

United States and West Virginia DEP Both Object to Alpha Sale

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A recent article in SNL Financial discussed the objections from both federal and state environmental agencies to the proposed \$500 million sale of Alpha Natural Resource's core assets.

Bailey Glasser attorney Kevin Barrett of the firm's Charleston, West Virginia, office, is representing the West Virginia Department of Environmental Protection. DEP joined federal officials in expressing concern that the sale could leave Alpha without the resources to meet its environmental obligations.

The SNL article quoted the filing Barrett wrote extensively.

"Although Alpha proposes to continue to try to auction off and separately sell these other remaining operations, properties, and permits, it recognizes, as it must considering its inability to market those assets over the past four months or longer, the very real possibility that no bidder will emerge for the overwhelming majority of those operations, properties, and permits and that instead Alpha will need to provide some sort of mechanism pursuant to a chapter 11 plan for dealing with those remaining operations, properties, and permits and, in particular, the enormous nondischargeable environmental obligations associated with them," Barrett wrote.

The DEP filing warns that the sale could harm Alpha's ability to "clean up the mess left behind by its operations."

This could leave state taxpayers on the hook for hundreds of millions of dollars in cleanup costs.

"Alpha cannot simply walk away from those obligations in connection with these chapter 11 cases," the WVDEP wrote. "Its ongoing obligations to comply with the law cannot be discharged in bankruptcy."

Attorneys

Kevin W. Barrett

Practice Areas

Bankruptcy & Business Reorganization