



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON, WEST VIRGINIA 25305

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**WRITTEN DETERMINATION REGARDING THE APPOINTMENT OF OUTSIDE
COUNSEL ON BEHALF OF THE ALCOHOL BEVERAGE CONTROL
ADMINISTRATION**

The Alcohol Beverage Control Administration (hereafter "the ABCA") has requested permission to re-appoint its previous legal counsel, Bailey & Glasser, to facilitate the completion of an ongoing environmental remediation plan at the HUB Industrial Park located in Nitro, West Virginia.

The law firm of Bailey & Glasser initially was appointed in 2004 to represent the State in the completion of an environmental remediation plan. The firm was re-appointed in 2010, and has worked closely with environmental experts to oversee much of the remediation plan during the past nine years. The firm's most recent appointment expired on February 24, 2013.

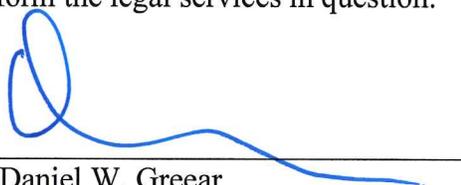
While the ABCA's outside counsel appointment has expired, continuing and time-sensitive legal services are still needed in this matter. First, the environmental remediation and monitoring plan will not be completed until the end of the year. Second, the Division of Highways is seeking to perform time-sensitive work at the warehouse in question which will be paid for with funds that are set to expire in the near future. To properly perform work on the property, Division of Highways requires specialized supervision -- possessed by Bailey & Glasser -- to ensure that contaminants in the property soil are not improperly impacted.

In accordance with the Attorney General's Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public to authorize the appointment of Bailey & Glasser to continue as outside counsel to represent the ABCA in the current legal matter, based on the following factors:

- Bailey & Glasser has served in the capacity of legal counsel for the ABCA for most of the duration of the environmental remediation plan in question.
- Bailey & Glasser is knowledgeable of the environmental concerns raised in this legal matter, is readily accessible to provide the legal services in question, and has the requisite working experience with other involved parties.
- The Office of the Attorney General does not currently have the sufficient and appropriate legal resources to provide the necessary environmental assessments currently possessed by Bailey & Glasser.

- The legal matter in question involves complex and difficult environmental issues that would take weeks if not months for the Office of the Attorney General to familiarize itself with.
- Prompt and informed legal representation is needed to allow the Division of Highways to perform its work on the property in question prior to the expiration of project funds.
- Bailey & Glasser is readily accessible to provide the legal services needed in the Nitro, West Virginia area.
- Bailey & Glasser is the only law firm in position to provide the legal services needed.

Because this matter involves both (1) an emergency situation that requires time-sensitive legal services that cannot be adequately provided by the Office of Attorney General and (2) a continuation of a previous legal appointment necessary to avoid disruption in pending legal matters, the Office of the Attorney General determines that requests for proposal are not feasible pursuant to sections (D)(1) & (2) of Policy #WVAGO-004 and subsequently authorizes the ABCA to re-appoint Bailey & Glasser to perform the legal services in question.



Daniel W. Greear
Chief Counsel

Date Signed: April 9, 2013