REDACTED

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re **PATRIOT COAL CORPORATION, *et al.*,** **Debtors.**	**Chapter 11** **Case No. 12-51502-659** **(Jointly Administered)** **Objection Deadline:** **March 28, 2013 at 4:00 p.m.** **(prevailing Central Time)** **Hearing Date:** **April 10, 2013 at 10:00 a.m.** **(prevailing Central Time)** **Hearing Location:** **Courtroom 7 North**

DECLARATION OF BENNETT K. HATFIELD IN SUPPORT OF THE DEBTORS' MOTION TO REJECT COLLECTIVE BARGAINING AGREEMENTS AND TO MODIFY RETIREE BENEFITS PURSUANT TO 11 U.S.C. §§ 1113, 1114

Bennett K. Hatfield declares pursuant to 28 U.S.C. § 1746:

1. I am the President and Chief Executive Officer of Patriot Coal Corporation. I have been employed in this position by Patriot since October 2012. Prior to this role, I served as Patriot's Chief Operating Officer since joining Patriot in 2011. I have worked in the coal industry for more than thirty years, and during that time I have held various executive operating and commercial positions, including: President, Chief Executive Officer, and Director of International Coal Group, Inc.; President of the Eastern Operations of Arch Coal, Inc.; Executive Vice President and Chief Operating Officer of Massey Energy Company; and Executive Vice

President and Chief Commercial Officer of Coastal Coal Company. I also serve as a board member of the West Virginia Coal Association. I am familiar with the general day-to-day operations, business, and financial affairs of Patriot Coal Corporation and those of its subsidiaries that are debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, "**Patriot**" or the "**Debtors**").[1]

2. I submit this declaration in support of the Debtors' motion pursuant to 11 U.S.C. § 1113 and 11 U.S.C. § 1114 (the "**Motion**") for an order: (1) authorizing those Debtors (the "**Obligor Companies**") that are signatories to collective bargaining agreements with the United Mine Workers of America (the "**UMWA**") to reject such collective bargaining agreements (the "**CBAs**"); (2) implementing the terms of the Debtors' section 1113 proposal (the "**1113 Proposal**"); (3) authorizing the Debtors to terminate retiree benefits for certain of their current retirees; and (4) implementing the terms of the Debtors' section 1114 proposal (the "**1114 Proposal**" and, together with the 1113 Proposal, the "**Proposals**").[2]

3. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge, my review of relevant documents, information provided to me by

[1] On July 9, 2012 (the "**Petition Date**"), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions. For convenience, I use the term "Patriot" to refer to both the "Debtors" and the "Obligor Companies," as defined above.

[2] As discussed in the Declaration of Gregory B. Robertson, dated March 14, 2013, the Debtors have made four proposals. On November 15, 2012, Patriot made its original proposal to modify the CBAs pursuant to 11 U.S.C. § 1113 (the "**Original 1113 Proposal**") and its original proposal to modify retiree benefits pursuant to 11 U.S.C. § 1114, dated November 15, 2012 (the "**Original 1114 Proposal**," and together with the Original 1113 Proposal, the "**Original Proposal**"). On January 17, 2013, shortly after the UMWA made its first counterproposal, Patriot made revisions to its Original Proposal (the "**Second Proposal**"). On February 19, 2013, shortly after the UMWA made its second counterproposal, Patriot made revisions to the Second Proposal (the "**Third Proposal**"). On February 27, 2013, Patriot made further revisions to the 1114 Proposal in response to certain points raised by the UMWA (the "**Fourth Proposal**"). For the sake of convenience, I refer to the Original 1113 Proposal, as modified by the Second Proposal and the Third Proposal, as the "**1113 Proposal**," and the Original 1114 Proposal, as modified by the Second Proposal, the Third Proposal, and the Fourth Proposal, as the "**1114 Proposal**." True and correct copies of the Proposals are attached as Exhibits 1 through 5 to the Declaration of Gregory B. Robertson.

employees working under my supervision, or my opinion based upon my experience, knowledge, and information concerning the operations of Patriot and the coal industry as a whole. If called upon to testify, I would testify competently to the facts set forth in this declaration. Unless otherwise indicated, the financial information contained herein is unaudited and provided on a consolidated basis.

I. <u>The 1113/1114 Negotiations</u>

4. Since November 2012, I have led Patriot's negotiations with the UMWA regarding the Proposals. During that time, I participated in every formal negotiating session, as well as in numerous teleconferences with the UMWA's negotiating team. I have also exchanged a number of letters with the UMWA as part of our dialogue about the Proposals.

5. I have devoted a significant amount of time to this effort. All told, I have spent hundreds of hours in meetings with the UMWA, responding to the UMWA's many information requests, developing revisions to our Proposals, and otherwise trying to reach a compromise with the UMWA. Based on my extensive, personal involvement in this process, I am confident that Patriot has done everything possible to negotiate in good faith to seek a consensual deal.

6. Initially, I had anticipated that Patriot would file its application pursuant to Sections 1113 and 1114 earlier in the year. However, in order to give the negotiations with the UMWA every opportunity for success, I directed our advisors to wait until it was clear that no further progress with the UMWA was likely to occur without seeking relief from the Court.

7. I am disappointed that Patriot has been unable to reach a consensual deal with the UMWA. Although the issues we have discussed are difficult, I believe that a negotiated resolution would have been the best outcome for Patriot, the UMWA, and the thousands of families who are affected by Patriot's bankruptcy.

8. While Patriot stands ready to continue to negotiate with the UMWA, the company cannot afford to wait any longer to obtain this relief.

In short, if Patriot is unable to achieve the cash savings reflected in the Proposals, either through an order of the Court or a negotiated resolution, Patriot will be forced to liquidate and will be unable to provide jobs, wages, or benefits for any of the thousands of families who are relying on Patriot's survival. That would be the most tragic outcome for all.

II. Overview of Patriot's Business

A. Patriot's Operations

9. Patriot is among the leading producers and marketers of coal in the United States. As of December 31, 2012, Patriot conducted mining operations at eleven active mining complexes consisting of surface and underground mines in the Appalachia and the Illinois Basin coal regions. In total, Patriot controls approximately 1.8 billion tons of coal reserves, which are available for mining projects.[3]

[3] Many of the facts set forth in this declaration are also set forth in the Declaration of Mark N. Schroeder Pursuant to Local Bankruptcy Rule 1007-2, dated July 9, 2012 [ECF No. 4] (the "**Schroeder First Day**

10. Patriot employs a variety of mining methods, which include underground longwall mining, underground continuous mining, and surface mining. In underground longwall mining, a piece of cutting equipment is moved across a wide face or "wall" of exposed coal in an underground mine. In underground continuous mining, mine workers cut directly through underground seams of coal using large machines called continuous miners. With both methods of underground mining, coal is moved to the surface with the help of various machines, such as conveyor belts or shuttle cars. In surface mining, soil and rock are removed and coal near the surface is dug or cut out of the ground.[4]

11. Using these methods, Patriot mines two different types of coal: thermal coal and metallurgical coal. The type of the coal typically dictates the way in which the coal will be used and the customers who will purchase the coal. Thermal coal – also called steam coal – is sold primarily to electricity generators, who use the coal as fuel to produce electricity. Metallurgical coal is sold primarily to steel mills and producers of coke, which is a product used for the manufacture of steel.

12. After extracting the coal at the mine, Patriot crushes, sizes, and washes the coal at a preparation plant, and then sells the coal to a diverse base of domestic and international

Declaration"). On the Petition Date, Mr. Schroeder served as Patriot's Senior Vice President and Chief Financial Officer. In September 2012, Patriot's board of directors appointed John E. Lushefski to succeed Mr. Schroeder as Senior Vice President, Chief Financial Officer, and Principal Accounting Officer and appointed Mr. Schroeder to serve as Senior Vice President of Financial Planning. Effective November 2, 2012, Mr. Schroeder resigned from his role as Senior Vice President of Financial Planning and all other offices, employment, and directorships with Patriot and each of its affiliated entities. Due to the changes in Patriot's management team – and to affirm that, if called upon to testify, I would testify competently to the facts set forth in the Schroeder First Day Declaration – I reiterate certain facts already in the record.

