

# West Virginia Regulator Enters Into Agreement Providing \$325 Million In Funding For Mine Reclamation In West Virginia

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**Charleston, WV** – The West Virginia Department of Environmental Protection has entered into definitive documentation of its previously announced agreement in principle with the state’s largest coal operator, Alpha Natural Resources, which filed for bankruptcy in August 2015.

Alpha filed the DEP agreement today, along with similar agreements with the other States in which Alpha will continue to operate, as well as several agencies of the United States, with the court overseeing Alpha’s bankruptcy case. The bankruptcy court also entered an order approving the agreements and confirming Alpha’s bankruptcy plan. A closing is expected to occur later this month.

As previously announced, DEP’s agreement with Alpha, now with an undiscounted value of more than \$325 million to the State of West Virginia, will pave the way for the bonding and reclaiming of all of Alpha’s legacy liability sites in West Virginia, as well as its continuing operations in West Virginia.

Under the agreement, the surety bonds Alpha previously posted to obtain its mining permits will remain fully in place. But Alpha, West Virginia’s last remaining self-bonded coal company, will post an additional \$100 million in surety and other forms of bonds to replace all of the self-bonds at its active and inactive mining sites in West Virginia. Alpha will also immediately post \$39 million in letters of credit or cash bonds as financial assurance for the performance of Alpha’s reclamation and water treatment obligations at its other remaining self-bonded sites in West Virginia.

Alpha has committed, moreover, to post bonds for, and reclaim and treat water at, all its remaining mining sites, including sites in other States and sites at which it has ceased mining operations, over time. To that end, Alpha and its secured creditors have committed to provide at least an additional \$229 million in secured funding. Of that amount, Alpha has committed to provide at least \$124 million of funding for reclamation and water treatment over ten years, with a further commitment

## WEST VIRGINIA REGULATOR ENTERS INTO AGREEMENT PROVIDING \$325 MILLION IN FUNDING FOR MINE RECLAMATION IN WEST VIRGINIA

to provide half of its excess operating cash flow over and above that amount for reclamation and water treatment at its legacy sites. The purchaser of Alpha's Wyoming and other operations, an entity formed by Alpha's secured creditors, has agreed to provide the remainder of the funding—an additional \$55 million in reclamation and water treatment funding over the next five years, as well as a guaranty Alpha's excess operating cash flow commitment, up to an additional \$50 million. West Virginia's share of the \$229 million in funds committed to reclamation and water treatment will exceed eighty percent for at least the first two years.

Kevin W. Barrett, a Bailey Glasser partner and Special Assistant Attorney General for the State in connection with the Alpha and other coal company bankruptcy cases, called the agreement "ground-breaking." He added, "Not only does the agreement secure the commitment of Alpha and its secured creditors to fully bond and reclaim all of Alpha's mining sites in West Virginia, it marks the first time that a large coal company has committed to remain in business and continue to operate for the primary purpose of reclaiming its legacy mining sites.

*Founded by Ben Bailey and Brian Glasser in 1999 in Charleston, West Virginia, Bailey Glasser LLP has grown to include 52 lawyers, with offices in nine states and the District of Columbia. The firm's complex litigation practice focuses on high-stakes commercial litigation; class actions for consumers, insureds, investors, and retirement plan participants; catastrophic injury and defective product cases; antitrust; and whistleblower lawsuits. The firm has extensive experience in energy law, and litigates energy cases in trial courts, bankruptcy courts, regulatory agencies, and appellate courts. It has a major corporate practice, and handles business matters ranging from assisting Chinese investors in acquiring US assets, to IPOs, to the negotiation and execution of billions of dollars in commercial transactions.*