

# Mineral Daily News-Tribune

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## Riverkeepers take legal action against coal company

Posted Jul 17, 2020 at 6:06 PM

For the News Tribune

WASHINGTON, D.C. – Three environmental groups took legal action Thursday against the operator of a West Virginia coal storage and loading facility for allegedly allowing stormwater contaminated with coal waste to pour into the North Branch of the Potomac River.

The Potomac Riverkeeper Network, Environmental Integrity Project, and Appalachian Mountain Advocates sent a notice of intent to sue to the D & L Coal Company of Keyser for alleged violations of the Clean Water Act at the coal loading operation in Mineral County.

“Contaminated stormwater from this coal site has been polluting the Potomac River for too long, threatening the ecology of the nation’s river and the health of the many people who love to fish and paddle in the river,” said Brent Walls, the Upper Potomac Riverkeeper. “This pollution needs to stop and the company needs to clean up this site.”

The 2.5-acre coal loading operation beside a railroad line near the bank of the North Branch of the Potomac River, including a stockpile with heaps of coal up to 20 feet high, supplied coal to the Luke paper mill in Luke, about a half-mile downriver. The paper mill closed in June 2019 and is the subject of a federal lawsuit, initiated by the Potomac Riverkeeper Network and the Environmental Integrity Project, for leaking a toxic black waste liquid called “black liquor” into the river. The state has also launched legal actions against the mill.

When it rains, coal residue from the D & L Coal stockpile allegedly flows into ditches and then discharges into the North Branch Potomac River, according to the notice. Under federal law, plaintiffs are required to provide notice 60 days in advance of filing a complaint against polluters under the citizen suit provision of the Clean Water Act.

According to the D & L Coal company, in its reports to West Virginia regulators, the coal loading operation did not allow any stormwater pollution into the river.

The Upper Potomac Riverkeeper, however, says it has collected photographic evidence to the contrary. On Feb. 6, 2020, while gathering information and data related to his lawsuit against the nearby Luke paper mill over its water pollution, representatives of the Upper Potomac Riverkeeper say they noticed coal residue along a channel, formed by coal-laden stormwater, leading from the D & L site into the river.

The representatives returned after rains on March 25, June 17, and June 18, 2020, and took photos of an outlet discharging polluted water from the coal site into the waterway.

According to the notice, D & L Coal allegedly has been operating outside the entire protective scheme of its Clean Water Act permit. This is in part because D & L Coal does not sample during rain events and available state inspection reports do not indicate inspections occurred during rain events.

“Reporting violations like these are important because without accurate information from companies, state agencies are blind to pollution in our waterways and can’t do their jobs,” said Natalia Cabrera, attorney for the Environmental Integrity Project.

The facility’s permit requires the operator to submit sampling analyses to the state the first time the site discharges, so that the state can determine whether more protective water quality limits should be established. The permit also requires the operator to submit rain gauge data on its discharge monitoring reports, which the Riverkeeper Network says D & L Coal has never done. Last, the permit requires the facility to conduct sampling during representative times of discharge, in this case, when it rains. Allegedly, none of this has occurred.

On March 24, 2020, The Potomac Riverkeeper Network, represented by the Environmental Integrity Project, filed a federal lawsuit against the owners of the Luke paper mill, Verso Corporation, for discharges into the river of a toxic black waste liquid called “black liquor,” pursuant to federal law that regulates solid and hazardous waste.

The pollution seeping from the paper mill was documented by the Upper Potomac Riverkeeper and brought to the attention of state regulators. On May 28, 2020, the State of Maryland also filed similar claims against Verso Corporation and joined the citizens' lawsuit.

The environmental groups and the State of Maryland are working as co-plaintiffs to resolve the violations at that site.

When contacted by the News Tribune Thursday a representative for D&L Coal declined to comment on the charges.