[4] Patriot plans to decrease its reliance on surface mining. On November 15, 2012, Patriot and Ohio Valley Environmental Coalition, Inc., West Virginia Highlands Conservancy, Inc., and the Sierra Club entered into an agreement to settle certain environmental litigation. As part of the proposed settlement, Patriot agreed to certain restrictions on large-scale surface mining activities.

customers. In 2012, Patriot sold a total of 24.9 million tons of coal, which was a reduction of almost 20 percent from the 31.1 million tons sold in 2011. Seventy-five percent of the total volume was sold to domestic and international electricity generators and industrial customers, as well as brokers that ultimately sell the coal to those same types of customers. The remaining 25 percent of this coal was sold to domestic and international steel and coke producers, as well as brokers that sell coal to steel and coke producers. In 2012, 44 percent of the total sales volume was comprised of export sales, up from 29 percent during 2011.[5]

13. Approximately 65 percent of Patriot's 2012 coal sales were under coal supply agreements with a term of greater than one year. These term supply agreements specify the coal sources, quality and technical specifications, shipping arrangements, pricing, and other commercial provisions unique to agreements reached with each purchaser. Many of these agreements contain provisions that may result in price adjustments, including price re-opener provisions, which provide for price renegotiation at various periods, and provisions that adjust the base price for the cost impact at the source mine if certain events occur, such as changes in laws and regulations governing the production of coal. Coal sales made outside of these term agreements are subject to current market pricing, which can be significantly more volatile than the pricing structure negotiated through term supply agreements.

14. Patriot is the tenth largest coal-producing enterprise in the U.S. based on 2012 coal production and the sixth largest coal-producing enterprise based on 2012 revenues.

[5] In certain years, Patriot mines less coal than it actually sells to customers. When this occurs, Patriot typically makes up the difference by purchasing coal from other coal companies for later resale to customers. In 2011, for example, Patriot produced 28.7 million tons of coal but sold 31.1 million tons. The reason that Patriot purchases coal from other coal companies is not that it has insufficient coal reserves or an insufficient number of employees to mine the coal. To the contrary, Patriot purchases coal for resale for various reasons, including because its own production costs make purchasing coal more economical than mining the coal.

B. Patriot's Origins

15. Patriot Coal Corporation is the direct or indirect parent of each of the other ninety-eight Debtors. Prior to filing its petition for chapter 11 relief, Patriot's common stock was publicly traded on the New York Stock Exchange under the ticker symbol "PCX." Shortly after the Petition Date, Patriot's common stock was delisted from the New York Stock Exchange and it currently trades on the over-the-counter market.

16. Prior to October 31, 2007, Patriot and a number of its subsidiaries were wholly owned subsidiaries of Peabody Energy Corporation ("**Peabody**"), the world's largest private-sector coal company, and their operations were a part of Peabody's. On October 31, 2007, Patriot was spun off from Peabody through a dividend of all outstanding shares of Patriot. As a result of the spin-off, Patriot became a separate public company. A significant percentage of the employees at the Peabody operations inherited by Patriot were unionized.

17. On July 23, 2008, Patriot acquired Magnum Coal Company ("**Magnum**"). At the time of its acquisition by Patriot, Magnum was one of the largest coal producers in Appalachia, controlling more than 600 million tons of proven and probable coal reserves. Prior to that acquisition, Magnum itself acquired certain mining operations Arch Coal, Inc. ("**Arch**"). A significant percentage of the employees at these operations were unionized. As discussed in further detail below, Patriot inherited many of its current subsidiaries – and many of its retiree obligations – through these transactions.

C. Patriot's Active Workforce

18. As of February 28, 2013, Patriot collectively employed approximately 4,200 employees and contractors. These individuals include miners, engineers, administrative support staff, managers, directors, and executives.

19. Patriot employs both unionized and non-unionized workers. At present, approximately 41 percent of active employees are unionized and represented by the UMWA under collective bargaining agreements.

20. Approximately 2,900 Patriot employers are miners. Of that total, approximately 1,650 – or approximately 57 percent – are unionized and represented by the UMWA under collective bargaining agreements. The remaining 1,250 miners are non-unionized and receive market compensation.

21. As discussed below, Patriot's unionized employees receive a costly package of wages and benefits, including pension benefits, healthcare benefits, and other economic benefits.

D. Patriot's Collective Bargaining Agreements

22. Ten of the ninety-nine chapter 11 Debtors, the Obligor Companies, are signatories to collective bargaining agreements. The Obligor Companies are: Apogee Coal Company, LLC; Colony Bay Coal Company; Eastern Associated Coal, LLC; Gateway Eagle Coal Company, LLC; Heritage Coal Company LLC; Highland Mining Company, LLC; Hobet Mining, LLC; Mountain View Coal Company, LLC; Pine Ridge Coal Company, LLC; and Rivers Edge Mining, Inc.[6]

23. The CBAs signed by eight of the ten Obligor Companies mirror the terms of the National Bituminous Coal Wage Agreement of 2011 (the "**NBCWA**"). Since 1950, the NBCWA and similar predecessor agreements have been negotiated by the UMWA and the Bituminous Coal Operators' Association (the "**BCOA**"), a multi-employer association that

[6] Four of the Obligor Companies – Colony Bay Coal Company, Mountain View Coal Company, LLC, Pine Ridge Coal Company, LLC, and Rivers Edge Mining, Inc. – currently have no employees because they are not engaged in active mining operations.

represents mining companies in certain negotiations with the UMWA. Although Patriot's unionized subsidiaries are not members of the BCOA, the UMWA has historically insisted that all unionized coal companies sign a "Me-Too" agreement that binds these companies to the terms of the existing NBCWA. As a result, these eight entities are bound by the terms of the NBCWA.

24. The remaining two Obligor Companies, Highland Mining Company LLC and Gateway Eagle Coal Company, LLC, are signatories to collective bargaining agreements with the UMWA that differ in important respects from the NBCWA. These collective bargaining agreements are discussed in greater detail in the Declaration of Dale Lucha, dated March 14, 2013.

25. Through the CBAs, Patriot has become one of the largest employers of UMWA-represented miners in the United States. Specifically, as of February 28, 2013, approximately 41 percent of active employees – or approximately 57 percent of Patriot's miners – were unionized and were represented by the UMWA under collective bargaining agreements. By contrast, less than 11.4 percent of all miners currently employed in the United States coal industry are represented by the UMWA.

E. Patriot's Retirees

26. As of February 28, 2013, Patriot paid for or administered retiree healthcare benefits to approximately 21,000 individuals. As evidenced by the figures below, Patriot has far more retirees than active employees. As of February 28, 2013, Patriot paid for or administered retiree healthcare benefits to approximately 21,000 individuals. Of that total, Patriot paid the healthcare benefits for: approximately 8,100 retirees and dependents who receive benefits pursuant to the NBCWA; more than 2,300 retirees and dependents who receive benefits pursuant

to the Coal Industry Retiree Health Benefit Act of 1992 (the "**Coal Act**"); and approximately 1,200 non-union retirees and dependents. Patriot also administered benefits to approximately 9,200 additional retirees and dependents, although Peabody has a contractual obligation to pay for the healthcare benefits of this group (the "**Peabody-Assumed Group**").[7]

[7] In addition to the categories set forth above, Patriot makes contributions to the UMWA 1993 Benefit Trust and Plan (the "**1993 Benefit Plan**") under certain of the CBAs. The 1993 Benefit Plan provides health and other non-pension benefits to approximately 9,000 retirees and dependents who are unaffiliated with Patriot. See infra at ¶ 95(c).

