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June 4, 2012

## VIA EMAIL AND HAND DELIVERY

Steven Ruby, Esq.  
Assistant United States Attorney  
U.S. Attorney's Office  
Southern District of West Virginia  
300 Virginia Street, East  
Charleston, WV 25301

Re: Alpha Natural Resources, Inc. and Alpha Appalachia Holdings, Inc.'s  
Report Pursuant to Paragraph 10 of the Non-Prosecution Agreement

Dear Steve:

On behalf of this firm's clients, Alpha Natural Resources, Inc., Performance Coal Company, Massey Coal Services, Inc., and Massey Energy Company, we write pursuant to Paragraph 10 of the Non-Prosecution Agreement dated December 6, 2011 entered into by the United States Attorney's Office for the Southern District of West Virginia (the "Office"), the United States Department of Justice, and Alpha Natural Resources, Inc. and Alpha Appalachia Holdings, Inc. (collectively "Alpha"), and attach hereto a summary report of Alpha's compliance with the Agreement which contains Alpha and its affiliates' confidential and proprietary commercial and financial information. We are also scheduled to meet with you today, and will address further specifics of Alpha's compliance efforts then.

Since the execution of the Agreement, Alpha has fully cooperated with the Office and has provided non-privileged information requested of it pursuant to Paragraph 9. Alpha has also continued to cooperate in connection with the Office's continuing criminal investigation and

has provided the Office with updates regarding its compliance with the Agreement as requested pursuant to Paragraph 10.

As detailed further in the attached report, among other things, Alpha has taken the following steps in compliance with the Agreement:

- On April 16, 2012, Alpha established the Alpha Foundation for the Improvement of Mine Safety and Health, Inc. (the “Foundation”), a nonprofit nonstock corporation organized under the laws of the State of Delaware. The Certificate of Incorporation provides, *inter alia*, that the Foundation will fund projects designed to improve mine health and safety, as required by Paragraph 6. The Office approved Dr. Michael Karmis, Dr. David Wegman and Dr. Keith Heasley as Directors, and they were appointed on April 25, 2012.
- Pursuant to Paragraph 7(c), on December 12, 2011, Alpha’s affiliate, Performance Coal Company (“Performance”), tendered to the Mine Safety and Health Administration (“MSHA”) \$10,798,519 for civil penalties associated with citations and/or orders issued by MSHA on December 6, 2011, in connection with its investigation of the Upper Big Branch explosion.<sup>1</sup> Pursuant to Paragraph 7(b), Performance also tendered \$1,250,000 to MSHA on January 5, 2012 for civil penalties associated with citations and/or orders issued to certain legacy Massey companies as a result of conditions which existed or conduct which occurred prior to or on June 1, 2011, which had not been assessed as of December 6, 2011. The same day, Performance also tendered \$2,500,000 to MSHA pursuant to Paragraph 7(d) to resolve all MSHA citations and orders that had become final orders of the Federal Mine Safety and Health Review Commission, which had been issued to certain legacy Massey companies as a result of conditions which existed or conduct which occurred prior to or on June 1, 2011. Following negotiations with MSHA regarding the scope of Paragraph 7(a), on February 22, 2012 Alpha moved on behalf of certain of its affiliates to withdraw the contest of certain citations, orders and/or proposed assessments pursuant to Paragraph 7(a) of the Agreement; an amended motion was filed on March 2, 2012. The Administrative Law Judge issued an order approving the amended motion on March 7, 2012. On March 14, 2012, Alpha’s affiliate, Massey Coal Services, Inc., tendered \$19,855,483.00 to MSHA for civil penalties associated with those citations, orders and/or proposed assessments that were the subject of the March 7 order. In a separate but related agreement, Alpha agreed that a total of \$800,516.60 would be paid for civil penalties associated with individual citations, orders, and/or proposed assessments related to legacy Cumberland operations. As agreed with MSHA, those civil penalties are being paid as the individual matters are resolved.

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<sup>1</sup> While the Agreement provided that Alpha would pay \$10,828,191 to MSHA to resolve certain citations and orders under Paragraph 7(c), those MSHA citations and orders subsequently totaled only \$10,798,519, which was promptly paid in full satisfaction of the civil penalties assessed on those citations and orders.

