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Date: 10/27/99 11:11am
Subject: advisory

Media Advisory

From: Andy Gallagher
To: Members of the Media
Re: Hearing in federal court
Date: Oct. 27, 1999

CHARLESTON - U.S. District Court Judge Charles H. Haden II did not act on a motion Wednesday by the West Virginia Division of Environmental Protection that he stay the effect of his Oct. 20 ruling concerning mining operations and the removal of fill material to nearby hollows.

The plaintiffs in the case said it would take until Thursday for their written response to be filed to the DEP's motion that the order be stayed pending action on the agency's appeal to the 4th U.S. Circuit Court of Appeals in Richmond, Va.

Haden said he would give the plaintiffs time to respond to the DEP's petition, and that he would move forward with unspecified proceedings after that time. He did not set a date.

The plaintiffs, DEP, the coal industry and other interested parties went forward Wednesday to present evidence on issues before the court concerning using commercial timberland as a postmining land use after surface mining, and how land must be returned to its approximate original contour.

Meanwhile, the DEP will continue to act under the judge's order that said overburden from the mining operation cannot be placed in intermittent or perennial streams.

The DEP is examining its records and hopes to be able to release material later Wednesday giving some inventory on how the decision will affect mining operations in the state.