Figure 1

Number of Individuals Covered by Patriot Healthcare Plans (Estimate as of February 28, 2013)			
	Employment Type	**Group (Primaries and Dependents)**	**Total**
Patriot	Represented	Active	4,450
		NBCWA	8,100
		Coal Act	2,300
		Other (Layoff, Extended)	400
		Represented subtotal	*15,250*
	Non-Represented	Active	6,600
		Retiree	1,200
		Other (Layoff, Extended)	400
		Non-represented subtotal	*8,200*
Peabody-Assumed	Represented	NBCWA	3,100
		Coal Act	5,000
	Non-Represented	Salaried	1,100
		Peabody-Assumed subtotal	*9,200*
Grand Total			**32,650**
Subtotal: Retiree Healthcare Paid for by Patriot (NBCWA, Coal Act, Non-Rep)			**11,600**
Subtotal: Retiree Healthcare Administered by Patriot			**9,200**
Subtotal: Active and Other Healthcare			**11,850**

27. Patriot pays for the retiree healthcare of approximately 10,400 people pursuant to the NBCWA or the Coal Act. This total includes many individuals who retired prior to the formation of Patriot: approximately 49 percent of these individuals last worked for Peabody or are a dependent of someone who last worked for Peabody; approximately 39 percent of these individuals last worked for Magnum or are a dependent of someone who last worked for

Magnum; and the remaining 12 percent are individuals who worked for Patriot or are a dependent of someone who worked for Patriot.

1. Peabody Spin-Off Transaction (October 2007)

28. Through the spin-off, Patriot inherited fifty-nine of Peabody's former subsidiaries and obligations to approximately 9,500 retirees who worked for companies once owned by Peabody.[8] As part of the spin-off, Peabody agreed to pay for retiree healthcare benefits for certain of those retirees. Specifically, Peabody or its applicable subsidiaries entered into three separate liability assumption agreements: (1) Section 9711 Coal Act Liabilities Assumption Agreement (the "**Coal Act Assumption Agreement**"); (2) NBCWA Individual Employer Plan Liabilities Assumption Agreement (the "**NBCWA Assumption Agreement**"); and (3) Salaried Employee Liabilities Assumption Agreement (the "**Salaried Assumption Agreement**" and, together with the Coal Act Assumption Agreement and the NBCWA Assumption Agreement, the "**Assumption Agreements**"). The Assumption Agreements set forth the obligations that Peabody has retained.

29. Under the Coal Act Assumption Agreement, Peabody Holding Company, LLC ("**PHCI**") assumed and agreed to pay all Section 9711 Coal Act healthcare liabilities of retirees of Patriot and its subsidiaries.[9]

[8] Certain of the entities acquired by Patriot in the spin-off are no longer in existence.

[9] At the time of the spin-off, Patriot understood that an exhibit to the Coal Act Assumption Agreement reflected a complete list of Coal Act retirees. However, Patriot later learned that approximately fifty Coal Act retirees were omitted from the exhibit because they had not timely responded to Peabody's annual document request for proof of continuing eligibility. These individuals later provided the necessary documentation and their benefits resumed. Peabody initially paid for these individuals but later refused on the grounds that such individuals were not listed on the exhibit to the Coal Act Assumption Agreement. Patriot has continued to pay retiree healthcare costs for these individuals.

30. Under the NBCWA Assumption Agreement, PHCI assumed and agreed to pay retiree healthcare liabilities for: (1) retirees of Peabody Coal Company – now Heritage Coal Company LLC – who had vested in a right to receive healthcare benefits and had retired from coal mine employment as of December 31, 2006, and did not thereafter return to employment with any company signatory to a labor agreement that requires the employer to provide benefits to its retirees; and (2) their eligible dependents.

31. Under the Salaried Assumption Agreement, PHCI assumed and agreed to pay retiree healthcare liabilities for salaried retirees of Peabody Coal Company who retired on or prior to December 31, 2006.

32. As of February 28, 2013, the Peabody-Assumed Group included approximately 6,000 retirees and approximately 3,200 dependents.

33. Patriot subsidiaries retained responsibility for all retiree healthcare costs not specifically covered by the Assumption Agreements and remain obligated to pay benefits for the Peabody-Assumed Group should Peabody fail to comply with its contractual obligations.

2. Magnum Acquisition (July 2008)

34. On April 2, 2008, Patriot, Magnum, and other entities entered into a merger agreement. As a result of the transaction, which closed in July 2008, Magnum became a wholly owned subsidiary of Patriot.

35. Prior to the Magnum acquisition, Magnum had entered into a purchase agreement with Arch. Pursuant to that agreement, dated December 31, 2005, Arch sold its Hobet 21, Arch of West Virginia, Samples, and Campbell's Creek mining operations, and certain related assets and agreements to Magnum. As noted above, a significant percentage of the employees at the Arch operations that were acquired by Magnum were unionized.

36. Through the Magnum acquisition, Patriot acquired thirty-two of Magnum's former subsidiaries – including certain subsidiaries that Magnum had previously acquired from Arch. Similarly, Patriot acquired obligations to approximately 2,300 of Magnum's retirees – including certain individuals who previously worked for Arch or its subsidiaries.

3. Investigations into Peabody and Arch and Related Disputes

37. In recent months, Patriot and the Creditors' Committee have conducted an investigation into the Peabody and Magnum transactions. There are at least two aspects of this investigation that may be relevant to the ongoing labor negotiations.

38. First, Patriot and the Creditors' Committee are investigating whether these transactions give rise to fraudulent transfer claims. This investigation is ongoing and Patriot does not expect it to conclude before a hearing on this motion commences.

39. Second, Patriot believes that Peabody will try to exercise a purported right under the NBCWA Assumption Agreement to reduce or eliminate its obligations to approximately 3,100 members of the Peabody-Assumed Group. Peabody recently stated that it may seek to reduce or eliminate its obligations should Patriot secure relief under Section 1114. To address this issue, Patriot is seeking a declaration from this Court that Peabody's obligations remain intact. If the Court does not rule in Patriot's favor in the declaratory judgment action, the Peabody-Assumed Group will be covered by the 1114 Proposal. If Patriot failed to structure the 1114 Proposal in this way, it could be responsible for paying additional healthcare costs that it cannot afford.

III. The Challenging Coal Markets

A. Market Trends

40. The United States coal industry is highly competitive, both regionally and nationally. Coal production in Appalachia and the Illinois Basin totaled approximately 418 million tons in 2012. Patriot was the six largest producer in those regions, behind Alpha Natural Resources, Inc., CONSOL Energy Inc., Alliance Resource Partners, L.P., Peabody, and Murray Energy. Combined, these six companies accounted for 56 percent of production in in Appalachia and the Illinois Basin in 2012. In addition to competition within the eastern United States region, coal is transported into the region from the western United States and by foreign producers for purchase by utility customers. Patriot accounts for 6 percent of eastern coal production.

41. Because Patriot sells substantial quantities of coal products to domestic and international electricity generators and steel producers, Patriot's business and results of operations are linked closely to global demand for coal-fueled electricity and steel products. As the domestic electricity markets increasingly turn to natural gas, and with the softening of the global steel markets, there has been a reduced demand for both thermal and metallurgical coal.

42. Over the last several years, coal's share of the United States electricity market and prices for thermal coal have both markedly declined. Large increases in natural gas production have occurred as a result of the discovery of shale gas deposits and technological advancements in drilling, causing the price of natural gas in the United States to fall. In 2012, the price of natural gas fell to a ten-year low. Moreover, the mild winter of 2011-2012 resulted in lower coal consumption for electricity generation. Heating degree days were 21 percent below normal in the first quarter of 2012. These factors, in turn, caused coal inventories at United States electricity producers to expand to over 200 million tons at the end of June 2012. Rail car

loadings for the first half of 2012 were consequently down 7 percent year-over-year, with the lowest loadings since 1994, due in large part to the decrease in coal-fired power generation, which was down 11 percent during 2012. As a result, coal prices fell dramatically and the coal industry as a whole was forced to reduce production, idle mines, and lay off workers.

