

## **NEWS RELEASE**

---

**FEBRUARY 27, 2008**

### **New Coal Plant Threatens Public Health, Shenandoah National Park Environment, Conservation and Health Groups Take Protective Action**

*Coalition Cites Expired Permit, Unmet Emissions Standards*

Wellington Development cannot build a controversial waste coal-fired power plant in southwestern Pennsylvania because its construction permit has expired and does not meet current legal standards designed to ensure the lowest possible emissions of toxic mercury, according to multiple legal challenges filed Wednesday by Public Justice on behalf of the Sierra Club, National Parks Conservation Association, Group Against Smog and Pollution, and Chesapeake Bay Foundation. The waste coal-fired power plant would emit harmful levels of toxic mercury, and according to the National Park Service, would damage air quality at Shenandoah National Park. The coalition seeks to force the plant to update its expired construction permit and meet emissions standards that are protective of public health and the national park.

The Pennsylvania Department of Environmental Protection issued a Plan Approval permit in June 2005, authorizing Wellington to construct a 525-megawatt waste coal-fired power plant in Nemacolin (Greene County), Pennsylvania. The plan required Wellington to begin construction within 18 months of the date of approval, meaning late December, 2006.

Numerous aerial photographs over the last year show that Wellington has not “commenced construction” of the power plant as defined by the law, prompting Wednesday’s federal court action, alleging that Wellington’s permit is no longer valid.

Meanwhile, a federal court decided earlier this month that EPA’s rules exempting power plants from stricter controls on hazardous air pollutants, including mercury, were invalid. Pennsylvania DEP did not require Wellington to meet these standards, but instead applied a weaker state standard. The coalition therefore alleges in a petition to the Pennsylvania DEP that it must revoke Wellington’s Plan Approval and establish new stricter limits on hazardous air pollutants.

“Wellington couldn’t get its act together to build the plant, and now it needs stricter permit limits before any construction can occur,” said Jim Hecker, environmental enforcement director at Washington DC-based public interest law firm Public Justice. Hecker and Pittsburgh-based attorney Robert Jennings are co-counsel for the coalition.

“The pollution controls for this plant were selected in 2004 making them significantly outdated,” said Michael Parker, legal director at Group Against Smog and Pollution. “Cleaner technology is available so it is time to send Wellington and the Pennsylvania DEP back to the drawing board to write a new permit that adequately protects our lungs and our waters from toxic mercury and other harmful contaminants.”

The Wellington plant would burn waste coal, which creates enormous amounts of waste ash containing dangerous concentrations of mercury and other toxic pollutants. While proponents of the plant see it as a way to clean up waste coal piles, the truth is that for every 100 tons of waste coal that is burned, 85 tons remain as toxic waste ash.

“Waste coal dumps are a big problem for Pennsylvania,” said Tom Wolper of the Pennsylvania Sierra Club. “But burning waste coal simply expands the problem from the land into our air and our lungs, and adds to the global warming crisis. We need better environmental controls that keep toxic coal emissions out of the air and toxic coal ash out of our groundwater.”

Because waste coal is very inefficient, the Wellington plant would need to burn huge amounts to generate electricity—leading to increased soot, smog, mercury and global warming pollution.

“Pennsylvania's rivers and streams are suffering from nitrogen and mercury pollution. Even though it would burn waste coal, this plant would significantly add to the problems,” said Chesapeake Bay Foundation Director of Litigation Jon Mueller. “It must employ the best emission controls available, and this action will ensure that those controls are installed prior to operation.”

“Wellington’s coal plant would send a plume of dirty air into sensitive wilderness areas and Shenandoah National Park,” said Mark Wenzler, clean air and climate program director at National Parks Conservation Association. “Pennsylvania DEP now has the opportunity to do the right thing and protect these treasured places where millions of Americans seek refuge and renewal.”

###

Public Justice is America’s public interest law firm, supported by – and calling on -- a nationwide network of more than 3,000 of the nation’s top lawyers to pursue precedent-setting and socially significant litigation. It has a wide-ranging litigation docket in the areas of consumer rights, worker safety, civil rights and liberties, toxic torts, environmental protection, and access to the courts. Public Justice is the principal project of the Public Justice Foundation, a not-for-profit membership organization headquartered in Washington, DC, with a West Coast office in Oakland, California. The Public Justice web site address is [www.publicjustice.net](http://www.publicjustice.net).