

Groups Sue Biden Administration Over West Virginia's Grossly Underfunded Mine Reclamation Program

Decades of industry-friendly oversight has set the stage for a reclamation crisis

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HUNTINGTON, WV -- Today, the Sierra Club, Ohio Valley Environmental Coalition and West Virginia Highlands Conservancy, filed a lawsuit against the U.S. Office of Surface Mining, Reclamation, and Enforcement (OSMRE) over its failure to require needed improvements and stronger requirements for West Virginia's federally-approved surface mining program to ensure coal companies fully fund reclamation bonds. West Virginia's existing "bond pool" is insufficient for insuring the full costs of reclamation amid the rapid, nationwide decline of the coal industry.

The state's reclamation bonding and regulatory programs are meant to clean up abandoned mine sites and protect drinking water from pollution.

Last year, the West Virginia Department of Environmental Protection (WVDEP) admitted to the crisis, and took the unprecedented step of asking a state court to place a failing mine operator into receivership. Among the justifications given to the court by WVDEP was the potential failure of one of the state's primary surety bond providers and the need to avoid exhausting the state's emergency "Special Reclamation Fund" for mine cleanup.

The lawsuit filed today asserts that OSMRE failed to satisfy its duty under the Surface Mining Control and Reclamation Act (SMCRA) to determine if improvements to West Virginia's surface mining program are required. This follows a lawsuit filed last year by the same plaintiffs which compelled WVDEP to notify the federal Office of Surface Mining that its reclamation bonding program was grossly inadequate.

The groups bringing today's lawsuit are represented by attorneys with Appalachian Mountain Advocates. [View the filing here.](#)

Attorneys for the plaintiffs and a Morgantown resident released the following statements:

"It's unfortunate that this lawsuit even needs to be filed. The response from OSMRE last year, following our suit compelling WVDEP to notify the federal agency of the dire financial situation of its reclamation programs, failed to meet the moment. Hopefully, under the Biden administration, OSMRE will be up to the challenge of requiring adequate and reliable reclamation funding not just in West Virginia but around the country. The bill for state regulators' industry-friendly reclamation bonding policies has come due. Who will pay for it? The federal government has a responsibility here and we hope OSMRE doesn't shy away from it." -- **Peter Morgan, Senior Attorney, Sierra Club's Environmental Law Program**

"For the last nine years, we've looked out our windows onto a strip mine where neighboring farms used to be. In 2014, the mining company, after taking their profits, declared bankruptcy and vanished because the bond money was less than a tenth of what was needed to reclaim the land. We are left with badly built sediment ponds that make our streams run red with iron and white with aluminum. Who would eat deer meat from animals forced to drink this water? This mine is just one of many in our state that have

been abandoned because there is no financial benefit to a coal company to reclaim it. This is the curse of West Virginia. Too many coal companies have benefited at the expense of the people and the land. These sites must be cleaned up if there is to be a future for the people and wildlife who still call this state home.” -- **Betsy Lawson, western Monongalia County resident**

“For decades the state regulatory agency has responded to administrative and legal actions by citizens with mere tweaks to the program. These less than substantive changes have only postponed the inevitable failure of the whole system. It will take strong federal oversight by the Office of Surface Mining to bring WVDEP into compliance with the law, insist that industry bear the full cost of their actions, and spare the citizens of West Virginia further harm from un-reclaimed and polluting mining operations.” -- **Cindy Rank, West Virginia Highlands Conservancy.**

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