43. Metallurgical coal – which varies from thermal coal primarily due to its coal chemistry and metallurgical characteristics – is suitable for carbonization to make coke for use in manufacturing steel. The demand for metallurgical coal is dependent on the strength of the global economy, and in particular on steel production in countries such as China and India, as well as Europe, Brazil, and the United States. In response to the recent global economic slowdown and distressed financial markets, the demand and price for metallurgical coal has also declined. For example, the Australian Hard Coking Coal Index, which is used by international and domestic buyers to determine pricing for metallurgical coal, declined approximately 50 percent, from $330 per metric ton FOB vessel during Q2 2011 to $165 per metric ton FOB vessel during Q1 2013.

44. This decline in demand and prices has had an adverse material impact on Patriot's business. During the first half of 2012, Patriot was approached by certain customers seeking to cancel or delay shipments of coal contracted for delivery under coal supply agreements. During that same period, two of Patriot's customers, Bridgehouse Commodities Trading Limited and Keystone Industries LLC, defaulted on their contractual obligations to purchase over two million tons of coal from Patriot at prices favorable to Patriot. On April 3, 2012 and June 1, 2012, Patriot filed lawsuits resulting from these breaches of contract.

45. In light of the decreased demand and pricing for both thermal and metallurgical coal, it has become uneconomical to operate certain of Patriot's mining complexes, and Patriot

has taken steps to reduce coal production to match expected sales volumes. In January 2012, Patriot announced the idling of four metallurgical coal mines and production curtailment at one additional metallurgical coal mine. In February and April 2012, Patriot announced the closure of additional mines due to reduced thermal coal demand. As discussed in greater detail in Section IV-B-1 herein, Patriot idled or closed additional mines in the second half of 2012. With the closure and idling of operations during 2012, approximately 1,200 employee and contractor positions were eliminated.

B. Decreased Demand Due to Regulation of Coal Consumers

46. The increased regulation of electricity generators has made it increasingly difficult for companies to use coal as an energy source. In particular, electricity generators face increasing difficulties in obtaining permits to build and operate coal-fueled power plants and face higher costs to comply with the permits received at such facilities.

47. The United States Environmental Protection Agency (the "**EPA**") has promulgated rules to limit air emissions of sulfur dioxide, nitrogen oxide, mercury, and pollutants from power plants. The cost of complying with such rules, including the Mercury and Air Toxics Standard, over the next several years is substantial and threatens to close all coal-fueled electricity generation units that are not equipped with the requisite pollution-control equipment.[10]

48. The EPA also proposed performance standards for certain new power plants that would significantly restrict the permissible emissions of carbon dioxide, a by-product of

[10] Another EPA rule, the Cross-State Air Pollution Rule ("**CSAPR**"), was finalized in July 2011. Although vacated by the federal courts in late 2012, I understand that electricity generators had already taken costly steps to comply with CSAPR's emission-reduction requirements.

consuming coal. The proposed standards anticipate that certain new coal-fueled plants would need to install carbon capture and storage technology, which currently is not economically feasible, or other expensive carbon dioxide emission-control technology to meet the proposed standard. Such performance standards would severely limit the future development of coal-fueled electricity-generating assets.

49. Electricity generators are also being required to use alternative energy sources. Many state governments have implemented renewable portfolio standards, which generally mandate that a specified percentage of electricity sales in the state be attributable to renewable energy sources, regardless of cost or efficiency. Congress has considered imposing a similar federal mandate.

50. Governmental agencies have also been providing grants and other financial subsidies to entities that are developing or selling alternative energy sources with lower emissions.

51. The combination of subsidies and mandates for renewable energy and the increasing cost of complying with new emission regulations has caused electricity generators to close existing coal-fueled facilities, reduce construction of new facilities, and further switch from coal to alternative fuels like natural gas and government-subsidized renewables, a trend that is likely to continue in coming years.[11]

C. Further Deterioration of the Coal Markets After the Petition Date

52. Coal markets have materially weakened since July 2012. This is a result of several factors, including: slowing global economies, which causes steel producers to rationalize

[11] Trends concerning capacity of coal-fueled facilities are addressed in the Declaration of Seth Schwartz, dated March 14, 2013 and the Declaration of Paul P. Huffard, dated March 14, 2013.

production and cut costs; continued strong competition from natural gas, which greatly reduces coal's share of electricity generation; and impending emissions regulation reducing coal-based generation and domestic demand for coal.

53. In particular, metallurgical coal markets weakened after the Petition Date. Global economic growth slowed – including in China, Europe, and the United States – resulting in a significant decrease in metallurgical coal demand and prices. Additionally, metallurgical coal production has increased, primarily in Australia, which has further weakened pricing and market demand for United States metallurgical coal.

54. The reduced demand for metallurgical coal has resulted in intense price competition. For example, the benchmark settlement for metallurgical coal for Q1 2013 decreased to $165 per metric ton FOB vessel, which is $85 per metric ton – or 34 percent – lower than the $250 average benchmark settlement over the last two years and $60 per metric ton – or 27 percent – lower than the benchmark as of the Petition Date. Based on recent quarterly benchmark settlements, pricing for coal produced at Rocklick and Wells is below the cost of production.

55. Thermal coal markets also continued to weaken after the Petition Date. Decreasing domestic demand has resulted in intense price competition and weak sales volume in Central Appalachia and the Illinois Basin. Decreased Chinese demand and increased international supply have slowed exports and have caused international prices to decline by approximately 5 percent since the Petition Date.

56. These developments have created demand shifts and downward price pressures that have adversely affected Patriot's financial performance, and that pose severe and immediate threats to Patriot's viability.

D. Patriot's Poor Financial Performance

57. Patriot's financial performance experienced a significant decline in 2012. For the year ended December 31, 2012, Patriot reported coal sales revenues of $1.9 billion, compared to $2.4 billion for 2011. This $500 million – or 21 percent – revenue decline was primarily driven by a 6.2 million ton decrease in coal sold. Patriot's net loss increased to $730.6 million for 2012 from a net loss of $139.1 million for 2011, for a two-year total net loss of $869.7 million. Patriot's Adjusted EBITDA of $96.9 million for 2012 dropped $79.8 million – from $176.7 million for 2011. Patriot reported negative free cash flow of $190.6 million for 2012 compared to positive free cash flow of $31.8 million for 2011.

58.

59.

Figure 2

IV. Patriot's Cost Structure

60. Patriot's cost structure is unsustainable because the cash required to operate its business and service its liabilities exceeds the cash Patriot generates from mining operations. Patriot's successful reorganization will depend primarily on whether Patriot can reduce its cash costs. Patriot has three categories of costs: (1) costs that generally cannot be modified in bankruptcy; (2) costs that can be modified in bankruptcy; and (3) costs that can be modified in bankruptcy only if Patriot complies with Sections 1113 and 1114 of the Bankruptcy Code.

A. Patriot's Costs that Generally Cannot Be Modified in Bankruptcy

61. It is my understanding that Patriot has incurred certain costs that generally cannot be modified in bankruptcy. The principal categories of these costs are obligations under the Coal Act, obligations under the Federal Coal Mine Health and Safety Act of 1969 (the "**Black Lung Act**") and other workers' compensation laws, and environmental obligations. As of December 31, 2012, the present value of these liabilities exceeded $1 billion.

1. The Coal Act

62. Patriot has obligations under the Coal Act. Under this statute, Patriot is responsible for providing health benefits and/or death benefits to certain groups of retirees. In 2012, Patriot spent approximately $14 million on its Coal Act obligations.

63. The Coal Act requires employers to provide health benefits, and in some cases death benefits, to retirees who were age and service eligible as of February 1, 1993 and who retired by September 30, 1994. Patriot administers an individual employer health plan to provide benefits to eligible beneficiaries.

