

**Deborah Murray, SELC Senior Attorney**  
**Mary Cromer, SELC Staff Attorney**  
**(434) 977-4090**

**For Immediate Release**  
**January 15, 2008**

*Representing:*

Center for Biological Diversity – Mike Senatore, (202) 232-1216

National Parks Conservation Association – Bart Melton, (865) 414-6229

World Wildlife Fund – Judy Takats, (615) 279-1814

## ***Federal Government Disregarding Impacts of Coal Mining on Nation's Endangered Wildlife***

Conservationists, Tennessee agency seek to abolish 10-year policy

**Washington DC** – A team of conservation groups, together with Tennessee's wildlife agency, today filed a petition with federal agencies demanding they stop ignoring the impacts of coal mining, including mountaintop removal, on the nation's threatened and endangered wildlife. The 32-page petition was filed with the D.C. headquarters of U.S. Fish and Wildlife Service (FWS) and the Office of Surface Mining (OSM), which regulates coal mining.

The groups are seeking to overturn a sweeping "biological opinion" issued by the FWS in 1996 that says no coal mining operation anywhere in the U.S. would ever jeopardize threatened or endangered species listed then, or in the future. While the opinion applies nationwide, the groups' petition focuses on three watersheds in northeast Tennessee and southwest Virginia that have been particularly hard hit by mountaintop removal.

"For more than ten years, the government has written off our most vulnerable wildlife species based on a flimsy policy without scientific or legal merit," said SELC Senior Attorney Deborah Murray. SELC is representing the Center for Biological Diversity, National Parks Conservation Association and World Wildlife Fund in the petition. The Tennessee Wildlife Resources Agency is also a petitioner. "The 15-page opinion has absolutely no analysis of coal-mining impacts on any species. How in the world can they justify this blanket conclusion that no species would ever be jeopardized?" she said.

The groups' petition focuses on the Clinch and Powell rivers, which begin in the coalfields of southwest Virginia and flow into Tennessee, and the Big South Fork of the Cumberland River, which is a federally protected resource in northeast Tennessee managed by the National Park Service. These watersheds are part of the Tennessee and Cumberland river systems which have the highest number of fish, crayfish and mussel species on the continent. Studies within the last ten years document significant declines of aquatic species in stretches of the rivers closest to active mining, and link the decline to the mining.

Under the Endangered Species Act, federal agencies considering major actions – including issuing mining permits – must consult with the FWS on potential impacts to threatened and endangered species

– more –  
**Species petition – page 2 of 2**

and designated critical habitat that might be affected. In 1996, at the request of OSM, the wildlife service issued a generic biological opinion that applied nationally. The service summarily concluded that the requirements of the 1977 Surface Mining Control and Reclamation Act provided sufficient protection for all listed species.

In their petition, the groups detail the extensive environmental damage from mountaintop removal and other surface coal mining that has occurred in the Appalachian region despite the mining law. More than 1,200 stream miles in four states, including Tennessee and Virginia, have been damaged or destroyed between 1992 and 2002. The OSM is relying on the 1996 policy to avoid assessing the impacts on listed species of its proposed and controversial changes to its “stream buffer zone” rule. The changes would categorically allow the coal industry to dump mining fill and waste in streams.

“Mountaintop removal and coal mining practices have taken a devastating environmental toll on our nation’s water resources and most at-risk wildlife,” said Bart Melton, a program analyst with the National Parks Conservation Association. “The coal mining policy must be revoked in order to protect our national parks, including the ecosystem of the Big South Fork National River.”

The Endangered Species Act stipulates that the FWS and OSM must re-open consultation on coal mining if any of four conditions are met:

- a new species is listed or critical habitat for a listed species is designated,
- the level of allowable harm (called “incidental take”) to listed species is exceeded,
- new information is discovered about the impact of the activity on listed species or critical habitat, or
- a change in the permitted activity causes impacts to the species or habitat

Murray said all four conditions have been met, and still the agencies have failed to comply with the law.

See [www.SouthernEnvironment.org/cases/fws\\_biop.htm](http://www.SouthernEnvironment.org/cases/fws_biop.htm)  
for the petition, the 1996 opinion, a fact sheet and map.