



GRAND CANYON:

Court strikes down enviro suit against mine reopening

Manuel Quinones / E&E reporter

Monday, February 4, 2013

An appeals court struck down a lawsuit by environmental groups against the Obama administration over the 2009 reopening of a uranium mine near Grand Canyon National Park.

The 9th U.S. Circuit Court of Appeals ruled today that the Bureau of Land Management did not violate its own guidelines or laws like the National Environmental Policy Act when it allowed Denison Mines Corp. to reopen its Arizona 1 mine in Mohave County.

American Indian tribes and environmental groups -- including the Sierra Club and the Center for Biological Diversity -- sued to prevent BLM from allowing the mine to reopen using a 1998 plan of operations, which they called woefully outdated (Greenwire, Nov. 29, 2011). The mine had been on standby since the 1990s.

But a panel of judges from the 9th Circuit wrote that mine plans of operation are not meant to last forever, nor do they expire when a mine halts production.

“While the regulations provide for temporary closures and identify what a mine operator must do when it ‘stop[s] conducting operations,’ no regulation requires approval of a new plan of operations before regular mining activities may recommence following a temporary closure,” Senior Judge Clifford Wallace wrote in the opinion.

The three-judge panel also said BLM has the means of scrapping a mine plan if necessary. “These mechanisms, by which BLM can terminate a plan of operations after five years of inactivity or after abandonment, would be meaningless if a plan of operations

automatically became ineffective upon temporary cessation of mining activities,” said the opinion.

Center for Biological Diversity attorney Amy Atwood said she was disappointed in not only the ruling but also BLM’s regulatory decisions when it comes to uranium mining. “This is very concerning; I would even say it’s appalling,” she said in an interview.

Groups are still weighing their next legal steps, such as whether to request a rehearing or seek Supreme Court consideration. Atwood said they had a compelling case for asking BLM to conduct a supplemental environmental review, especially in light of new information about uranium mining’s impacts.

She said the agency’s mine reopening approval “really calls into question how the agency is actually interpreting its own efforts to reach that balance” between market fluctuations, which often dictate a mine’s operations, and the need to protect the environment through current reviews.

Last year, the Obama administration blocked new mining claims on roughly 1 million acres of public land around the Grand Canyon for 20 years. The goal was to protect the landmark from the expected boom in uranium mining.

However, the withdrawal does not cover existing mines or claims that are proved economically minable. Similar to the Arizona 1 case, groups complained last year when the Forest Service made way for Denison’s Canyon mine to reopen (Greenwire, June 26, 2012).

Last year, Denison sold its U.S. holdings to Toronto-based Energy Fuels Inc., which is seeking to not only boost mining but also open the first U.S. conventional uranium mill in decades in Colorado.