64. Patriot's liabilities under the Coal Act also include required payments to two multi-employer funds: the United Mine Workers of America Combined Fund (also called the

"Industry Fund" or the "Combined Fund") and the 1992 Benefit Plan. These funds provide certain healthcare and death benefits to eligible retirees.

65. Patriot's Coal Act liabilities relate to approximately 2,300 individuals. As of December 31, 2012, Patriot estimates the present value of its Coal Act liabilities to be approximately $134.7 million.

66. It is my understanding that these Coal Act liabilities generally cannot be modified through Section 1114 and Patriot expects to continue to pay them.[13]

2. Workers' Compensation Laws

67. Patriot has obligations under the Black Lung Act and under state workers' compensation laws. Under these statutes, Patriot pays benefits for occupational disease and for work-related traumatic injury claims. In 2012, Patriot spent approximately $25.5 million on its Black Lung Act and related workers' compensation obligations.

68. The Black Lung Act provides monthly payments to, and medical treatment for, coal miners disabled from pneumoconiosis (black lung disease) arising from employment in or around the nation's coal mines.

69. In 2011, Patriot obtained from the United States Department of Labor the right to self-insure its Black Lung Act liabilities and, as a result, was required to post collateral to secure these obligations. In the first quarter of 2011, Patriot provided the Department of Labor with $15 million in treasury bills as collateral.

70. Patriot estimates that, as of December 31, 2012, the present value of its Black Lung Act liabilities was approximately $204.6 million. Patriot believes its future obligations

[13] Further, certain of the Debtors remain jointly and severally liable for the Coal Act obligations and secondarily liable for other obligations currently paid for by Peabody.

under the Black Lung Act may increase as a result of the Patient Protection and Affordable Care Act ("**PPACA**"), which was enacted in 2010 and amended the Black Lung Act.

71. In addition to its liabilities under the Black Lung Act, Patriot must pay for certain traumatic injury claims under various state workers' compensation laws. Patriot estimates that, as of December 31, 2012, the present value of the traumatic injury claims was approximately $74.5 million.

72. It is my understanding that, like the Coal Act liabilities, these liabilities generally are not modifiable in bankruptcy.

3. Environmental Reclamation and Mine Closure Obligations

73. Federal and state regulatory authorities impose obligations on the coal mining industry in a wide variety of areas, including environmental protection, the reclamation and restoration of mining properties after mining has been completed, surface subsidence from underground mining, and the effect of mining on surface and groundwater quality and availability. In 2012, Patriot spent approximately $90.4 million on environmental reclamation, water treatment (including selenium), and mine closure obligations, which was comprised of: (i) approximately $43.6 million in spending on selenium treatment and related activities; and (ii) approximately $46.8 million in spending on reclamation (which involves the restoration of surface land to conditions equal to or greater than pre-mining conditions), water treatment (excluding selenium water treatment), and mine closures.

74. Over the past several years, new regulations, new interpretations of existing laws and regulations, and citizen lawsuits brought by non-governmental organizations have also stressed Patriot's financial condition. Patriot has incurred hundreds of millions of dollars in

costs to comply with new laws and regulations, and will continue to incur significant compliance costs in the future.

75. In particular, regulatory agencies have been increasingly focused on the effects of surface coal mining on the environment, particularly as it relates to water quality, which has resulted in more rigorous permitting requirements and enforcement efforts. Among other things, Patriot has been ordered to install costly water-treatment facilities at certain of its mining complexes. Patriot estimates that it will spend hundreds of millions of dollars over the next several years to comply with these and other environmental obligations.

76. The recent focus on "conductivity levels" – which reflect levels of salt, sulfides, and other chemical constituents present in the water – by the EPA and state regulatory agencies has resulted in the imposition of more stringent permitting requirements and is yet another increasing financial burden on Patriot.

77. Patriot, like other companies, has faced frequent and prolonged litigation concerning environmental issues. As a result of these lawsuits – and related court orders and consent decrees – Patriot recorded $443 million in asset retirement obligations on selenium water treatment projects as of December 31, 2012.

78. Additionally, as that same date, Patriot recorded $288.6 million in additional asset retirement obligations associated with reclamation, water treatment (excluding selenium), and mine closures.

79. It is my understanding that these environmental obligations generally cannot be discharged in chapter 11.

4. Other Regulatory Obligations

80. Patriot spends millions of dollars to comply with new laws and regulations and new interpretations of existing laws and regulations. Examples of Patriot's expenditures include, but are not limited to, the following:

(a) In 2012, the Mine Safety and Health Administration ("**MSHA**") announced that mine operators must immediately begin phasing out the use of SR-100 self-contained self-rescuers manufactured by Pittsburgh-based CSE Corp. Self-contained self-rescuers are portable devices that, in the event of an emergency, can provide underground miners with breathable air. Patriot spent more than $1.6 million to comply with this recall in 2012, and expects to spend .

(b) Both federal and state regulations require Patriot to install refuge shelters in its underground coal mines. These shelters are intended to enable miners to re-equip, communicate, and/or wait for help in the event of an emergency. To remain in compliance with these regulations, Patriot is required to update its underground refuge shelters, which Patriot installed beginning in 2007. Patriot expects to spend .

(c) Both federal and state regulations govern the use of "rock dust," or pulverized limestone, dolomite, gypsum, or other inert material. The use of rock dust can help to prevent coal dust explosions and various regulations govern the degree of rock dusting that is required in underground mines. In 2011, MSHA finalized a rule that requires mine operators to maintain rock dust over at least 80 percent of underground areas in bituminous coal mines. To comply with this rule and similar regulations, Patriot incurred additional costs for rock dust and associated labor in 2012.

(d) In 2012, MSHA revised its requirements for pre-shift, supplemental, on-shift, and weekly examinations of underground coal mines to require operators to identify violations of health or safety standards. To comply with these regulations, which were finalized in August 2012, Patriot has incurred additional costs for training of examiners, the hiring of additional examiners, and related enforcement issues.

81. Several regulations have been proposed by federal and state agencies, which may require additional expenditures by Patriot. Examples of proposed regulations include: the required use of proximity detection devices, which would require Patriot to purchase new equipment for use in underground mines; and the implementation of a mandatory drug-testing policy, which would require Patriot to spend more to comply with heightened reporting standards.

B. Patriot's Extensive Cost Reductions Outside the 1113/1114 Process

82. In response to the challenges described above, Patriot has taken various actions to secure cash savings. The efforts to realize cash savings both pre-date and post-date the Petition Date and involved reductions in non-labor costs, such as the reduction of coal production and capital expenditures, and modifications with respect to the wages and benefits available to Patriot's non-unionized employees and retirees. Through these efforts, Patriot and its advisors have identified approximately in cash savings for 2014 alone. As described in further detail in the Declaration of Paul P. Huffard, dated March 14, 2013, most cash savings have been identified, which is why Patriot is focused on the remaining opportunities to reduce

costs, including renegotiating collective bargaining agreements and reducing retiree healthcare costs.

1. Reduction of Coal Production

83. When Patriot is unable to sell coal at a profit, it must decrease production in order to improve cash flow.

84. During 2012, Patriot reduced its thermal coal production by approximately 3.9 million tons.

These production decreases result from:

- closing the Big Mountain mining complex in the first quarter of 2012;
- closing the Coalburg 2 mine at the Kanawha Eagle mining complex in the first half of 2012;
- closing Campbell's Creek 6 and Campbell's Creek 7 mines in the first half of 2012;
- idling the Hill Fork surface mine in the first half of 2012;
- closing the Freedom Mine at the Bluegrass mining complex in the second quarter of 2012; and
- closing the Patriot surface mine at the end of 2012.

At projected thermal coal prices, these operations had negative margins (*i.e.*, projected production costs exceeded projected sales revenue) or were projected to have negative margins.

85. During 2012, Patriot decreased production from unprofitable metallurgical mines and delayed expansion of its program to increase the production of higher-margin metallurgical coal. In total, Patriot reduced its projected metallurgical coal production by approximately 1.9 million tons.

