

Restoring Clean Water in the Coalfields of Tennessee and Virginia

Rivers and streams are the lifeblood of any region. Healthy watersheds ensure safe drinking water, robust recreation opportunities, commercial enterprises, wildlife habitat, and much more.

In the Appalachian region of Tennessee and Virginia, the dramatic rise in mountaintop removal and other coal mining practices has taken a devastating environmental toll on our water resources. Entire streams have been buried under waste rock, and aquatic life has been pushed to the brink of survival. Today, dozens of native fish and mussel species, often harbingers of declining water quality, are in dire trouble in several of America's most biologically rich watersheds – the Clinch, Powell and Big South Fork of the Cumberland.

A coalition of regional and national conservation groups is demanding that the agencies charged with preventing this from happening take immediate action to fully and carefully assess the impacts of coal mining on the most at-risk wildlife – as required by law.

Background

The Endangered Species Act is designed to identify and save at-risk wildlife to best ensure a healthy environment. To achieve this, federal agencies must consult with the Fish and Wildlife Service (FWS) to carefully evaluate environmental impacts to protected species before undertaking or permitting significant action, such as coal mining.

Instead of following this protocol, the FWS in 1996, at the request of the Office of Surface Mining (OSM), which regulates coal

mining, issued a one-size-fits-all “biological opinion” that no coal mining operation anywhere in the U.S. would ever harm threatened or endangered species listed then, or in the future. FWS summarily concluded that the requirements of the Surface Mining Control and Reclamation Act provided sufficient protection. Because of this opinion, neither FWS, OSM, nor the mine operators are required to assess or avoid the impacts of mining on protected species or critical habitat.

As an environmental safety net, the mining law has been a tragic failure. More than 1,200 stream miles in four Appalachian states, including Tennessee and Virginia, have been damaged or destroyed by regulated mining, according to OSM's own findings. The continued decline in several watersheds in Tennessee and Virginia of freshwater mussels, which fill an important ecological niche as indicators of water quality in our rivers and streams, is especially troubling.

The FWS opinion, based on little scientific data and no discussion of long-range impacts, was flawed and illegal from the outset. Further, several circumstances have changed since 1996 – including new aquatic species listed and miles of critical stream habitat brought under federal protection, and new studies showing declines in aquatic diversity in the Clinch, Powell, and Big South Fork rivers – that compel a thorough re-examination. The FWS and OSM are required by law to re-open consultation to fully assess impacts of individual mining operations on at-risk species in the affected watersheds.

The Southern Environmental Law Center, representing the Center for Biological Diversity, National Parks Conservation Association, and World Wildlife Fund, has filed a petition requesting that FWS revoke its 1996 opinion and, as required by law, consult with OSM on each mining proposal to assess impacts to at-risk species in the affected watersheds. The Tennessee Wildlife Resources Agency has joined the petition, and the Tennessee Department of Environment and Conservation has supported the petition with a letter to FWS requesting it to re-open consultation with OSM.

This action is especially critical now, as OSM moves to further weaken the water quality protections of the surface mining law with its proposed change to the “stream buffer zone” rule, making it easier for coal operations to dump waste in headwater streams.

What’s at stake

The Clinch and Powell rivers in the Tennessee River basin flow from the coalfields of southwest Virginia into eastern Tennessee. The Big South Fork of the Cumberland River is fed by the New River, which begins in the coal mining region of northeast Tennessee, and flows through the Big South Fork National River and Recreation Area, which is managed by the National Park Service. These are among the most diverse temperate rivers in North

America, globally important for their biological bounty and locally important for their recreation and life-sustaining values.

- The Clinch River is home to at least 126 native fish species and at least 44 species of mussels. According to The Nature Conservancy, the Clinch has the highest number of globally imperiled and vulnerable freshwater species in the U.S. The river is home to 18 federally listed fish and mussels. ***There are 38 active coal mines in the upper Clinch River watershed in Virginia.***
- The Powell River was once home to at least 41 species of mussels and 90 species of fish. Of those that remain, two fish species and seven mussel species are federally listed. ***There are 48 active mine operations in the upper Powell River watershed in Virginia.***
- Recent surveys in the Big South Fork of the Cumberland found 68 fish species and 23 mussel species; of these, 22 species are classified as at-risk of extinction, and two fish species and five mussel species are federally listed. ***There are 15 active coal mine operations in Tennessee’s New River watershed, which flows into the Big South Fork National River and Recreation Area.***

January 2008

SELC
Deborah Murray
Mary Cromer
Attorneys
434-977-4090
dmurray@selcva.org
mcromer@selcva.org

NPCA
Bart Melton
Program Analyst
865-329-2424
bmelton@npca.org

CBD
Mike Senatore
Staff Attorney
202-232-1216
mсенаторе@biologicaldiversity.org

WWF
Judy Takats
Program Director
Southeast
615-279-1814
judy.takats@wwfus.org

