

Alpha Natural Resources asks court to shred collective bargaining agreements

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Alpha Natural Resource has filed a petition with the US Bankruptcy Court in Richmond, Virginia asking permission to shred its collective bargaining agreements with the United Mine Workers of America (UMWA). The move threatens the living standards of the company's 610 current unionized employees, as well as 4,800 retirees and dependents.

The UMWA has been in negotiations with Alpha since December to maintain its contracts on the basis of imposing deep concessions on miners. In January, Alpha delivered the UMWA a proposal which would save the company \$60 million through reductions in wages, benefits and working conditions. The proposal also includes language, which would nullify the collective bargaining agreements entirely if unionized facilities assets are sold, a move currently underway.

For its part, the UMWA has delivered only a single counterproposal on March 9, which included \$2 million in concessions, the maintenance of collective bargaining agreements and language, which would facilitate it extending its franchise into Alpha's non-union operations. The UMWA bureaucracy is solely concerned with maintaining its flow of membership dues. In the end, it hopes it can cut a deal similar to those reached in the bankruptcies of Patriot Coal and Walter Energy, which will allow it to continue "representing" miners.

The Bristol, Virginia-based Alpha, which operates coal mines in Pennsylvania, West Virginia, eastern Kentucky, western Virginia and Wyoming, filed for Chapter 11 bankruptcy on August 3, 2015, at the time claiming it had \$10.1 billion in total assets and \$7.1 billion in debts. In its March 28 petition, the company complained it lost \$126 million in the first two months of the year on top of the \$1.47 billion it lost in 2015.

Alpha is currently operating on a \$692 million financial package from Citigroup and has hired the notorious Jones Day law firm to oversee its bankruptcy. Jones Day

specializes in anti-worker legal services and was involved in, among others, the bankruptcies of American Apparel in October 2015, Radio Shack in February 2015, the city of Detroit in 2013 and Hostess in 2011.

As detailed in Alpha's petition, the company has implemented a brutal cost-cutting campaign between 2012 and its bankruptcy filing in 2015, idling or closing more than 80 mines and laying off some 6,000 non-union workers and 450 union workers. Since 2013, Alpha has cut more than \$173 million in benefits to non-union workers, including eliminating prescription drug coverage, three holidays and employer matches to 401(k) retirement programs. It also implemented premiums for dental and vision coverage and dumped its retirees onto the Affordable Healthcare Act exchanges with reduced subsidies from the company.

However, as the March 28 petition makes clear, the attacks have only deepened since its June 2015 bankruptcy filing. Since then, Alpha has idled or converted to contract-mining status an additional 10 mines in Pennsylvania, Virginia and West Virginia, while laying off another 1,419 non-union workers and 248 union workers.

Alpha says its union "legacy" obligations are "daunting" and complains of having spent \$52.9 million on health care benefits in 2015 alone while its accrued retiree health care obligations had ballooned to \$872 at the time of its bankruptcy filing. While implementing wage cuts and freezes on its non-union workforce, Alpha claims that since 2011 wages have increased more than 15 percent.

According to its restructuring plan, Alpha seeks to achieve \$200 million in annual cost savings, including about \$60 million of which it says must be wrenched from its UMWA employees. If these savings cannot be achieved, the company warns it will be forced to liquidate its assets.

In a move reminiscent of the bankruptcies at Patriot and Walter Energy, Alpha has secured court approval to sell some of its core assets; however, all the potential qualified bidders have indicated that they will not purchase any assets, which retain UMW labor and legacy obligations.

Alpha was formed in 2002 with just seven employees and rose over the course of the next decade to become the nation's second-largest coal company through various acquisitions. It produces both thermal coal used in electricity generation and metallurgical coal for steelmaking. The company is heavily dependent on exports to the global market, including Europe and China, from which it derives nearly 40 percent of its revenue.

Following the deadly explosion at Massey Energy's Upper Big Branch (UBB) mine in April 2010, which killed 29 West Virginia coal miners, Alpha acquired the beleaguered company in a \$7.1 billion deal in June 2011 and subsequently reached a \$210 million settlement with the Obama administration granting immunity from any future corporate criminal liability associated with the UBB disaster. Following the acquisition, Alpha employed 14,500 employees and operated 145 coal mines and 35 coal preparation plants.

Alpha's acquisition of Massey gave it control of Massey's prized metallurgical coal holdings just as metallurgical coal prices were peaking in 2011 at \$330 per ton, driven in part by the Fukushima nuclear disaster in Japan and several typhoons disrupting the Australia coal industry that year. The move represented an optimistic bet on the global economy and continued demand for metallurgical coal from the emerging economies, in particular China.

However, in 2012 the economic crisis inaugurated in 2008 finally caught up with the coal industry, which has since entered an historic decline. Last year, China's economic growth slowed to its lowest rate in 25 years and analysts with Goldman Sachs forecast that benchmark metallurgical coal prices will fall to \$75 this year. More than 1.5 million coal miners and steelworkers are facing layoffs.

According to the US Energy Information Administration (EIA), US coal production in 2015 reached its lowest level since 1986. A January report in *Bloomberg Business* noted the "historic rout" being suffered by the coal industry, claiming, "Over the past five years, the industry has lost 94 percent of its market value, from \$68.6 billion to \$4.02 billion."

In addition to the collapse of the metallurgical coal

market, thermal coal has also faced increasing competition from cheap and abundant natural gas, the result of the development of horizontal drilling techniques and the increased use of hydraulic fracturing, or fracking, of the nation's underground shale formations. In its Short-Term Energy Outlook released in March, the EIA forecasted, "2016 will be the first year that natural gas-fired generation exceeds coal generation in the United States on an annual basis."

All of this has led to a raft of high-profile coal company bankruptcies, including Arch Coal in January, Walter Energy in July 2015, James River Coal in April 2014, Edison Mission Energy in December 2012 and Patriot Coal, first in July 2012 and again in May 2015. Last month, Peabody Energy—the world's largest coal producer—announced it was on the verge of filing for bankruptcy with coal producers Foresight Energy and Cloud Peak Energy indicating they are not far behind.

The UMW's response to the collapse of the coal industry and the attacks of the coal companies has been to promote the Democrats and the passage of the Miners Protection Act, legislation which would free up funds from the Abandoned Mine Reclamation Fund to pay for retired miners' health benefits, a move largely to protect the UMW's financial interests. Hostile to any struggle to unify miners internationally against the global energy giants, the UMW has joined the coal industry to promote economic nationalism.

At its most recent solidarity rally held on April 1 in Waynesburg, Pennsylvania, the union bused in some 5,000 miners and retirees from surrounding states for a march and speeches from union bureaucrats and Democratic Party politicians, which invoked religion and stoked nationalism.

One speaker was Ron Baker, a member of the Bakery, Confectionery, Tobacco Workers and Grain Millers Union and a coordinator of the reactionary nationwide boycott of Mexican-made Nabisco products. He spent his speech blasting the North American Free Trade Agreement and the Trans-Pacific Partnership for sending American jobs overseas.



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