These production decreases result from:

- reducing production of metallurgical coal at the Rocklick mining complex by temporarily idling mines and/or sections during 2012;
- reducing production of metallurgical coal at the Wells mining complex by temporarily idling mines and/or sections during 2012; and
- reducing production of metallurgical coal at the Kanawha Eagle mining complex during the second half of 2012.

These reductions were implemented to align production with market demand.

86. As described in further detail in the declarations of Dale Lucha and Greg Robertson, each dated March 14, 2013, the UMWA has made two counterproposals in which it offered Patriot increased scheduling flexibility. According to the UMWA, such flexibility would enable Patriot to produce millions of tons of additional coal, thereby increasing revenues and offsetting the need for certain labor concessions. While Patriot appreciates the UMWA's offer, it would not provide any meaningful benefit in the near term. In light of current market conditions – which have forced Patriot to close mines, idle – Patriot would be unable to sell this additional coal at a profit.

2. Decrease in Planned Capital Expenditures

87. To conduct its operations, Patriot must make capital expenditures. These expenditures include payments for machinery and equipment, such as: continuous miner machines, which are used in underground mining to remove coal from coal seams; earth-moving machinery, which is used in surface mining to remove the layers of earth and rock that cover a coal seam; shearing machines, which are used in underground longwall mining to remove coal from the coal face; and shuttle cars and conveyors, which are used to deliver coal from underground mines to the surface. Capital expenditures amounted to $121.9 million in 2010 and $163.0 million in 2011.

88. Patriot decreased planned capital spending by $144 million for 2012 by approximately . These decreases represent the changes between Patriot's strategic plan, which was developed in December 2011, and Patriot's current business plan, which was developed with Blackstone's assistance in October 2012.[14]

3. Other Non-Labor Cost-Reduction Initiatives

89. During 2012, Patriot identified and implemented other major cash-saving initiatives. These initiatives include:

(a) Discontinuation of Contractors: During 2012, Patriot lowered its cost of production by taking over operations at several mines and facilities formerly operated by contractors. These included the Kanawha Eagle complex, the Black Stallion Mine at the Wells Complex, and other mines at the Wells and Rocklick complexes. The savings generated by assuming operations from contractors

(b) Elimination of Unprofitable Contracts: Patriot inherited below-market coal-supply agreements from Peabody and Magnum. The spin-off from Peabody left Patriot with certain coal supply agreements that contained price terms that locked Patriot into supplying coal to customers at significantly below-market prices and in many cases prices that were below the cost of production.

[14] As discussed in the Declaration of Paul P. Huffard, dated March 14, 2013, Patriot developed a business plan in July 2012 but revised it in October 2012 to address deteriorating market conditions. In developing the October 2012 business plan, Patriot identified in additional reductions in capital spending from 2013 through 2016, largely from deferring the replacement of equipment and the commencement of new mining projects. This additional in reduced capital expenditures has enabled Patriot to project that its capital spending reductions will total for the four-year period.

These agreements had cumulative below-market pricing of from 2007 to present. Additionally, the acquisition of Magnum left Patriot with certain coal supply agreements that had cumulative below-market pricing of from 2008 to present. In total, these supply agreements cost Patriot more than in lost revenue. Patriot also has other unfavorable agreements, such as equipment leases, property leases, and royalty leases. During the second half of 2012, Patriot rejected and renegotiated unprofitable commercial agreements. The elimination or renegotiation of these contracts resulted in savings of $32.1 million in 2012 and Patriot projects that such rejections will result in savings of approximately between 2013 and 2016, with actual savings currently projected to exceed Patriot's forecasted savings in its five-year business plan.

(c) Sale of Surplus Assets: For the year ended December 31, 2012, Patriot realized $3.1 million in gains from the sale of surplus assets.

(d) Reduction of Overhead Expenses: Patriot has cut its overhead expenses, including by eliminating charitable contributions, by reducing the cost of leasing Patriot's St. Louis headquarters , and by reducing the cost of Patriot's information systems outsourcing. The reduction of overhead expenses will result in savings of

.

(e) Reduction of Unsecured Pre-Petition Debt: Following the commencement of these chapter 11 cases, Patriot did not have to make certain interest and principal payments on its pre-petition unsecured debt. These savings will total .

4. Patriot's Cash Savings from Its Non-Unionized Workforce

90. In addition to reducing non-labor costs, Patriot has also realized cash savings from its non-unionized employees, retirees, and contractors. Prior to the Petition Date, Patriot identified cash savings from its non-union work force. These initiatives included:

(a) Reduction of Management: Beginning in 2012, through the first two months of 2013, Patriot reduced the number of management personnel by 78 people. This resulted in cash savings of approximately $11.3 million per year.

(b) Reduction in Non-Union Headcount: During 2012, Patriot eliminated approximately 640 non-union employee and contractor positions. These reductions principally related to closed mining facilities.

91. Additionally, Patriot has made or will soon make modifications to compensation and benefits that will result in approximately in cash savings between 2012 and 2016. These initiatives, which were incorporated into Patriot's five-year business plan, include:

(a) Modifications to Non-Union Medical Benefits: Patriot has made changes to the medical benefits available to its non-unionized employees. These changes include: (i) introducing employee premium contributions at 10 percent of monthly premium cost; (ii) increasing the annual out-of-pocket maximum from $1,200 per person to $2,000 per person and from $3,600 per family to $4,000 per family; (iii) introducing working spouse coverage requirements; (iv) adopting a more restrictive formulary for covered drugs; (v) implementing traditional step therapy programs to all available drug classifications; and (vi) eliminating coverage for PPI (ulcer) drug classification. Patriot projects that the changes will result in total cash savings of approximately .

(b)

(c) Elimination of Non-Union Retiree Medical Benefits: Patriot recently announced its intention to reject or modify benefits it pays to its non-union retiree population. In connection with these steps, Patriot agreed to the formation of a retiree committee pursuant to Section 1114(d) for the purpose of determining whether any such benefits are not amendable. If the Court ultimately grants Patriot's motion, Patriot will discontinue programs such as the Medical Premium Reimbursement Program, the Retiree Choice Health Care Program, and the Patriot Medical Benefit Plan for Legacy Magnum Retirees. Terminating these benefits would eliminate millions in liabilities payable to non-union employees and retirees. In connection with such efforts, Patriot projects total cash savings of approximately .

(d) Modifications to Non-Union Long-Term Disability Benefits: Patriot made two changes to its disability benefits. First, the duration of long-term disability benefits for salaried employees was reduced from up to social security normal retirement age to a maximum duration of sixty months. Second, long-term disability benefits were eliminated for the non-represented hourly employees in the Midwest and replaced with the Sickness and Accident Benefits already in place for the non-represented hourly employees in West Virginia with a maximum benefit of 52 weeks. These changes were made so that Patriot could minimize upcoming increases in long-term disability premiums.

92.

without 1113/1114 savings, Patriot identified additional cash savings that it could secure from its non-union employees and retirees. These cash-saving initiatives include, but are not limited to, the following:

(a) Reduction in Non-Union Compensation: Effective March 1, 2013, Patriot imposed a wage reduction for many of its hourly and all of its salaried employees, to adjust wages to market rates. The hourly wage adjustment will affect approximately one-half of Patriot's non-union workforce. These measures will result in approximately .

(b) Withholding of Earned Incentive Compensation: Patriot offered an Annual Incentive Plan (the "**Pre-petition AIP**") that provided cash incentives to motivate plan participants to achieve specific performance objectives. Patriot also offered mine-level incentive compensation plans (the "**Mine-Level Plans**"). No incentive payments were made pursuant to the 2012 Pre-petition AIP, despite the fact that participants earned approximately $3 million under the program, and no incentive payments were made under the Mine-Level Plans, despite the fact that benefits under those plans could have totaled .

