

Press Release from the Southern Environmental Law Center

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Administrative Court Allows Flooding of Blounts Creek with Mine Wastewater

CHAPEL HILL, N.C.— A state administrative court today upheld a state permit that allows a proposed Martin Marietta mine to flood a popular fishing creek in eastern North Carolina with wastewater from the mine. On behalf of Sound Rivers and the N.C. Coastal Federation, the Southern Environmental Law Center fought the N.C. Division of Water Resources' permit, which allows Martin Marietta to inundate the creek with up to 12 million gallons of mining wastewater each day. The conservation groups argued that the state permit failed to protect the waters of Blounts Creek, which provide vital habitat to a diverse community of fish—including red drum and river herring—and is beloved by fishermen and women across the state. The administrative law judge held that local marina owners' business was a hobby and that citizens who boat and fish on the creek could not challenge the State's permit. The groups intend to appeal the administrative court's decision to the Beaufort County Superior Court.

“This state permit violates the core requirement of the Clean Water Act: to protect our waters as they exist naturally,” said Geoff Gisler, senior attorney at the Southern Environmental Law Center. “We are disappointed that today's decision ignores well-established law that protects places like Blounts Creek and gives citizens the right to defend those special places in court. The people who love Blounts Creek deserve the protection that the law provides and that the State failed to uphold—we will now turn to the superior court to provide that protection.”

The discharge will transform the swampy, slow moving headwater habitat into a fast-flowing stream consisting primarily of mine wastewater, permanently altering the creek's diversity of fish and abundance of high quality fish habitat.

“The decision completely ignores the interests of the people who live along the creek, fish its waters, and depend on its unique fisheries,” said Heather Deck, Pamlico-Tar Riverkeeper, Sound Rivers “The N.C. Division of Water Resources could require the company to pursue other available alternatives that would protect the creek, not harm the local citizens, and comply with state and federal laws.”

In order to develop a 649-acre open pit mine outside Vanceboro in Beaufort County, N.C., Martin Marietta plans to pump up to 12 million gallons of wastewater into Blounts Creek's headwaters every day.

“This ruling is inconsistent with the fundamental requirements of our state and federal water quality laws that require state agencies to protect the biological integrity, fish, and wildlife of our coastal creeks and sounds,” said Todd Miller, executive director of the N.C. Coastal Federation.

Martin Marietta admitted in its permit application that the altered creek would no longer support its existing diversity of fish species and would no longer be considered swamp waters due to the increased flow, increased pH, and other changes to the creek that would result from the discharge. DWR’s lead biologist found that the creek with the wastewater would be unlike any creek naturally found in eastern North Carolina. Under federal and state law, North Carolina cannot authorize discharges that will violate water quality standards by changing the natural mix of species in a water body or by destroying uses that are protected by a supplemental classification, such as “swamp waters.”

State wildlife agencies and the Environmental Protection Agency objected to the plan in response to the draft permit.

In violation of state and federal law and despite other agencies’ criticisms, DWR required no significant changes to address these problems in its final permit.

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About the Southern Environmental Law Center

The Southern Environmental Law Center is a regional nonprofit using the power of the law to protect the health and environment of the Southeast (Virginia, Tennessee, North and South Carolina, Georgia, and Alabama). Founded in 1986, SELC's team of almost 60 legal and policy experts represent more than 100 partner groups on issues of climate change and energy, air and water quality, forests, the coast and wetlands, transportation, and land use.

WEB: www.SouthernEnvironment.org

About Sound Rivers

Sound Rivers was formed by the merger of the Neuse and Pamlico-Tar River Foundations on April 1, 2015 which combined two of the oldest conservation organizations in North Carolina. Sound Rivers continues the mission and purpose of both previous organizations, to monitor, protect and enhance the Neuse and Tar-Pamlico Rivers and watersheds. These watersheds cover more than 12,000 square miles and include the Pamlico Sound, a major component of the second largest estuary in the United States. Sound Rivers has three RIVERKEEPER@s who serve as investigators, advocates and educators for their watersheds, and it represents the interests of thousands of members and donors who live, visit or love this beautiful region of North Carolina. Sound Rivers and its members seek to ensure clean, safe water and an ecologically sound environment for today and for future generations to enjoy.

WEB: www.soundrivers.org

About the North Carolina Coastal Federation

The North Carolina Coastal Federation is the state’s only 501(c)(3) non-profit organization that focuses exclusively on protecting and restoring the coast of North Carolina through education, advocacy and habitat preservation and restoration.

WEB: www.nccoast.org