



Commonwealth of Kentucky Energy and Environment Cabinet

Steven L. Beshear, Governor

Leonard K. Peters, Secretary

FOR IMMEDIATE RELEASE

CONTACT: Dick Brown
(502) 564-5525

EEC Secretary Peters Testifies before Congressional Panel, says EPA head is 'Dismissive' Toward Resolving Issues

Challenges EPA's rule-making process

WASHINGTON, D.C. – (May 5, 2011) – Kentucky Energy and Environment Secretary Len Peters today told a congressional committee meeting in Washington, D.C. that he is deeply troubled by the federal Environmental Protection Agency's (EPA) refusal to talk with states and listen to suggestions regarding the issuance of Clean Water Act 402 permits sought by coal companies.

In his testimony before the House Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment, Sec. Peters said Kentucky intervened in support of the Kentucky Coal Association in its lawsuit against the EPA because the administration of Governor Steve Beshear believes the EPA's actions for the past year are arbitrary, requiring Kentucky's regulators to adhere to permitting conditions that have not been promulgated in line with the Federal Administrative Procedures Act. Sec. Peters told the panel his attempts to bring a resolution to issues with EPA Administrator Lisa Jackson have been disappointing.

"People on my staff and I have been in ongoing discussions with our regional EPA administrator attempting to resolve the issues to the satisfaction of all parties – the EPA, state, the regulated community and the citizens of Kentucky," Sec. Peters said. "Unfortunately, I am not highly optimistic that such a resolution will occur, especially in light of a recent meeting with Region IV EPA. Indications are that these earnest discussions to arrive at a resolution are not being accepted by EPA headquarters. I am very disappointed that EPA Administrator Jackson can be so dismissive of such an important issue."

Sec. Peters went on to tell the subcommittee that it is Kentucky's contention that the EPA has, for more than a year, unlawfully reviewed and objected to Clean Water Act 402 permits proposed for coal mining operations in six Appalachian states, including Kentucky, for compliance with an unpromulgated water quality standard. "Incredibly, these EPA objections were for permits that my staff drafted in accordance to standards that EPA had, prior to April 1, 2010, supported," said Peters.

The impact of the EPA ruling-making process, according to Peters, is that 21 permits are being held up by the EPA and dozens more face the same fate. The federal agency has used guidance that EPA itself says is not legally binding, as the basis to object to proposed CWA 402 permits. In so doing, EPA has made these objections without any timetable requirement to act upon those objections and without any judicial recourse by affected parties.

In October 2010, the Beshear administration joined with the Kentucky Coal Association in a lawsuit against EPA, challenging the agency's arbitrary rules, guidance and oversight regarding coal mining permits under the Clean Water Act. That action is pending in federal court in Washington, D.C. "Kentucky state government works hard to balance our need to mine coal and the stewardship of our environment," said Gov. Beshear. "Sec. Peters' testimony today made clear that the EPA's arbitrary actions make our job more difficult, and harm Kentucky's economy."

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