckoning at Eagle Creek: The Secret Legacy of Coal in the Heartland*, forthcoming from Nation Books. [more...](#)

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