

Activists Sue National Coal Over Campbell County Pollution

By Cari Wade Gervin

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For the second time in two years, the Tennessee Clean Water Network, the Sierra Club, and Statewide Organizing for Community eMpowerment (SOCM) have filed suit against National Coal LLC.

This time, the activist groups are hoping the three lawsuits they filed jointly last week make an impact—and not just on the mines in Campbell County that are at the heart of the lawsuits.

“I hope we’re sending a signal that we have our eyes open, and if we find out about violations, we aren’t just going to sit around and twiddle our fingers,” says Cathie Bird, the chair of SOCM’s Energy-Ecology-Environmental Justice Committee. “We can’t just sit by while people dump stuff into the water.”

The lawsuits claim that National Coal has repeatedly violated its effluent limitations and reporting and monitoring limitations of its federal discharge permits at two mines and one refuse/storage site in Campbell County and is thus in violation of the Clean Water Act. The groups say the lawsuit is necessary because the company is a serial offender and that the problem has gone beyond the scope of the Tennessee Department of Environment and Conservation (TDEC), which is in charge of enforcing the federal permits.

National Coal was a Knoxville-based company until it was bought last year by Ranger Energy Investments, owned by James C. Justice II. Justice also owns West Virginia’s Southern Coal Corporation and the posh Greenbrier resort. Southern Coal laid off all of National Coal’s 155 Knoxville employees in January.

Justice did not return calls for comment, and to date, the company’s legal team has yet to respond to the filings in court. The three civil actions filed by the environmental groups allege violations that started before the sale of the company and have continued through this year.

The first lawsuit states that the Jordan Ridge Refuse Disposal Area has been discharging selenium without a permit. Selenium isn’t harmful to humans in trace amounts, but in large doses it can cause birth defects in birds and health problems in

people. It is recognized by TDEC and the Environmental Protection Agency as a toxic water pollutant. The filing says that the refuse area has discharged selenium in violation of the law repeatedly since 2009 and that TDEC has taken little to no action.

“We believe they should be held to the limits that are in the permits,” says Mary Mastin of the Sierra Club. “We think it’s important they are held to these limits for the protection of wildlife and for drinking water.”

The lawsuit the groups brought against National Coal last year also involved selenium. The suit was settled in September 2010, but this spring the groups again took legal action accusing the company of violating the terms of the settlement by failing to report selenium levels. Coal mining companies are required to issue quarterly reports of their discharge levels to TDEC.

That lawsuit involved Zeb Mountain, the state’s largest mountaintop removal coal mine. The second suit filed last week also involves a mountaintop removal mine, Mine 7. The filing lists excessive effluent discharges and a number of pollutants, including iron, manganese, and high and low pH effluent. It states the mine has violated its discharge permit at least 133 times, and in the exhibit attached to the filing, the violations shown range from double to 11 times the allowable level—all from July, August, and September of this year.

The third lawsuit involves Mine 14, an underground mine. The lawsuit states National Coal has violated its discharge permit over 60 times at this mine.

Bird is a resident of Campbell County, and she says she’s seen firsthand the past and present effects of coal mining on water sources—sources that for the most part all eventually end up in Knox County’s water supply, which is why Bird says people shouldn’t ignore the lawsuits.

“If it’s happening up where the streams, where the rivers originate—everyone who drinks the water downstream is impacted,” Bird says.



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