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The Government of Alberta's Commitment to Protect Alberta's Water from Selenium Pollution

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Matters Commented On: (1) Press Conference on the Coal Industry [Modernization](#) Initiative, December 20, 2024, (2) [Bringing Alberta Coal Mining into the 21st Century](#), and (3) [Your Province, Your Premier, January 25, 2025](#).

Over the course of the past ten months the Government of Alberta, through statements made by Premier Smith and Ministers Jean and Schulz, has committed to ensure that, going forward, the end of pipe discharge standard for selenium for all coal mines in the province will be 0 micrograms per litre (the zero-discharge standard) i.e., no new mines may operate or obtain permits to operate if there is any chance they could discharge any amount of additional selenium into surface or groundwater, or by windblown particulates.

This post documents that commitment and also argues that to assure Albertans that the government means what it says regarding the zero-discharge standard, the government must provide Ministerial direction pursuant to s 67(1) of the *Responsible Energy Development Act*, [SA 2012, c R-17.3](#) to the Alberta Energy Regulator (AER). We also argue that the government should direct Alberta officials participating in the ongoing consultation with respect to the proposed Coal Mining Effluent Regulations under the federal *Fisheries Act*, [RSC 1985, c F-14](#) to provide scientific and policy advice in support of the zero-discharge standard and that such standard must be enshrined in any new statutes or regulations that are developed to implement the Coal Industry Modernization Initiative (CIMI) announced on December 20, 2024.

Each of the authors of this post have criticized many elements of the Government of Alberta's coal policy over the last five years, beginning with the May 2020 revocation of the Lougheed-era 1976 Coal Development Policy. That decision unleashed a spree of coal leasing and exploration activities on significant tracts of land on the Eastern Slopes of the Rockies. Individually, we have also criticized many of the decisions that followed, including the political pressure asserted on the AER to treat the rejected Grassy Mountain Project as "an advanced coal project", the decision to launch the CIMI in December 2024 and then, in January 2025, the Minister of Energy and Minerals, Brian Jean's decision to lift the moratorium on new coal exploration and development, even though work had hardly started on CIMI and regional land use planning had stalled out (see ABlawg post [here](#)).

Our purpose in writing this post is different. Instead of going over old ground we want to draw out and emphasize the significant and positive public commitment that the current government has

made (as highlighted in the introductory paragraph) to protect Alberta's water and watersheds from the negative environmental effects of potential future coal mining.

Our goal in doing so is three-fold. First, we wish to collect the key ministerial statements committing to the zero-discharge standard and to communicate that as clearly as possible to readers of ABlawg, all Albertans and the commercial media. Second, we seek to establish this record as a touchstone against which Albertans can measure the actual practices of the current government and future governments over the coming years. We do not make the claim that the zero-discharge commitment is legally enforceable, but we do make the claim that the commitment is politically significant. Furthermore, the commitment should serve as a warning to coal industry investors as to the selenium discharge standard they will be required to meet. Third, we offer recommendations as to how the government can operationalize the commitment, both in the short term and the long term.

The next section summarizes the key elements of the commitment (supported by verbatim quotations in the Appendix). This is followed by three key recommendations on the implementation of the commitment and some concluding comments.

The Commitment to a Zero-Discharge Selenium Standard

We find support for the Government of Alberta's commitment to the zero-discharge selenium standard for coal mines in three principal sources. The first is the CIMI Press Conference (December 20, 2024) convened by Minister Jean and Rebecca Schulz, Minister of Environment and Protected Areas. The second, is a promotional video featuring Minister Jean entitled "Bringing Alberta Coal Mining into the 21st Century", and third, Premier Smith's appearance on Your Province, Your Premier on January 25, 2025. The Appendix to this post contains a verbatim account of the zero-discharge commitment, but the key elements are as follows.

First, both Minister Jean and the Premier have committed that protecting water sources is the top priority and that the government will not put our water at risk in any way. Second, recognizing that the Eastern Slopes of the Rockies represent the headwaters for those downstream, both existing and new coal projects in the Foothills will need to prevent additional selenium leaching into Alberta's waters. Third, in the event that a proponent cannot demonstrate that its project can meet a zero-discharge standard for selenium, such a project must not be approved. Fourth, going forward there are no exceptions to the zero-discharge standard for selenium. Hence such a standard will be applied to projects currently being considered by the AER such as the Summit expansion project as well as new applications that may be filed with the AER such as a revised application for the Grassy Mountain project. Fifth, and in support of the zero-discharge standard for selenium, the government will not approve any new projects involving open pit mining or mountain-top removal.

