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Reservoir lawsuit arguments to be heard

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KING WILLIAM – Three environmental groups and the Mattaponi Indian Tribe are expected to present oral arguments in federal court next week in a suit they hope will revoke the reservoir project's federal permit.

The Chesapeake Bay Foundation, Alliance to Save the Mattaponi and the Sierra Club, along with the tribe, argue that the Army Corps violated the Clean Water Act (CWA) and the National Environmental Policy Act by issuing a permit for the King William Reservoir in late 2005. Since the EPA has the right to veto the permit, they argue they are also in violation of both acts.

The plaintiffs filed a 45-page brief with the D.C. court setting forth all of their factual and legal arguments in July of 2008.

According to Deborah Murray of the Southern Environmental Law Center, attorney representing the environmentalist groups, under the CWA a federal agency has the right to prohibit a permit's issuance if it will cause significant degradation and if there is another available option. The plaintiffs argue the King William Reservoir project will cause significant damage and is not the city's only option.

The EPA has the power to veto the permit if the project will have unacceptable and/or adverse affects on the environment. Murray said the agency originally took the position that the project would be damaging but still did not utilize its veto authority.

“We are asking for relief that will send the original decision back to the Corp to reconsider both under the Clean Water Act and the National Environmental Policy Act,” said Melanie Heiss Boerger, a legal representative for the tribe.

The three environmentalist groups filed the original lawsuit in 2006. The Mattaponi Indian Tribe joined the claim in 2007.

Oral arguments from all sides will begin at 11 a.m. on January 23 in court 27A before Judge Henry Kennedy. Boerger said, although it's rare, some judges do rule from the bench, but it is unknown when a decision in the case will be rendered.