Groups Back EPA, Try To Join Poultry Suit

VICKI SMITH,Associated Press

MORGANTOWN, W.Va. (AP) — Several environmental groups want a federal judge to let them join a lawsuit by a West Virginia chicken grower who is challenging new water-pollution rules aimed at cleaning up the Chesapeake Bay watershed.

U.S. District Judge John Preston Bailey has already allowed the American and West Virginia Farm Bureaus to intervene in Lois Alt's complaint against the U.S. Environmental Protection Agency. She wants the court to stop the EPA from imposing new permitting rules on her Eight is Enough farm in Hardy County, arguing the agency is overstepping its legal authority.

The farm bureaus argue the outcome of the case has implications for poultry farmers nationwide, and an EPA victory could require them to seek discharge permits that they don't all currently need.

Now Potomac Riverkeeper, West Virginia Rivers Coalition, Waterkeeper Alliance, Center for Food Safety and Food & Water Watch want to join. They said Friday they support the EPA's goal of cleaning up the watershed and say Alt's farm should not be exempt from the Clean Water Act.

Concentrated animal feeding operations, or CAFOs, are major pollution sources that discharge nitrogen, phosphorus and fecal bacteria into waterways the public has a right to enjoy, they argue. Those pollutants can make waterways unsafe for swimming and trigger algae blooms that choke off oxygen, endangering fish and other aquatic creatures.

"We cannot afford to have our delicate and valuable waterways become dumping grounds for factory farms," said Angie Rosser, director of the West Virginia Rivers Coalition.

The complaint filed Thursday says farms and other agricultural facilities are the biggest source of pollution to the Chesapeake Bay, "resulting in the slow death of a water body that was historically one of the most productive and biologically diverse estuaries in North America."

Alt sued the EPA in June, acknowledging that there is waste-tainted runoff from her farm. But she argues it's agricultural storm water, not "process wastewater" that would be subject to regulation under the Clean Water Act.

She wants the court to set aside the EPA's order, which could result in fines of up to $37,500 a day if she's found in violation of what she calls an arbitrary, capricious and illegal action.

Last fall, the EPA determined that dust, feathers and fine particles of dander and

manure from Alt's poultry house ventilation fans could land on the ground, come into contact with storm water and flow into ditches, eventually reaching Chesapeake Bay tributaries.

The EPA is focused on protecting the watershed, which encompasses parts of Delaware, Maryland, New York, Pennsylvania, Virginia and West Virginia, and all of the District of Columbia.

"This case should not be used as a tool to create new exemptions from established and vital environmental laws," said Andrew Kimbrell, executive director of the Center for Food Safety. "Factory farms cannot be allowed to use the Potomac — or any waterway — as a private sewer."

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