

# WVDEP and Alpha Natural Resources Reach \$15 Million Settlement

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CHARLESTON, W.Va. – The West Virginia Department of Environmental Protection (DEP) has reached an agreement with Alpha Natural Resources valued at nearly \$15 million to resolve a recently filed lawsuit in the coal operator’s bankruptcy case. The settlement enhances DEP’s earlier settlement with Alpha and will provide additional bonding and other security for the coal operator’s ongoing reclamation obligations in West Virginia.

Under the earlier settlement, announced in June, Alpha has posted bonds and other collateral totaling nearly \$140 million with respect to its remaining mining sites in West Virginia. Alpha and Contura Energy Inc., which purchased a substantial amount of Alpha assets in July, have also committed to provide at least \$165 million to fund reclamation and water treatment in West Virginia.

In early November, five months after that agreement was finalized, Alpha announced a \$100 million error in the financial projections underlying its bankruptcy plan, which included the DEP settlement. The company simultaneously announced a new proposed settlement with Contura Energy and its former secured creditors that partially reduced that gap. However, DEP remained concerned about the effects of Alpha’s reduced cash flow projections and brought suit in Alpha’s bankruptcy case.

The new settlement resolves that lawsuit. Under the settlement, DEP has agreed to dismiss the complaint and release the defendants from liability relating to the error in the financial projections. In exchange, Alpha agreed to post its Julian (Boone County) headquarters building, which recently appraised for \$6.3 million, as collateral securing its remaining reclamation obligations in West Virginia.

In addition, Contura agreed to post a \$4 million letter of credit and issue a secured \$4.5 million guaranty of Alpha’s obligations, each through the end of 2018. By that time, Alpha expects its financial condition to return to the level projected in its prior bankruptcy projections.

## WVDEP AND ALPHA NATURAL RESOURCES REACH \$15 MILLION SETTLEMENT

“Once again, DEP’s bankruptcy strategy has helped to ensure that our state’s interests are protected,” said DEP Cabinet Secretary Randy C. Huffman. “The settlement provides the state with significant additional bonding and other security to ensure that reclamation will be done. It also helps to ensure that Alpha will remain a viable operating company with sufficient resources to perform required land reclamation and water treatment.”

The agreement is subject to approval of the bankruptcy court and the fulfillment of other conditions.

Kevin Barrett of Bailey Glasser’s Charleston, West Virginia, office represents DEP.

### **Attorneys**

Kevin W. Barrett

### **Practice Areas**

Bankruptcy & Business Reorganization