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**Sent:** Tuesday, March 27, 2012 3:26 PM  
**To:** mtammaro@rtenv.com  
**Subject:** EPA COAL MINE PERMIT REVOCATION OVERTURNED

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## EPA COAL MINE PERMIT REVOCATION OVERTURNED

Press Release

A federal judge ruled last week the Environmental Protection Agency over-stepped its authority in revoking a permit for an Arch Coal Inc. surface mine that was to be the largest proposed mountaintop-removal coal mine in Appalachia.

The decision is setback for federal regulators in a case that has been closely watched by the mining industry and environmental groups opposed to a form of mining called mountaintop removal. The process involves blasting the tops off mountains to gain access to coal seams while filling in valleys and streams with the overlying dirt and rock.

The EPA revoked the permit for Arch's Spruce Mine No.1 in rural Logan County, W.Va., in January 2011, arguing that the potential harm to streams and watershed areas surrounding the project could be significant. The permit had previously been issued by the Army Corps of Engineers in 2007. It was the first time since the Clean Water Act was passed in 1972 that the EPA had canceled a water permit for a project after it was issued.

On Friday, U.S. District Court Judge Amy Berman Jackson in Washington, D.C., struck down the EPA's ruling and said the permit issued by the Army Corps of Engineers "remains valid and in full force."

Judge Jackson sided with the company's argument that the EPA lacked the authority to modify or revoke the water permit. "The Court concludes that the statute does not give EPA the power to render a permit invalid once it has been issued by the Corps," Judge Jackson wrote.

*We think that EPA, in essence, trying to overrule a Corps permit was poorly advised. Government fighting itself usually does not accomplish anything. EPA should use its powers wisely and work with the States and/or Congress if it believes it needs more power or authority. Many good projects, including important mine reclamation projects, have been held up because EPA "stepped out" against Arch, ruffing the normal surface mine permit process apparently without authority to do so.*

*EPA has in its history many great accomplishments over the years. Let's hope going forward that EPA uses its authority wisely as there is certainly plenty to do to clean up and protect the environment without pushing legal limits.*

*EPA can run national environmental protection programs very well...let's hope the Agency better builds on its success in the future.*

*- Gary R. Brown, P.E.*

*(Excerpts from Article by Kris Maher, Wall Street Journal, 3/24/12)*



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