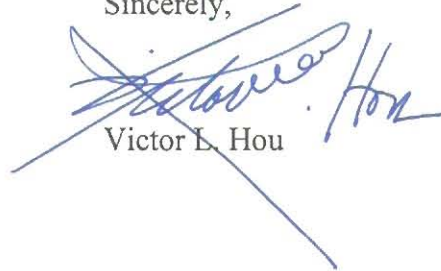
- Under Paragraph 5(i) of the Agreement, *Running Right* training was conducted for supervisors. *Running Right* training was also conducted for its mine site affiliate employees who had not already received training between June 1, 2011 and December 6, 2011. Alpha and its affiliates are also providing (1) at least 8 hours of safety skills classroom training for its affiliates' certified examiners; (2) at least 8 hours of annual skilled observations training for its affiliates' mine site personnel; and (3) at least 6 hours of compliance training, including training concerning respirable dust standards, 30 C.F.R. Part 50 accident reporting, and hazard reporting, for certified examiners.
- Pursuant to Paragraph 5(k) of the Agreement, certified examiner training incorporates manager training on countersigning examination books and the prohibition on advance notice of mine inspections.
- Alpha's affiliates also conducted emergency response training, including command center training, at their respective operations. Mock Emergency Response Drills ("MERDs") are planned for the future, and MERD training has been held.
- Pursuant to Paragraph 5(j), Alpha is in the process of developing an annual technical services training program on mine plan development and updates that will be provided to certain engineering and safety staff of Alpha's affiliates on an annual basis.
- Pursuant to Paragraph 5(a), Alpha's affiliates began meeting with potential system design firms regarding atmospheric monitoring sensors and have selected a supplier to move forward with developing the sensors. This project will require gaining MSHA's approval for system componentry. Additionally, Alpha, along with other industry partners, continues its support of Virginia Center for Coal and Energy Research's project on real-time comprehensive atmospheric monitoring of underground coal mines.
- As we previously discussed, Alpha's affiliates implemented plans within 90 days from the execution of the Agreement to meet all legal requirements relating to incombustible material and to prevent accumulations of coal dust and loose coal pursuant to Paragraph 5(b) of the Agreement. Alpha ensured that each mine operator had the staff and resources sufficient to meet all legal requirements, and over 80 cleanup plans were submitted. Internal confirmation that all underground mine operators were in legal compliance was completed by February 27, 2012. Alpha's affiliates have also conducted training regarding coal dust accumulations, cleanup, and reporting requirements for underground employees.
- Pursuant to Paragraph 5(c), Alpha has moved forward with constructing a new state-of-the-art safety training facility. The construction contract has been executed, permit approval has been received, investments in training technology have been made, the curriculum is being developed, and construction has begun on the project.

- Pursuant to Paragraph 5(d), by the end of the first quarter of 2012 Alpha's affiliates purchased a total of twenty additional coal dust explosibility meters for use in their respective underground mines. Training on the use of the explosibility meters was conducted. Alpha's affiliates conducted quarterly rock dust band sampling at each of their underground mines in the first quarter of 2012 and they have continued sampling into the second quarter.
- Alpha's affiliates continue to participate in the research and development of next-generation polymer enhanced rock dust technology, as required under Paragraph 5(e). They have met with vendors marketing the technology, as well as with the National Institute for Occupational Safety and Health ("NIOSH"), MSHA, the United Mine Workers, and the Pennsylvania Department of Environmental Protection ("PA DEP") to review polymer dust usage and testing and the status of the necessary regulatory approvals. As a result of discussions following an underground demonstration hosted by Alpha, NIOSH drafted a test protocol which was submitted to MSHA for review. Alpha is awaiting MSHA's response concerning the proposed testing protocol.
- Alpha has begun evaluating the installation of advanced oxygen cascading systems pursuant to Paragraph 5(f).
- Alpha has conducted safety compliance visits at each of its affiliates' underground mines in the past six months, in accordance with Paragraph 5(g).
- Pursuant to Paragraph 5(h), Alpha's technical services support team has continued to model and survey legacy Massey mines to improve their safety and operational design. This has been done on an as-needed basis, starting in December 2011, and will continue.
- Pursuant to Paragraph 5(l), Alpha has incorporated the legacy Massey Mine Emergency Plan ("MEP") into the Alpha MEP. Alpha has also expanded its catastrophic risk analysis and mitigation planning at former Massey operations. This integration was completed in mid-March 2012 and mine operational reviews are ongoing.
- Pursuant to Paragraph 5(m), Alpha has continued to implement a series of ethics and compliance enhancements across the company. Specific attention has been given to educating all affiliate mine operator employees regarding the prohibition on giving advance notice of inspections by mine safety and health officials.
- Pursuant to Paragraph 10, Alpha has certified upon information and belief that its affiliate mine operators are in compliance with the requirements set forth in 30 C.F.R. Part 48.

Steven Ruby, Esq., p. 5

Please do not hesitate to call me or Lev Dassin with any questions. We look forward to our meeting with you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Victor L. Hou", is written over a large, diagonal blue scribble that crosses out the signature area.

Victor L. Hou

Enclosures