



October 30, 2009

Via Express Mail and Facsimile  
Honorable Lisa Jackson, Administrator  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Re: Blasting on Coal River Mountain

Dear Ms. Jackson:

I am writing to call your attention to an urgent situation in Appalachia and to request that you do everything in your authority to ensure that the EPA intervenes quickly and decisively to prevent an unfolding tragedy. MarFork Coal Company, a subsidiary of Massey Energy, has begun blasting pursuant to a permit issued by the West Virginia Department of Environmental Protection (DEP) for the Bee Tree mine. The Bee Tree mountaintop removal site is located on Coal River Mountain, and blasting is happening on a containment ridge of the Brushy Fork impoundment dam. That impoundment holds back more than 8 billion gallons of coal processing waste. If that dam breaches, 1000 people are at risk of losing their lives, and the environmental damage would be intense.

Brushy Fork is the largest coal processing waste impoundment in the United States. It was built on top of a network of abandoned underground mine shafts. Although questions were raised about the stability of the dam at the time of permitting, the West Virginia DEP issued the permit. We believe that EPA must intervene to stop the blasting.

As you probably know, Coal River Mountain is the epicenter of a battle for the future of Appalachia. Residents of Coal River Valley are fighting to defend this mountain from the onslaught of mountaintop removal mining. And they are fighting with a clear vision of a more hopeful future. They have done wind mapping and prepared an alternative development plan, one that would see windmills on the ridgelines of Coal River Mountain (which have been evaluated as having up to Class 7 potential), providing job security for hundreds of people, as well as long-term tax revenue and energy supplies.

For the nation, Coal River Mountain provides a model of choosing clean, renewable energy for the long-term. It is a question of choosing hope and sustainability over destruction and devastating social and environmental impacts.

As we mentioned in our last letter to you from RAN, those people who are fighting on the front lines for a clean energy future need your support and leadership. The scales are tipped against them at the state level. As noted above, the West Virginia DEP signed off on the Bee Tree permit despite concerns that blasting could impair the integrity of the

impoundment dam. And the Governor of West Virginia last week rejected in-person and written appeals from residents of Coal River Valley that he rescind the permit.

However, there is room for your agency to take action. On June 17<sup>th</sup>, citizens' groups filed a petition to the EPA to request that the EPA remove West Virginia's delegated authority to issue NPDES permits. We believe that Coal River Mountain provides an urgent example for why the West Virginia DEP should lose its permitting authority. Time and time again, the West Virginia Department of Environmental Protection has failed to properly regulate the permitting of mountaintop removal. The Bee Tree site is another example of their overly lax approach to regulatory control, which is failing to protect the communities of Appalachia, water quality or the country's most diverse ecosystems.

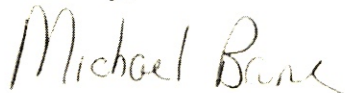
More broadly, we believe there needs to be a comprehensive assessment of the risks associated with storage of coal mining waste behind impoundment dams. Following the TVA coal ash disaster last year, EPA decided to look more closely at coal ash dikes associated with coal-fired power plants. We would respectfully submit that you should not wait for a similar disaster associated with coal mining and processing waste before comprehensively reviewing coal processing sludge impoundments on the basis of safety, toxicity, groundwater impacts, and other related issues. Prior to the TVA disaster, the worst such incident took place in a very similar situation to what we are facing now, where 250 million gallons of sludge broke through underground mine shafts below an impoundment owned by a Massey Energy subsidiary, devastating the community and their watershed. While no lives were lost in that case, that impoundment was much smaller than the Brushy Fork impoundment.

To summarize, we would like you to:

1. Intervene to stop the blasting on Coal River Mountain.
2. Authorize an immediate inspection of the safety of the Brushy Fork coal sludge impoundment dam.
3. Accelerate the EPA's response to the petition to remove the delegation of authority from EPA to the West Virginia DEP to issue NPDES permits.
4. Include all coal-processing waste impoundments in the study being conducted of coal-combustion waste sites.

We need your leadership to save Coal River Mountain, check the abusive practices of MTR, and move Appalachia onto a clean energy pathway. Please take action now.

Sincerely,



Michael Brune  
Executive Director

Cc: William Early, Acting Regional Administrator, US EPA Region 3  
Peter Silva, Assistant Administrator, Office of Water  
David Evans, Director, Wetlands Division