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Spadaro to testify on mine violations in flood trial

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A former mine inspector from West Virginia who drew national attention for his criticism of weak enforcement action against Massey Energy after 300 million gallons of liquefied coal waste spilled in Kentucky streams in 2000 will take the stand next week in Raleigh County, this time to point out how two strip mines contributed to the July 8, 2001, flood.

Jack Spadaro testified Friday morning in a special hearing, away from jurors, concerning evidence he is expected to present early next week in a mass litigation case concerning the flood's impact on the sub-watersheds of Mullens and Oceana.

In the two weeks since the trial began, two expert witnesses have testified that various landowners who allow timbering on their properties had used the land in such a way that it increased peak runoff and thus contributed to the amount of flooding that devastated the region nearly five years ago.

Spadaro will speak to the mining aspect of the case, specifically how defendant Pioneer Fuel, through its Winifred and Simmons Fork surface mines, had active violation citations when the flooding occurred in the Oceana sub-watershed.

He is expected to take the stand late Monday or sometime Tuesday.

Despite objection from defense attorneys, Raleigh County Circuit Judge John Hutchison on Friday ruled that three violations which were in effect July 8, 2001, can be included in Spadaro's testimony. Two of the violations occurred at the Winifred mine and the other at Simmons Fork.

The Simmons Fork violation says spoil from a perimeter shot downslope, below the sediment control structure.

One of the Winifred violations claims Pioneer Fuel failed to clean sediment control structures when sediment accumulation reached 60 percent of design capacity. The other contends the company failed to protect off-site areas from slides and that water from the area caused debris to wash and erode areas below the site.

The judge said Spadaro will also be allowed to speak generally regarding 24 other violation citations issued to Pioneer before the flood, but because those violations were corrected prior to the flood event, Spadaro will not be allowed to call them violations. He may say, however, that some actions on the site did result in land disturbances.

Pioneer Fuel is one of five defendants remaining in this portion of the mass case, which involves a total of six watersheds.

Eastern Associated Coal and Pioneer Land Co. both settled out of the case late Thursday.

Photos



Former federal mine inspector Jack Spadaro looks through files after testifying Friday at a special hearing concerning evidence he is expected to present as part of the flood trial under way at the courthouse in Beckley. Lew Whitener/THE REGISTER-HERALD (Click for larger image)

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