(c) Elimination of Deferred Compensation Balances: Patriot has moved to terminate its supplemental 401(k) plan, which allowed certain members of Patriot's management to defer compensation earned by them, and required Patriot to match a specified percentage of such deferrals. If the Court grants Patriot's motion, 401(k) plan participants will have approximately $2.5 million converted from cash obligations to pre-petition claims. As a result, some plan participants would lose hundreds of thousands of dollars, primarily of their own previously earned compensation.

(d) Elimination of Other Benefits: Patriot is scheduled to discontinue other non-union benefits for certain former Peabody or Magnum employees, including: the Banked Vacation Program, which allowed participants to use or receive a payout at termination for vacation that was accrued but unused prior to January 1, 2000; the Pension Shortfall Program, which consisted of annual payments to employees who joined Patriot at the time of the spin-off to make up for pension benefits they would have received if they had remained employed by Peabody; and the Defined Contribution Retirement Plan, under which Patriot made contributions into certain participants' retirement plan accounts to assist them in preparing for retirement.

C. Patriot's Burdensome Obligations to Its UMWA-Represented Employees and Retirees

93. Patriot has substantial and unsustainable obligations to its unionized workforce and UMWA-represented retirees. These obligations primarily take the form of retiree healthcare obligations, pension obligations, and obligations to Patriot's UMWA-represented active employees.

94. As discussed above, as a result of the spin-off from Peabody and the acquisition of Magnum, Patriot became responsible for certain liabilities relating to individuals who worked for entities owned by Peabody and Arch, and who retired prior to the formation of Patriot. Indeed, Patriot employs only 1,650 UMWA-represented employees, but provides retiree benefits to five times as many UMWA-represented retirees and dependents. Especially in an era of declining demand and price for coal, there is a mismatch between the cost of Patriot's legacy obligations and its ongoing ability to generate revenue. Patriot's return to long-term viability depends on its ability to achieve savings with respect to these liabilities.

1. Patriot's Retiree Healthcare Obligations

95. Patriot has incurred significant liabilities in connection with its provision of healthcare benefits to its current and future UMWA retirees. These obligations, which had a present value of nearly $1.6 billion as of December 31, 2012, take multiple forms:

(a) NBCWA Retiree Healthcare: Patriot directly pays for retiree healthcare for approximately 8,100 NBCWA retirees and dependents, who receive benefits pursuant to the CBAs. These benefits mirror those provided to UMWA-represented active employees, and include features such as no co-insurance, free mail-order prescription drugs, $12 co-payments for visits to physicians, and a maximum out-of-pocket cost of $240 per family per year. In 2012, Patriot spent approximately $65.3 million on NBCWA retiree healthcare, and these costs are projected to

. As of December 31, 2012, Patriot estimates the present value of its NBCWA retiree healthcare liabilities to be approximately $1.45 billion.

(b) The Coal Act: Patriot pays for retiree healthcare for approximately 2,300 retirees and dependents under the Coal Act. As discussed above, the Coal Act requires employers to provide health benefits, and in some cases death benefits, to eligible retirees. Patriot's liabilities under the Coal Act also include required payments to two multi-employer funds, the United Mine Workers of America Combined Fund and the 1992 Benefit Plan. In 2012, Patriot spent approximately $14 million on its healthcare obligations under the Coal Act. As of December 31, 2012, Patriot estimates the present value of its Coal Act liabilities to be approximately $134.7 million.

(c) The 1993 Benefit Plan: Patriot makes payments to the UMWA 1993 Benefit Plan under certain of the CBAs. The 1993 Benefit Plan, established under the NBCWA of 1993, provides health and other non-pension benefits to approximately 9,000 retirees and their families who are not eligible for benefits under the Coal Act of 1992 and who are not receiving benefits from their last employer. In 2012, Patriot contributed approximately $3.7 million to the 1993 Benefit Plan.

(d) Other Healthcare Obligations: Pursuant to the Assumption Agreements, Peabody pays the retiree healthcare costs for the Peabody-Assumed

Group. However, Patriot administers the applicable health plans and they remain directly responsible for certain costs relating to this group of retirees. In particular, under the Coal Act, Patriot must post security for the subset of the Peabody-Assumed Group that receives benefits under that statute. Patriot is required to post approximately $54 million in letters of credit to secure these obligations, of which $44 million relate to the Peabody-Assumed Group.

96. The present value of these obligations, as well as Patriot's 2012 spending on these costs, are as follows:

Figure 3

Patriot UMWA Healthcare Obligations by Category (As of December 31, 2012)		
Category of Retiree Healthcare Expenditure	**2012 Spending (millions)**	**OPEB Present Value (millions)[15]**
NBCWA (current retirees and future retirees)	$65.3	$1,454.3
Coal Act (Medical)	8.2	95.4
Coal Act (Combined Fund)	5.0	37.8
Coal Act (1992 Benefit Plan)	0.3	1.5
Coal Act (Letters of Credit)	0.5	--
1993 Benefit Plan	3.7	--
Grand Total	**$83.0**	**$1,589.0**

Patriot spent approximately $83 million on these UMWA retiree healthcare obligations in 2012 and is expected to pay approximately in 2013 absent 1113/1114 relief.

97. Healthcare costs have risen in 2012 and are expected to continue to increase for a number of reasons. First, the federal government's Early Retiree Reinsurance Program ("**ERRP**") exhausted its $5 billion pool of funds in 2011; in 2010 and 2011, Patriot received $7.6

[15] Because Patriot contributes to the 1992 Benefit Plan and the 1993 Benefit Plan on a pay-as-you-go basis, only a small portion of future spending on these obligations is actuarially determined and reflected on the chart above.

million in refunds from ERRP. Second, the new federal healthcare law, PPACA, requires employers to cover dependents up to the age of 26; this requirement has added approximately 440 dependents to Patriot's plans at a cost of $1.5 million in 2012 alone. Third, there have been demographic trends that affect Patriot's healthcare costs, including an increase in retiree headcount, an increase in the number of high-cost claimants, and an increase in utilization of medical and prescription benefits.

98. Patriot's Other Post-Employment Benefits ("**OPEB**") liabilities per active employee are significantly higher than those of its competitors.[16] While Patriot has OPEB liabilities equal to $393,000 per active employee, Walter Energy, Inc. ("**Walter**") has OPEB liabilities equal to $162,000 per active employee, Peabody has OPEB liabilities equal to $125,000 per active employee, Alpha Natural Resources, Inc. ("**Alpha**") has OPEB liabilities equal to $81,000 per active employee, Arch has OPEB liabilities equal to $8,000 per active employee, and James River Coal Company ("**James River**") has no OPEB liabilities. The only company whose per-employee OPEB costs are similar to Patriot's costs is CONSOL Energy, Inc. ("**CONSOL**"), a substantially larger, more diversified, and healthier enterprise, which is better positioned to withstand coal market volatility.[17]

[16] "OPEB" liabilities are typically defined to include benefits that an employee begins to receive at the start of his or her retirement, including healthcare benefits, life insurance benefits, and deferred compensation arrangements. They do not include pension benefits.

[17] CONSOL has OPEB liabilities equal to $339,000 per active employee but is better able to satisfy its high OPEB obligations for at least three reasons. First, CONSOL is a much larger company, with total revenues exceeding $5.4 billion in 2012. Second, more than 92 percent of CONSOL's coal mining operations are longwall mining operations, which is a lower-cost, higher-margin mining method. By contrast, Patriot employs longwall mining in only two of its mining complexes. As a result of the first two factors, CONSOL has higher revenues and a leaner cost structure, which enables it to better service its OPEB liabilities. Third, CONSOL produces and sells both coal and natural gas and, in that sense, is better insulated than Patriot from the current downturn in the coal markets and volatile coal pricing.

