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[Environmental Groups Score Victory in Selenium Lawsuit \(/full-blog/2011/12/environmental-groups-score-victory-in.html\)](#)



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By: Raabia Wazir, Staff Member

On October 3, 2011, a coalition of conservation and environmental groups completed a two million dollar settlement with Arch Coal and its subsidiaries over continued and repeated selenium violations at six coal mining sites in southern West Virginia.[1] Selenium is a natural occurring element that poses no threat to humans when present in low levels, but when it exceeds Safe Drinking Water Act threshold levels of 0.05 parts per million, selenium exposure can cause damage to the liver, the kidneys, and to the nervous and circulatory systems.[2] In fish and other wildlife, ingestion of toxic amounts of selenium can cause total reproductive failure, birth defects and damage to gills and internal organs.[3]

The settlement is the most recent of a series of legal victories for groups trying to force the coal industry to clean up runoff pollution from mines into surrounding streams and ground water. The fight over selenium began in 2003, when the EPA released the Draft Programmatic Environmental Impact Statement on Mountaintop Mining/Valley Fills in Appalachia, a broad federal report that turned up repeated violations of selenium water quality standards. [4] In 2004, a U.S. Fish and Wildlife Service reported further selenium problems downstream from major mining operations.[5]

Most significantly, last year, U.S. District Judge Robert Chambers cracked down on the coal industry for failure to meet compliance deadlines for selenium cleanup in *Ohio Valley Environmental Coalition, Inc. v. Hobet Min., LLC*[6] and *Ohio Valley Environmental Coalition, Inc. v. Apogee Coal Co., LLC*[7] for violations of the Clean Water Act (CWA) and the Surface Mine Control and Reclamation Act (SMCRA). Judge Chambers ordered the Patriot Coal subsidiaries to install a “fluidized bed reactor” to biologically treat water discharge from the mine, the corporate-wide cost of which was disclosed by Patriot to be nearly 400 million dollars over 30 years.[8] Lawyers for the citizens groups involved in the suits argued that these costs indicate that selenium-contaminated sites should not be permitted at all because “treatment becomes a long-term responsibility that could outlive the coal companies and then fall on the public.”[9] However, despite continued legal victories by environmental activists, currently no such restrictions have been enforced.

[1] Press Release, Ohio Valley Environmental Coalition, Groups Secure Agreement from Arch Coal to Treat Pollution from Coal Mines (October 3, 2011), http://www.ohvec.org/press_room/press_releases/2011/10_03.html (http://www.ohvec.org/press_room/press_releases/2011/10_03.html).

[2] Sierra Club, Toxic Selenium: How Mountaintop Removal Coal Mining Threatens People & Streams (April 2009), *available at* <http://www.sierraclub.org/coal/downloads/Seleniumfactsheet.pdf> (<http://www.sierraclub.org/coal/downloads/Seleniumfactsheet.pdf>).

[3] *Id.*

[4] Ken Ward Jr., *Selenium showdown: Key hearing over coal's water pollution begins today before Judge Chambers*, The Coal Tattoo (August 9, 2010), <http://blogs.wvgazette.com/coaltattoo/2010/08/09/selenium-showdown-key-hearing-over-coals-water-pollution-begins-today-before-judge-chambers/> (<http://blogs.wvgazette.com/coaltattoo/2010/08/09/selenium-showdown-key-hearing-over-coals-water-pollution-begins-today-before-judge-chambers/>)

[5] *Id.*

[6] *Ohio Valley Envtl. Coal., Inc. v. Hobet Min., LLC*, 723 F. Supp. 2d 886 (S.D.W. Va. 2010).


[7] *Ohio Valley Envtl. Coal., Inc. v. Apogee Coal Co., LLC*, 744 F. Supp. 2d 561 (S.D.W. Va. 2010).

[8] Ken Ward Jr., *Environmental groups hail selenium ruling as 'game changer'*, West Virginia Gazette. September 1, 2010, <http://wvgazette.com/News/MiningtheMountains/201009010983> (<http://wvgazette.com/News/MiningtheMountains/201009010983>).

[9] *Id.*

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Mining companies may have the obligations when it comes to doing mining activities. However, we people must not only put the burden or blame on them alone. We also have to do our parts as responsible citizens of the world. Thus, we can make a chance in our little ways. We need to ensure that thrashes and garbage are thrown in correct receptacles and containers. We can always get a service from a company that offer a dumpster container rental service. This little way will surely give a big change and difference.

 **mining equipment** 7 years ago · 0 Likes

These mining companies should take extra care and precautions when they do mining activities. If they cannot avoid to hurt the environment, maybe they can do something to at least lessen the damage. In this case, chances of making the environment cleaner and livable can still be achieved.

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