

Citizen Suit Action/Clean Air Act: Environmental Organizations and Colorado Coal Mine Operators Enter into Consent Decree



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The Sierra Club, WildEarth Guardians, Center for Biological Diversity, and High Country Conservation Advocates (collectively “Sierra Club”) and Mountain Coal Company and Arch Resources, Inc. (collectively “Mountain Coal”) entered into a January 18th Consent Decree and Order (“Consent Decree”) to resolve a Clean Air Act citizen suit action involving the West Elk Mine (“Mine”) in Somerset, Colorado. See Civil Action No. 1:20-cv-01342-RM-STV.

The Mine is described as a coal mining operation.

Sierra Club’s citizen suit action had alleged Clean Air Act violations. Mountain Coal had generally denied such claims.

The Consent Decree imposes requirements on Mountain Coal such as:

- Will not withdraw the application for a Clean Air Act Title V Operating Permit for the Mine submitted to the Colorado Department of Public Health and Environment Air Pollution Control Division on March 20, 2020
- Will flare, or cause to be flared, emissions from the Mine’s ventilation boreholes in accordance with the Mine Safety and Health Administration Ventilation Plan for the Mine, as amended, until a final Title V permit for the Mine is issued
- Minimize emissions during startup, shutdown, and maintenance, and/or diagnostic testing through work practice standards and good air pollution control practices
- Provide Sierra Club a “Flaring Incident Initial Notice” within five days of the beginning of a Flaring Incident
- Provide Sierra Club representatives with a “Notice of Deviation” from the requirements of the Title V Permit for the Mine within thirty (30) days of commencement of the deviation

Mountain Coal agrees to pay \$135,000 for costs of litigation (including a reasonable attorney and expert witness fees) to Sierra Club’s counsel.

A copy of the Consent Decree can be downloaded [here](#).