

Bailey Glasser Files Motion to Dismiss Suit Challenging West Virginia's Bonding System

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On August 12, Bailey Glasser filed a motion on behalf of the West Virginia Department of Environmental Protection (WVDEP) seeking to dismiss a lawsuit brought by the Ohio Valley Environmental Coalition and other environmental groups. The suit alleges that West Virginia's surface mining regulatory program is insufficient to ensure the reclamation and environmental remediation of former coal mining sites in the State.

The court filing states the lawsuit is an attempt to relitigate claims decided against the environmental groups roughly 20 years ago and should be dismissed. Courts said then that the WVDEP had sovereign immunity for alleged violations of the State's bonding program. According to WVDEP's motion to dismiss, sovereign immunity bars the new suit as well, as the environmental groups again challenge the bonding program's sufficiency.

In the suit, the environmental groups seek a declaration from the court finding that, contrary to WVDEP's determination, certain pending and potential insolvency proceedings threaten the bonding program's solvency and directing WVDEP to notify federal regulators about the bonding program's deficiencies.

Bailey Glasser lawyers Benjamin Bailey, Kevin Barrett, and Maggie Burrus represent WVDEP in this matter. John Ailes, a former Director of WVDEP's Division of Mining and Reclamation and a Bailey Glasser investigator, is assisting on the matter as well. Bailey Glasser represented WVDEP in the earlier suit as well.

Attorneys

John C. Ailes, Jr.

Benjamin L. Bailey

Kevin W. Barrett

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Maggie B. Burrus

Practice Areas

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