Recommendations for Implementing the Zero-Discharge Standard for Selenium

We have three recommendations.

Our first recommendation is that, pending any new legislative guidance emerging from CIMI, Minister Schulz should implement the zero-discharge standard for selenium by issuing a Ministerial Order to the AER under s 67(1) of the *Responsible Energy Development Act*, which provides as follows:

When the Minister considers it to be appropriate to do so, the [Minister](#) may by order give directions to the Regulator for the purposes of

- (a) providing priorities and guidelines for the Regulator to follow in the carrying out of its powers, duties and functions, and
- (b) ensuring the work of the Regulator is consistent with the programs, policies and work of the Government in respect of energy resource and mineral resource development, public land management, environmental management and water management.

This would be consistent in part with what Minister Jean had to say at the CIMI press conference with respect to a question about the Grassy Mountain project. Minister Jean emphatically stated that while the Grassy Mountain project might be an exempt project for the purposes of the then existing moratorium, the AER would be obliged to apply the new selenium standard to existing projects, other projects currently before AER, as well as the Grassy Mountain project were a new mine application to come forward. While we are aware that the AER sometimes takes provincial policy into account of its own motion when rendering decisions (see for example its letter decision of [August 21, 2025, re Summit Coal](#) noting (at 4) that government policy precludes open pit and mountain top removal) the issue of zero discharge for selenium is significant and important enough to merit and require specific Ministerial direction.

A [recent media article](#) indicates that Northback Holdings (formerly Benga) will file a new application for the Grassy Mountain project once it has the results of its additional exploration activities authorized by the AER (see [2025 ABAER 006](#) and ABlawg post [here](#)). It needs to be crystal clear to Northback that it will be held to a zero-discharge selenium standard and that it will have the onus of convincing both provincial and federal regulators that it can meet this standard as part of any revised project application.

Our second recommendation relates to the ongoing consultation with respect to the proposed Coal Mining Effluent Regulations under the federal *Fisheries Act* (for the details of that consultation see [here](#)). We recommend that Minister Schulz direct her officials to provide scientific and policy advice in support of Alberta's zero-discharge standard for selenium in these proposed regulations in order to protect fish, fish habitat and public health. A common national standard will remove any incentive for coal companies to go jurisdiction-shopping for more lax regulatory standards thus ensuring a level playing field for all. This would also be consistent with a statement in the [Draft Upper Smoky Sub Regional Plan](#) released in March 2025 to the effect that:

In alignment with the observations from the Coal Policy Committee (2021), The Government of Alberta continues to work with the Government of Canada to implement the forthcoming Coal Mining Effluent Regulations to align with national water quality limits for effluent released from coal mines. This will reduce the risks to water quality by limiting levels of harmful substances in coal mining effluent. (at 28)

Our third recommendation is to ensure that the zero-discharge standard for selenium is enshrined in any new statutes or regulations that are enacted to implement CIMI. At that point, it should be possible to revoke the Ministerial Order referred to in our first recommendation.

To Conclude

We recognize that if the mining methods and technologies do not currently exist to achieve a zero-discharge standard for selenium, the net result may well be that no new coal mines, and no expansions of existing mines will be permitted in the Eastern Slopes. That may be disappointing to coal companies, but that is what the government has committed to. And that is what the government must demand of the industry to protect the welfare of downstream water users including protecting Alberta's diverse agricultural industry from the bioaccumulation risks associated with selenium and to ensure the maintenance and integrity of healthy aquatic ecosystems. Indeed, Minister Jean acknowledged precisely this possibility when he introduced the CIMI in December 2024. While Minister Jean may hope or even believe that existing or eventual selenium removal technologies can comply with a zero-discharge standard, Minister Jean and Premier Smith have both promised Albertans, that if a proponent cannot prove to the satisfaction of the AER that it can meet that standard, such an application should not be approved and there should be no Ministerial override or other political interference with the AER's technical assessment.

