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Groups threaten suit over Blackwater logging

By [Ken Ward Jr.](#)

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CHARLESTON, W.Va. -- A coalition of conservation groups on Monday threatened to sue Allegheny Wood Products and the U.S. Fish and Wildlife Service over Blackwater Canyon logging that the groups allege is harming endangered bats and salamanders.

Friends of Blackwater Canyon, the Center for Biological Diversity and 11 other groups filed a formal notice of intent to sue with Interior Secretary Ken Salazar, Acting Fish and Wildlife Service Director Rowan Gould and John Crites, chairman of Allegheny Wood Products.

In the 12-page notice, Katherine Meyer, a lawyer for the groups, says Allegheny Wood is cutting trees on its Blackwater Canyon property without first obtaining a permit that would allow it to "take" any endangered species in the logging area.

Meyer also alleged that the Interior Department's Fish and Wildlife Service has warned the company it needs a permit, but has not taken any stronger action to put a stop to the logging.

"Put bluntly, it is difficult to take the service's status as an enforcement agency seriously if it regularly permits AWP to continue to thumb its nose at the agency as it has done here," Meyer wrote in the notice of intent to sue.

Officials from the company and from the Fish and Wildlife Service did not immediately respond to requests for comment on the notice of intent to sue. Under the Endangered Species Act and other federal environmental laws, such formal notices are required prior to filing citizen suits, in part to give agencies or companies involved time to remedy any violations before being taken to court. In this case, the notice gives the agency and the company 60 days to respond before a lawsuit is filed.

West Virginia environmental groups have been concerned about the future of the Blackwater Canyon since Crites and his company bought large portions of the area in the late 1990s. Groups have opposed logging in the area, as well as a now-defunct plan by Crites to develop the area.

The latest dispute focuses on logging notices filed in late 2009 and earlier this year by Allegheny Wood Products for about 440 acres in the canyon. Conservation groups are concerned about the logging's impacts on vital habitat for the Indiana Bat, the Virginia Big-Eared Bat and the Cheat Mountain Salamander.

Under the Endangered Species Act, it is against the law to kill an endangered species or destroy critical habitat without first obtaining a permit to "take" that species. These permits cannot be issued unless the party seeking them has first prepared a conservation plan that outlines efforts to minimize the damage.

In their legal notice, the conservation groups note that the Fish and Wildlife Service has advised Allegheny Wood Products to obtain a permit before it proceeds with logging in the canyon. As recently as December 2009, the agency warned the company to "resolve these issues before continuing timber cutting on your lands in the Blackwater Canyon."

"It has become clear that AWP has decided simply to disregard the Service's prior conclusion that the cutting of any of AWP's property in Blackwater Canyon risks either a direct or indirect take of listed species," the legal notice said.

"The logging of trees in the habitat of these three listed species causes direct and indirect take, including not only by the removal of trees, but through disturbance of habitat and impairment of behavioral patterns caused by logging, as well as by the traffic going up and down the mountains in connection with these activities," the notice said.

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