

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
WEST VIRGINIA, HUNTINGTON DIVISION

Coal River Mountain Watch, Appalachian Voices, West Virginia  
Highlands Conservancy, and Sierra Club v. Colonel Phillip J. Valenti,  
in his official capacity as District Engineer, U.S. Army Corps of  
Engineers, Huntington District, William H. Graham, in his official  
capacity as Commander and Chief of Engineers, U.S. Army Corps of  
Engineers, and United States Army Corps of Engineers

Coal River Mountain Watch v. Valenti · No. 3:25-0103 · Decided April 21, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia reviews the U.S. Army Corps of Engineers’ issuance of a Clean Water Act § 404 permit for valley fills associated with the Turkeyfoot Surface Mine in Raleigh County, West Virginia. The court concludes that the Corps’s decision was arbitrary and capricious because it inadequately addressed EPA concerns and evidence regarding water-quality impacts, including elevated conductivity and harm to aquatic ecosystems. The court grants the plaintiffs’ motion for summary judgment in part and denies the Corps’s motion.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                           |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of West Virginia, Huntington Division                                                                                                                                                                                              |
| WRITING FOR THE COURT | Robert C. Chambers                                                                                                                                                                                                                                                                        |
| JURISDICTION          | United States District Court for the Southern District of West Virginia, Huntington Division                                                                                                                                                                                              |
| DECIDED               | April 21, 2026                                                                                                                                                                                                                                                                            |
| DOCKET                | 3:25-0103                                                                                                                                                                                                                                                                                 |
| DISPOSITION           | vacated                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Plaintiffs sought review under the Administrative Procedure Act of the Army Corps of Engineers' decision to issue a Clean Water Act § 404 permit for surface coal mining. The parties filed cross-motions for summary judgment, and plaintiffs also moved to admit extra-record evidence. |

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|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>STANDARD OF REVIEW</b> | Under the Administrative Procedure Act, agency action may be set aside if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Review is narrow and highly deferential, but the court must determine whether the agency considered relevant factors, made a clear error of judgment, and articulated a rational connection between the facts found and the decision made. |
| <b>PRECEDENTIAL VALUE</b> | Unknown; district court memorandum opinion and order with no reporter citation in the source.                                                                                                                                                                                                                                                                                                                      |
| <b>PARTIES</b>            | Coal River Mountain Watch, Appalachian Voices, West Virginia Highlands Conservancy, Sierra Club v. Colonel Phillip J. Valenti, in his official capacity as District Engineer, U.S. Army Corps of Engineers, Huntington District, William H. Graham, in his official capacity as Commander and Chief of Engineers, U.S. Army Corps of Engineers, United States Army Corps of Engineers                              |

## TOPICS

clean water act   mining law   wetlands   administrative procedure act   judicial review of agency action

## PRACTICE AREAS

environmental law   administrative law   Clean Water Act   surface coal mining

## QUESTIONS PRESENTED

1. Whether the Turkeyfoot Mine's state Clean Water Act § 401 certification was conclusive regarding water-quality considerations despite EPA comments advising the Corps of other water-quality aspects to consider.
2. Whether the Corps adequately explained why the Turkeyfoot Mine would not repeat adverse water-quality outcomes associated with other surface mines and valley fills.
3. Whether the Corps adequately considered and responded to scientific studies linking valley fills and surface mining to downstream conductivity and biological impairment.
4. Whether the Corps arbitrarily relied on the § 401 certification and failed to reasonably address concerns raised by the EPA and plaintiffs.
5. Whether the Corps selected an irrational WVSCI performance standard for mitigation streams that was below projected pre-mining baseline or impairment thresholds.
6. Whether the Corps' erroneous statement that the NPDES permit contained a specific total-dissolved-solids limit independently rendered the permit decision arbitrary and capricious.

