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Walker County residents sue Alabama's environmental agency about coal mine water discharge permit

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Four Walker County residents have asked a court to force the state's environmental agency to republish a public notice for a permit that, if approved, would allow a coal company to discharge water into the Mulberry Fork of the Black Warrior River.

The proposed 506-acre mine, southeast of Cordova, is opposed by nearby residents, the Black Warrior Riverkeeper group and the Birmingham Water Works, which has a major drinking water intake in the Mulberry Fork near the site.

A lawsuit was filed by the four residents Monday in Montgomery County Circuit Court against ADEM regarding its Nov. 13 public notice in a Walker County newspaper that set a 30-day public comment period on a proposed water discharge permit to Reed Minerals Inc.

ADEM did not follow state rules in publishing the notice, according to the lawsuit, because it failed to include a general description of the location of each existing or proposed discharge point into the river under the proposed permit.

The lawsuit asks the court to order ADEM to republish the notice and include a general description of the location of each proposed discharge point.

An ADEM spokesman said Tuesday he had not seen the lawsuit and could not comment. Efforts to reach an official with Reed Minerals for comment were unsuccessful. The 30-day comment period for the Nov. 13 notice has ended.

In its notice, ADEM provided a link to its Web site where a copy of the proposed Reed Mineral permit can be found. The proposed permit includes a map of discharge points.

David Ludder, a Tallahassee attorney for the four Walker County residents, said residents in the case did not file comments and don't feel it's their responsibility to seek out where the discharge points are. State rules require ADEM to provide information in public notices that would give residents an idea of where the outfalls are located, he said.

"The idea is to give them enough notice of what affects them to know whether to pursue further steps," Ludder said.

If ADEM decided to hold a public hearing on the proposed permit, the agency could combine a public hearing with a new public notice and comment period and solve the problem, Ludder said.

ADEM has not said whether it will hold a public hearing.

Reed Mineral's application for the permit says the company plans to sell coal from surface and underground mines at the site to Alabama Power for generation of electricity. Under the proposed permit, the company would be required to keep pollutants from running into the river. The company would spend about \$350,000 a year on pollution control at the site, according to the permit application.

Birmingham Water Works filed a letter with ADEM on Dec. 15 opposing the permit because of discharge sites immediately upstream of its drinking water intake on the Mulberry Fork.

"In general, it can be concluded that the Reed Minerals No. 5 Mine operation has a high potential for adverse impacts to the Birmingham drinking water supply, and that the proposed permit is not protective of the designated uses of Mulberry Fork," Darryl R. Jones, assistant general manager at the waterworks, said in the letter.

Birmingham Water Works had similar concerns with a water discharge permit last year for the proposed Shepherd Bend mine, which is near the proposed Reed Mineral site. ADEM granted the Shepherd Bend permit in July.

Neither mine has a state mining permit yet and neither is operating. The Black Warrior Riverkeeper group has sued ADEM over issuance of the Shepherd Bend permit.

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