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U.S. Eleventh Circuit Court of Appeals Upholds Citizen Suit Enforcement of Clean Water Act

In *Black Warrior Riverkeeper v. Cherokee Mining, LLC*, the federal Eleventh Circuit Court of Appeals ruled on November 13, 2008 that a Clean Water Act citizen suit is not barred by a state administrative action commenced after a citizen group gives notice of its intent to sue to abate water pollution.

The Eleventh Circuit Court of Appeals included in the ruling the following quotation from a 1985 Senate Report: “[c]itizen suits are a proven enforcement tool. They operate as Congress intended – to both spur and supplement to government enforcement actions.”

Upholding Congressional intent, this ruling certifies that Black Warrior Riverkeeper, citizen groups, and citizens throughout the southeast’s Eleventh Circuit have the right to exercise an active role in water pollution reduction. This is especially important where state agencies are not adequately enforcing the Clean Water Act, such as in Alabama.

Cherokee Mining’s argument that Black Warrior Riverkeeper is barred from taking enforcement action against their coal mines misinterpreted Congressional intent. The Eleventh Circuit stated in their ruling: “We find Cherokee’s interpretation of these provisions to be an extremely cramped and narrow reading of the ordinary and plain meaning of the relevant language.”

Mark E. Martin, Prosecuting Attorney for Black Warrior Riverkeeper, stated: “We are extremely pleased, but not surprised, by the Court’s decision. This will allow citizens, such as Black Warrior Riverkeeper, to continue to supplement the EPA and the Alabama Department of Environmental Management’s enforcement of the provisions of the Clean Water Act to stop the illegal discharge of dangerous pollutants into our state’s waters.”

Visit this webpage to read the Eleventh Circuit’s decision:

http://www.blackwarriorriver.org/library/BWRk_CherokeeMining_11thCircuitOrder.pdf

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Black Warrior Riverkeeper is a non-profit organization whose mission is to protect and restore the Black Warrior River and its tributaries. The Alabama Environmental Council’s 2007 Conservation Organization of the Year, and the American Canoe Association’s 2008 Green Paddle Award winner, Black Warrior Riverkeeper is a proud grassroots member of Waterkeeper Alliance. Visit our website at www.blackwarriorriver.org. For more information contact Mark Martin, Prosecuting Attorney: 205-323-5001, mmartin@blackwarriorriver.org, or Nelson Brooke, Executive Director and Riverkeeper: 205-458-0095, nbrooke@blackwarriorriver.org