## HOLDINGS

1. The § 401 certification was not conclusive because the EPA advised the Corps of other water-quality aspects to be taken into consideration in its detailed comments concerning secondary and cumulative impacts, conductivity, pollutants, and aquatic-resource degradation.
2. The Corps acted arbitrarily and capriciously by failing to rationally distinguish the Turkeyfoot Mine from prior mines where similar construction methods and mitigation measures were followed by elevated conductivity and impaired stream conditions.
3. The Corps acted arbitrarily and capriciously by failing to explain why the Turkeyfoot Mine's best management practices and aquatic ecosystem protection plan would prevent downstream aquatic harm despite scientific evidence linking valley fills to increased conductivity and biological impairment.
4. Because the § 401 certification was not conclusive, the Corps could not rely on it as a substitute for independently considering and reasonably responding to the EPA's and plaintiffs' water-quality concerns.
5. The Corps acted arbitrarily and capriciously by using a WVSCI score of 70 as the performance standard for Workman Creek and portions of Wingrove Branch without explaining why a score below the streams' pre-mining baselines, and below the score indicating an unimpaired community, was acceptable.
6. The Corps' incorrect statement that the NPDES permit contained a specific total-dissolved-solids limit was harmless error and did not independently make the permit decision arbitrary and capricious.

#### KEY QUOTATIONS

*“Filling streams causes direct loss of aquatic habitat and will likely lead to secondary and cumulative impacts to the biogeochemical and hydrologic conditions of the receiving streams” (A.R. 2073)*

*“The provided information has not yet demonstrated that the proposed project will not cause or contribute to water quality standards exceedances” (A.R. 2076)*

*“The Corps acknowledges that elevated levels of these metals and compounds have occurred at surface mines, specifically the older mines where not much care was given to environmental [sic] sensitive construction and mining methods.” (A.R. 4870–71)*

*“The Court HOLDS UNLAWFUL and SETS ASIDE the CWA § 404 permit the Army Corps issued for the Turkeyfoot Surface Mine.” (Conclusion)*

#### FACTUAL BACKGROUND

Republic Energy operated the Turkeyfoot Surface Mine in Raleigh County, West Virginia, and planned four valley fills that would bury approximately 20,356 linear feet of streams and 1.79 acres of wetlands. The Army Corps issued a Clean Water Act § 404 permit, while the West Virginia Department of Environmental Protection issued related SMCRA, NPDES, and § 401 permits. The EPA warned the Corps that the project could cause secondary and cumulative impacts, including increased conductivity and significant degradation of aquatic resources, and recommended additional analysis and permit conditions. Plaintiffs presented studies and other evidence indicating that valley fills and surface mining increase downstream conductivity and harm aquatic life, while the Corps relied on best management practices, reclamation, and unidentified new studies to support its permit decision.

## PROCEDURAL HISTORY

The Army Corps issued a § 404 permit for Republic Energy's Turkeyfoot Surface Mine. Plaintiffs sued, alleging that the permit decision violated the Clean Water Act, Corps regulations, and the National Environmental Policy Act. The court admitted an extra-record report in part for the limited purpose of illuminating the unidentified studies referenced by the Corps, then granted plaintiffs summary judgment on their Clean Water Act claims, denied the Corps' cross-motion, denied plaintiffs' motion as moot on the regulatory and NEPA claims, and set aside the permit.

## DISPOSITION

vacated

## REMAND INSTRUCTIONS

The court held unlawful and set aside the Clean Water Act § 404 permit issued for the Turkeyfoot Surface Mine. No additional remand instructions were stated.

## CASES CITED

- Bragg v. West Virginia Coal Association, 248 F.3d 275, 288 (4th Cir. 2001)
- Ohio Valley Environmental Coalition v. U.S. Army Corps of Engineers, 883 F. Supp. 2d 627 (S.D. W. Va. 2012), *aff'd*, 716 F.3d 119 (4th Cir. 2013)
- Department of Homeland Security v. Regents of the University of California, 591 U.S. 1, 16 (2020)
- Ohio Valley Environmental Coalition v. Aracoma Coal Company, 556 F.3d 177, 192 (4th Cir. 2009)
- Motor Vehicle Manufacturers Association of the United States, Inc. v. State Farm Mutual Automobile Insurance Co., 463 U.S. 29, 50 (1983)
- Defenders of Wildlife v. U.S. Department of the Interior, 931 F.3d 339, 345 (4th Cir. 2019)
- Defenders of Wildlife v. North Carolina Department of Transportation, 762 F.3d 374, 396 (4th Cir. 2014)
- Friends of Buckingham v. State Air Pollution Control Board, 947 F.3d 68, 85 (4th Cir. 2020)
- Appalachian Voices v. State Water Control Board, 912 F.3d 746, 753 (4th Cir. 2019)
- Vecinos, Inc. v. Federal Communications Commission, 745 F.3d 330 (4th Cir. 2014)