

PUBLIC JUSTICE E-LERT

AMERICA'S PUBLIC INTEREST LAW FIRM

January 13, 2011

The [U.S. Environmental Protection Agency](#) today vetoed the permit for one of the largest mountaintop removal mines ever proposed in Appalachia -- an unprecedented act by the agency.

"This veto is fully justified by the enormous harm that the mine would inflict and is the culmination of a 12-year legal battle that began in 1999 when the Corps made the outrageous decision that a huge mine burying over ten miles of streams would have only 'minimal' effects," said [Jim Hecker](#), Public Justice's [Environmental Enforcement](#) Director.

[Public Justice and its allies have been fighting the mammoth Spruce Mine for more than a decade.](#) Our lawsuit stopped the mine in 1999 and forced the [Army Corps of Engineers](#) to prepare an environmental impact statement (EIS) on the project -- the first one ever done on an Appalachian mine. After the EIS was completed, the Corps reissued the permit in 2007. Public Justice and its allies sued again to stop it and succeeded in blocking most mining at the site. But the Fourth Circuit reversed our victory in early 2009 and, on remand in the district court, the mine operator pushed for an unrestricted green light to go forward and bury seven miles of headwater streams.

Before that damage could occur, as we urged, the EPA has taken the extraordinary step of vetoing the Army Corps' permit. The EPA decision documents adopt many of the same legal and scientific arguments that we have been making against mountaintop removal mining, including significant degradation of water quality, unacceptable adverse effects on wildlife and forests, lack of adequate mitigation for these effects, harm to coalfield residents, and irreversible cumulative effects on natural resources in Appalachia.

This is the first time in the history of the [Clean Water Act](#) that the EPA has ever vetoed a Corps permit for a coal mine. The enormous mine was initially permitted by the Corps in 1998 as a routine, three-page, rubber-stamped nationwide permit that would have only "minimal environmental effects," in stark contrast to the EPA's current finding that the mine would have "unacceptable adverse effects" on the environment. The graphic below shows the size of the mine by superimposing it over downtown Pittsburgh, PA.

**Spruce Mine No. 1 Permitted Boundary
Superimposed Over the City of Pittsburgh, PA**



Author: D. Evans, EPA R3 EAPD

September, 2010

Figure 1 Spruce No. 1 Mine compared to downtown Pittsburgh, PA.

To read the EPA's final decision, [click here](#).

To read the *New York Times*' article on this historic decision, [click here](#).

And to read the *Charleston (W.Va.) Gazette*'s report on it, [click here](#).

In addition to Public Justice's Jim Hecker, the legal team includes [Joe Lovett](#) at the [Appalachian Center for the Economy and the Environment](#) in Lewisburg, WV and Pat McGinley and Suzanne Weiss in Morgantown, WV. The Spruce litigation was brought on behalf of the [West Virginia Highlands Conservancy](#), [Ohio Valley Environmental Coalition](#), [Coal River Mountain Watch](#), and several coalfield residents, who have jointly issued [this press release](#).

Thanks to Jim, Joe, Pat, Suzanne and you for helping make this great victory possible.

Arthur Bryant
Executive Director
Public Justice and the
Public Justice Foundation

email: abryant@publicjustice.net

voice: 202-797-8600

web: <http://www.publicjustice.net>

Public Justice | 1825 K Street, NW | Suite 200 | Washington | DC | 20006