Appendix: Ministerial Statements Committing Alberta to a Zero-Discharge Selenium Standard

CIMI Press Conference

Quotations attributed to Minister Jean:

2:36 – “protecting our water will be our top priority”

8:15 – “we must protect the water”

4:07 – “we will not put our water at risk in any way”

3:18 – “our work may include amendments to the Coal Conservation Act and the Mines and Minerals Act and other associated regulations, rules and directives”

2:42 – “if coal mining is allowed it will only be allowed to the highest possible standards, Alberta's new standards for coal mining will be among the best in the world and the best in Canada”

4:08 – “We will not put our water at risk in any way, protecting our waters will be a top priority when considering new mining projects. The Foothills are the headwaters for most of Southern Alberta and these waters will be protected. Any existing or new coal project in the Foothills will need to prevent additional selenium leeching into our waters.”

4:30 – “we will make sure that industry does whatever is necessary to keep selenium out of our water”

26:57 – “we are absolutely going to make sure that companies have a plan to contain selenium”

4:20 – “any existing or new coal project in the Foothills will need to prevent additional selenium from entering or leaching into our waters”

13:21 – “let's be clear - if [the technology] does not exist [to prevent selenium from entering our waterways] coal development is not going to happen”

20:16 – “there are absolutely no exceptions [including Grassy Mountain] to the no further discharge of selenium into our waterways.”

Quotations attributed to Minister Schulz:

16:33 – “we as Government set the standard and we set the benchmark for what [selenium] levels are acceptable and what levels are not acceptable in our water based on research and science”

11:10 – “the AER is responsible for upholding Alberta's environmental standards for air, land and water throughout the life of every project”

11:18 – “I expect that every single rule and regulation will continue to be followed absolutely no exceptions”

25:46 – “[in response to a question as to whether you guarantee that there won't be a selenium problem if Grassy Mountain goes ahead] our job [Alberta Environment and Parks] is to set the environmental standards and the AER is the arm's length regulator who then ensures that any and all companies adhere to the high standards [we set and] if they are not the AER has a number of levers to ensure they are either brought into compliance or they are not operating”

Promotional Video: Bringing Alberta Coal Mining into the 21st Century

Minister Jean:

0:24 – “for us it's a priority to ensure the protection of our water and environment while ensuring we are able to be part of this critical sector”

0:53 – “I cannot say it loud enough we are banning mountaintop removal and banning any new open pit mines in the foothills. We must protect our waterways and any future application will have to use the latest techniques and technologies to prevent disturbance of overburden [and] the rocks above the coal. This will help prevent contaminants like selenium from ending up in our waterways. Mining companies will also need to take further precautions to keep any extra selenium from ending up in our creeks our rivers our ponds and our runoff.”

2:30 – “we will [allow mining] while protecting the Foothills and protecting our water.”

Your Province, Your Premier

Premier Danielle Smith, Starting at approximately 10:57:

"No one wants to see open pit mining in our mountains. No one wants to see mountain top removal and everybody is very concerned about what happens when you have selenium run off...because that's the problem if you do open pit mining and mountain top removal, when you have rain exposed coal, selenium can leach into the water.

“We have heard that loud and clear, as per our policy in December was to ban open pit mining and to ban mountain top removal.

“We don't want to disturb the surface and we don't want to see selenium get into the water.

...

“So I think people should be rest assured we're just not going to allow for development that is going to have that kind of impact on our water but we also can't take an anti-mining approach because we can't achieve any of our targets ...we can't achieve our green energy targets if we're not prepared to do any mining to get those critical minerals, so I know the conversation is challenging, but this is the reality that we have to have happen, how do we get the things that we need while having the least impact on the environment ...

“no open pit mining...

“no mountain top removal...

“protect the water from selenium... that's what we heard and that's what we're doing...”

Premier Danielle Smith, starting at approximately 13:38:

“They [the coal companies] are not going to able to do it (mine) if they can't live up to those commitments [no selenium].

This post may be cited as: Nigel Bankes, David Luff, and Neil Kathol, “The Government of Alberta’s Commitment To Protect Alberta's Water From Selenium Pollution” (1 October 2025), online: ABlawg, http://ablawg.ca/wp-content/uploads/2025/10/Blog_NB,DL,NK_SeleniumPoll.pdf

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