

## Groups Sue Interior Department for Failure to Protect Streams

*Broad coalition back in court challenging unlawful rule issued by the Bush Administration*  
**January 28, 2013**  
Washington, D.C. —

Today a broad coalition of citizen and environmental groups **reopened litigation** against the Department of Interior for its removal of a key protection for streams against mountaintop removal mining—the “Stream Buffer Zone Rule.” The Bush administration removed this protection through a midnight rulemaking in 2008, and the Obama administration agreed the Bush administration’s action was unlawful. But the Interior Department has since failed to undo the Bush administration’s rulemaking by the deadline it agreed to.



Based on EPA estimates, mountaintop removal mining has destroyed or harmed 2,400 miles of Appalachian streams to date.

The Bush administration repealed the 25-year-old Stream Buffer Zone Rule just before leaving office, permitting widespread dumping of mining waste in Appalachian waterways. In the early days of the Obama administration, the groups put the lawsuit on hold based on the administration’s promise to replace the harmful Bush rule by 2012. Because the administration failed to live up to its agreement to revoke the Bush rule and issue a new stream protection rule, the groups are returning to court to restore protections for Appalachian communities and streams.

The following are statements from the groups involved in the lawsuit:

**Earthjustice attorney Jennifer Chavez:** “While the Interior Department misses its deadline and drags its feet on revoking the disastrous Bush rule and finally enforcing the surface mining law, Appalachian communities and families are suffering from the extreme pollution and destruction of mountaintop removal. The Obama Administration must not wait any longer to restore basic protections for waterways and families.”

**Kentucky Waterways Alliance (KY) executive director Judy Petersen:** “We don’t enter into this litigation lightly, but we know that dumping mining wastes into streams destroys the stream and has negative impacts for miles downstream. We were hopeful the Interior Department’s Office of Surface Mining and the Obama administration would do as promised and propose a rule change that would at least restore the rules in effect for decades. We can wait no longer while streams and the water that flows through our communities are destroyed and degraded.”

**Ohio Valley Environmental Coalition (WV) organizer Maria Gunnoe:** “We’ve waited four years, and we need the protection the buffer zone would give us, and we need it enforced. Regulators look the other way as the coal industry devours the region, blowing up more mountains, burying and poisoning more streams and depopulating more communities. There’s more sickness and death in our communities, to the point that there is a community health emergency here in Appalachia. It’s pitiful that we have to sue the administration to get them to stand up to the coal industry, to stand up for our streams, our health, and the health of our children.”

**West Virginia Highlands Conservancy (WV) mining committee chair Cindy Rank:** “We cannot accept anything short of a rule that truly protects our irreplaceable headwater streams and the hydrologic regime that supports them. The 1983 Stream Buffer Zone Rule did just that by prohibiting activities that degrade the physical, biological and chemical nature of those streams. The 2008 Bush stream rule turned upside down that basic commitment to the health of our waters. Because the Obama Interior Department has failed to act, we’re asking the court to take action.”

**Sierra Club environmental quality director Ed Hopkins:** “We’ve been waiting for years, and there is no sign that the Interior Department’s Office of Surface Mining will do anything to protect streams from mining in the near future. We won’t let them continue to stall while unfettered coal mining destroys streams and communities.”

**Waterkeeper Alliance executive director Marc Yaggi:** “We are taking this legal action to protect everyone’s right to clean water. Public health cannot continue to be sacrificed while agency politicians and bureaucrats delay crucial stream protections. There is too much at stake for families across Appalachia.”

**Coal River Mountain Watch (WV) executive director Vernon Haltom:** “This administration has had more than enough time to institute a strong rule to protect our streams and communities. While mountaintop removal continues to pollute our air, water, and land and sicken our people, we don’t have the luxury of waiting indefinitely for action.”

**Statewide Organizing for Community eMpowerment (TN) committee chair Ann League:** "The families and communities of Appalachia deserve better! The Interior Department's Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Obama administration should be working to protect our health, homes, and citizens. OSMRE has put the well-being of Appalachia on the back burner for four years while they dither and delay. The communities must have protection of our streams to protect our families and homes."

**Southern Appalachian Mountain Stewards (VA) board member Judiana Clark:** "During the Reagan administration, we had a stream buffer zone rule that could, if enforced, protect the health of our communities and the quality of our water from destructive surface mining. The Bush administration repealed that protection, and the Obama administration has taken too long to reinstate it. We can't wait any longer to regain protections that seemed sensible for decades."

**Appalachian Citizens' Law Center (KY) attorney Mary Cromer:** "Here in Central Appalachia, we've been waiting for the Obama administration to stop the filling of our headwater streams with mine waste. With more and more miles of streams being buried under rubble every year, we cannot continue to wait. We reinstate this action against OSMRE because the agency has failed its duty to protect the people of Central Appalachia from mine practices that are endangering our health and safety and poisoning our water."

#### **Background Information:**

The "Stream Buffer Zone Rule," adopted under the Reagan administration in 1983, was designed to protect Appalachian streams from harmful practices used in surface coal mining. This regulation prohibited surface coal mining activities from disturbing areas within 100 feet of streams.

On December 2, 2008, as President Bush was preparing to leave office, his Department of Interior signed off on a controversial 11th-hour Office of Surface Mining repeal of the Stream Buffer Zone Rule. The repeal of this important protection cleared the way for an even greater expansion of mountaintop removal mining—the process of mining coal by blasting off the tops of mountains, and bulldozing the crumbled peaks into adjoining valleys, containing vital Appalachian waterways.

The Bush repeal of the Stream Buffer Zone Rule allowed coal companies to place massive valley fills and waste impoundments directly into streams—thereby removing the "buffer" from the Buffer Zone Rule, destroying streams and contaminating ecosystems on which local communities depend.

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#### **Contact:**

Liz Judge, Earthjustice, (202) 797-5237

Mary Cromer, Appalachian Citizens' Law Center, Inc., (606) 633-3929

Dan Radmacher, Appalachian Mountain Advocates, (540) 798-6683

Cindy Rank, West Virginia Highlands Conservancy, (304) 924-5802

Eitan Bencuya, Sierra Club, (202) 495-3047

Vernon Haltom, Coal River Mountain Watch, (304) 952-4610

Judy Petersen, Kentucky Waterways Alliance, (270) 524-1774

Vivian Stockman, Ohio Valley Environmental Coalition, (304) 553-1962

Marley Green, Southern Appalachian Mountain Stewards, (703) 409-6993

Casey Self, Statewide Organizing for Community eMpowerment, (703) 568-0736

Blair FitzGibbon, Waterkeeper Alliance, (202) 503-6141