2. Patriot's Pension Obligations

99. Patriot spends tens of millions of dollars on the provision of pension benefits to its retirees. These pension obligations include payments to the UMWA 1974 Pension Plan, the UMWA 2012 Retiree Bonus Account Trust and Plan, and the UMWA Cash Deferred Savings Plan. These obligations, on which Patriot spent approximately $27 million in 2012, are discussed in detail in the Declaration of Dale Lucha, dated March 14, 2013.

100. Relative to revenue, Patriot spends far more on retiree healthcare and pension benefits than its competitors do. Patriot, for example, spends approximately 7 percent of its revenues on these costs. By contrast, Walter, Peabody, Arch, and James River all spend 2 percent or less of their revenue on retiree healthcare and pension benefits.

3. Patriot's Other Obligations to UMWA-Represented Employees

101. Patriot has other substantial obligations to its active, UMWA-represented employees. These obligations, which are discussed in further detail in the Declaration of Dale Lucha, dated March 14, 2013, include:

(a) Provisions that govern hourly wages and lock in wage increases, typically at rates that are substantially higher than competitive wages paid to non-union workers serving in the same capacity.

(b) Provisions that provide paid time-off, such as vacation days, holidays, and sick days, at levels higher than non-union workers.

(c) Provisions that unreasonably restrict the ability of signatory employers to deploy labor and operate their mines in a flexible and cost-effective manner, which puts signatory companies at a signifcant cost disadvantage. These provisions include costly and unnecessary restrictions on changing work crews, limits on the use of contractors, and the requirement that certain non-signatories offer a specified percentage of jobs to UMWA-represented employees.

(d) Provisions concerning healthcare benefits. The current healthcare plan available to UMWA-represented employees includes no deductibles, no coinsurance, $12 co-payments for in-network primary care providers or specialists, free prescription drugs if purchased through the mail, and healthcare coverage that continues for the balance of the month following an employee's termination and for up to twelve months thereafter.

102. As discussed in further detail in the Declaration of Seth Schwartz, dated March 14, 2013, Patriot has a significantly higher labor cost per hour than its competitors. This is because a greater percentage of Patriot's workforce is unionized than many of its competitors.

V. <u>Necessity of the Proposed Modifications</u>

103. Over the past many months, Patriot and its advisors have implemented substantial cuts and seek a path toward long-term financial viability. As discussed above, Patriot has undertaken numerous cash-saving initiatives, including the reduction of non-union wages and benefits, the closing and idling of mines, the downsizing of Patriot's management team, and the rejection and renegotiation of unprofitable contracts.

104. Patriot has worked with its advisors, Blackstone Advisory Services L.P. and AP Services, LLC, to consider every cost item in its business plan and to identify potential savings beyond those realized pre-petition. To date, Patriot has identified cash savings that will total approximately $ in 2014 and has factored these into its business plan.

105. Patriot has repeatedly advised the UMWA that, without additional cash savings, including those in connection with the Section 1113/1114 process, Patriot will be forced to close its operations and liquidate.

106. Patriot made its Original Proposal to modify its collective bargaining agreements pursuant to 11 U.S.C. § 1113 and to modify its retiree benefits pursuant to 11 U.S.C. § 1114 on November 15, 2012. In presenting those proposals, I advised the UMWA that due to Patriot's fragile financial position, Patriot must move rapidly through the 1113/1114 process.

107. In computing the savings requested in the Proposals, Patriot's primary goal was to ensure a viable enterprise upon completion of the reorganization. Based on these considerations, Patriot proposed a package of wage, benefit, and work-rule concessions that achieve a combined average annual savings of approximately $150 million. Further details on the proposed savings are contained in the Declaration of Dale Lucha, dated March 14, 2013.

108. Patriot's continued viability requires modifying collective bargaining agreements so that the union wage and benefit package is consistent with non-union wages and benefits. The proposed modifications are designed to make Patriot's unionized subsidiaries competitive with other coal producers who operate under more flexible work rules and with a significantly lower labor cost structure.

109. Patriot's retiree healthcare costs have become unsustainable and must be modified in order for Patriot to survive. The proposed modifications facilitate a transition to long-term healthcare coverage for retirees and their families at a level Patriot can afford and sustain.

110. If Patriot is unable to achieve the cash savings reflected in the Proposals, either through an order of the Court or a negotiated resolution, Patriot will be forced to liquidate and will be unable to provide jobs, wages, or benefits for its retirees or employees.

111. I declare under penalty of perjury that the foregoing is true and correct.

Dated: Charleston, West Virginia
March 14, 2013

/s/ Bennett K. Hatfield
Bennett K. Hatfield

REDACTED

SCHEDULE 1
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brook Trout Coal, LLC
11. Catenary Coal Company, LLC
12. Central States Coal Reserves of Kentucky, LLC
13. Charles Coal Company, LLC
14. Cleaton Coal Company
15. Coal Clean LLC
16. Coal Properties, LLC
17. Coal Reserve Holding Limited Liability Company No. 2
18. Colony Bay Coal Company
19. Cook Mountain Coal Company, LLC
20. Corydon Resources LLC
21. Coventry Mining Services, LLC
22. Coyote Coal Company LLC
23. Cub Branch Coal Company LLC
24. Dakota LLC
25. Day LLC
26. Dixon Mining Company, LLC
27. Dodge Hill Holding JV, LLC
28. Dodge Hill Mining Company, LLC
29. Dodge Hill of Kentucky, LLC
30. EACC Camps, Inc.
31. Eastern Associated Coal, LLC
32. Eastern Coal Company, LLC
33. Eastern Royalty, LLC
34. Emerald Processing, L.L.C.
35. Gateway Eagle Coal Company, LLC
36. Grand Eagle Mining, LLC
37. Heritage Coal Company LLC
38. Highland Mining Company, LLC
39. Hillside Mining Company
40. Hobet Mining, LLC
41. Indian Hill Company LLC
42. Infinity Coal Sales, LLC
43. Interior Holdings, LLC
44. IO Coal LLC
45. Jarrell's Branch Coal Company
46. Jupiter Holdings LLC
47. Kanawha Eagle Coal, LLC
48. Kanawha River Ventures I, LLC
49. Kanawha River Ventures II, LLC
50. Kanawha River Ventures III, LLC
51. KE Ventures, LLC
52. Little Creek LLC
53. Logan Fork Coal Company
54. Magnum Coal Company LLC
55. Magnum Coal Sales LLC
56. Martinka Coal Company, LLC
57. Midland Trail Energy LLC
58. Midwest Coal Resources II, LLC
59. Mountain View Coal Company, LLC
60. New Trout Coal Holdings II, LLC
61. Newtown Energy, Inc.
62. North Page Coal Corp.
63. Ohio County Coal Company, LLC
64. Panther LLC
65. Patriot Beaver Dam Holdings, LLC
66. Patriot Coal Company, L.P.
67. Patriot Coal Corporation
68. Patriot Coal Sales LLC
69. Patriot Coal Services LLC
70. Patriot Leasing Company LLC
71. Patriot Midwest Holdings, LLC
72. Patriot Reserve Holdings, LLC
73. Patriot Trading LLC
74. PCX Enterprises, Inc.
75. Pine Ridge Coal Company, LLC
76. Pond Creek Land Resources, LLC
77. Pond Fork Processing LLC
78. Remington Holdings LLC
79. Remington II LLC
80. Remington LLC
81. Rivers Edge Mining, Inc.
82. Robin Land Company, LLC
83. Sentry Mining, LLC
84. Snowberry Land Company
85. Speed Mining LLC
86. Sterling Smokeless Coal Company, LLC
87. TC Sales Company, LLC
88. The Presidents Energy Company LLC
89. Thunderhill Coal LLC
90. Trout Coal Holdings, LLC
91. Union County Coal Co., LLC
92. Viper LLC
93. Weatherby Processing LLC
94. Wildcat Energy LLC
95. Wildcat, LLC
96. Will Scarlet Properties LLC
97. Winchester LLC
98. Winifrede Dock Limited Liability Company
99. Yankeetown Dock, LLC