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EPA ban causes uproarby The Associated Press
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MCT REGIONAL NEWS

By Ry Rivard

Charleston Daily Mail, W.Va.

(MCT)

Jan. 14--CHARLESTON, W.Va.--West Virginia political, union and business leaders fumed Thursday after federal environmental regulators revoked a permit for a massive mountaintop mining operation in Logan County.

The U.S. Environmental Protection Agency, in a long-expected decision, vetoed a 4-year-old permit for the Spruce No. 1 mine, which is owned by an Arch Coal subsidiary.

The EPA, which has stepped up its enforcement of mountaintop mining operations since President Barack Obama took office last year, said after a 15-month review that the project would simply do too much damage to the environment.

In 2007, the U.S. Army Corps of Engineers gave the subsidiary, Mingo Logan Coal Co., a water quality permit to mine the 3.5-mile site, though a court fight with environmentalists has held up mining there.

EPA said its review had found, among other damages, that the mine would bury more than 6 miles of streams, including two that are the last remaining "high-quality" streams in the watershed, and kill the fish and all the other animals that live in them.

"The proposed Spruce No. 1 Mine would use destructive and unsustainable mining practices that jeopardize the health of Appalachian communities and clean water on which they depend," EPA assistant administrator Walter Peter Silva said in a statement announcing the decision.

But political leaders focused on the jobs that would have been created by the mine but that now appear lost.

Sen. Joe Manchin, D-W.Va., called the decision an "unbridled power grab" by the federal government in a telephone interview shortly after the news broke.

"I can't be more upset and discouraged than I am now right now at our government -- an agency of our government, the EPA," Manchin said.

He and others in the state's congressional delegation have focused on the retroactive nature of the EPA's actions, saying that if an agency can go back and changes its mind about a decision made four years ago no decision is final, nothing is safe and businesses won't invest in such an uncertain climate.

"This is not just an attack on coal or West Virginia -- this is an attack on the whole process in America," Manchin said.

Sen. Jay Rockefeller, D-W.Va., who decades ago and before he joined Congress had been opposed to strip mining operations, wrote a sharply worded letter to Obama Thursday to express his "outrage."

"The action not only affects this specific permit but needlessly throws other permits into a sea of uncertainty at a time of great economic distress," Rockefeller said.

"When companies conduct business in the United States, they must be able to trust that commitments made to them by the government will be honored, not retracted," Rockefeller added.

"Today's action not only threatens an operation that could have employed hundreds of West Virginians, but it shakes West Virginians' trust in government -- leaving the impression that no matter what action coal companies in West Virginia take to reduce, minimize and mitigate environmental impacts of mining operations, it may never be enough for the EPA."

St. Louis-based Arch Coal said the loss of the permit would cost \$250 million in future investment and about 220 jobs. Thursday's action does not appear to affect mining at the company's nearby operations.

In a statement, Arch said it was "shocked and dismayed" by an EPA "onslaught."

The company, which apparently was unable to work out a deal with the EPA to modify the permit as at least one other coal company had done, said it would continue to press its case in court.

Arch filed a case in April 2010 to block the EPA attempt to revoke the permit, but little has happened, largely because the agency had yet to make a final decision until now.

Now that a decision has been made, the company is likely to amend its court filing and try to overturn the regulators' decision.

Rep. Nick Rahall, D-W.Va., said having a "no" would allow the lawsuit to proceed.

"The good news, if there is any, may be that by EPA's finalizing this threatened action, the matter can now be taken before the courts, where I hope it will receive a thorough hearing and expeditious reversal," Rahall said in a statement.

Environmentalists hailed the decision.

"We breathe a huge sigh of relief today and we thank the EPA and the Obama administration for enforcing the Clean Water Act," the Huntington-based Ohio Valley Environmental Coalition said in a statement.

The group praised the EPA's move, which "halts the destruction of Pigeon Roost Hollow," which surrounds one of the last two quality streams in the area, and said mountaintop removal mining was "destroying our cultural heritage and our future."

EPA's move was only the 13th time since the passage of the Clean Water Act in 1972 that the agency has vetoed a project and was first time the agency revoked an existing coal mining permit.

Rep. Shelley Moore Capito, R-W.Va., suggested the Obama administration EPA was doing little more than rewarding liberal voters and creating "slow-bleed of jobs throughout Appalachia."

"This was a drawn out, staged event to reward a core constituency that doesn't want any coal mining or coal plants, no matter the cost to West Virginia or our nation," she said in a statement.

Acting Gov. Earl Ray Tomblin, who represents Logan County in the state Senate, said he would continue efforts to get the decision reversed.

United Mine Workers of America President Cecil Roberts slammed the EPA, too, even though the union does not

represent workers at the mine.

"It is truly unfortunate that the EPA and the mine operator could not come to an agreement that would allow many of these jobs to be saved," Roberts said.

"As we move forward from this day, we must be about the work of creating good, safe coal jobs in the coalfield communities, not eliminating them. We believed that ca be done within a reasonable regulatory framework and with a willingness on the part of the government to share that goal."

Besides being set to employ more than 200 miners, Spruce No. 1 would have produced enough coal to generate electricity for 74,000 homes.

But the mine has been environmentalists' poster child for everything that is wrong with mountaintop removal. The mine was first proposed as an even larger mine in the late-1990s.

After a court battle and environmental impact study, the now vetoed proposal was 835 acres smaller than first imagined. But the EPA said the mine still would clear hundreds of acres of forest, bury streams and further hurt waters already heavily degraded and contaminated by previous mining activities.

The Obama administration has paid special attention to the mine.

In early February 2010, before it asked for an extension of its decision about what to do with the permit, EPA administrator Lisa Jackson said the agency was going to work out something "quickly." She also said a then-recent compromise on a valley fill permit for Patriot Coal's Hobet 45 mine in Lincoln County was "not a template" for future permits, as some coal industry watchers had expected.

In that deal, Patriot promised to bury 50 percent fewer streams than it had planned, while also having enough leeway from the EPA to mine 91 percent of the coal it had intended. The deal is credited with protecting the jobs of 350 union miners.

Contact writer Ry Rivard at ry.riv...@dailymail.com or 304-348-1796.

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COMMENTS (2) ON "EPA BAN CAUSES UPROAR"

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Posted By: **JOHNH** (8:09am 01-14-2011)

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WHAT A MESS, THE COAL IS REANDER USELESS AS ROCKS, UNMINABLE(SO IT IS UNTAXABLE). THE LOST JOBS. THE MISSTRUST. ALL FOR FISH THAT DON, T EXHIST. WATER THAT IS UNREA CHABLE MY MAN, THAT IS SNAKE INFESTED, I, VE LIVEN IN WEST VIGRINIA ALL MY LIFE&LOVE IT. WITH ALL THE CROOKED POLITICTS , I WOULD SAY SOMEONE IN THE EPA IS BEING GUIDED BY MONEY FROM ANOTHER COAL COMPANY , WITH MONEY IN THEIR POCKET.

Posted By: **wvprez** (8:08am 01-14-2011)

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Peter Silva is a civil engineer with 32 years of experience in water and waste water mostly in California and was appointed by Obama. What other action could you possibly expect from a "green" person with a California mentality .