

March 28, 1984

(Opinion issued in letter form; name and address deleted)

Re: Opinion of Trustees
Resolution of Dispute
Case No. 81-199

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed your request for Advisory Opinion concerning benefits coverage for several laid off Employees.

The Complainants were laid off by Big Valley Coal Company, Inc. ("Big Valley") on or about September 26, 1982 and were provided benefits coverage under the Employer's Benefit Plan through September 33, 1982. Big Valley closed its mine on or about October 13, 1982, and has not operated the mine since that time.

Big Valley was a corporation owned by two individuals. The same individuals also owned another corporation, Condor Mining Company ("Condor"), which operated a mine near the mine operated by Big Valley. Condor's mine is still operating.

After the Complainants were laid off, many of them filed grievances against Condor stating that they had been improperly denied mine panel rights at Condor's mine. The grievances were heard by an Arbitrator on February 16, 1983. The Arbitrator found that, because of the common ownership of the two corporations and because the owners treated them as interconnected corporations, their mines are mines of the same Employer. Therefore, the Arbitrator sustained the grievances.

Under Article III D. (1) (a) of the Employer Benefit Plans, the signatory Employer for whom laid off Employees last worked is required to provide them with continued benefits coverage based on their hours worked for it during the 24 calendar month period prior to their date last worked.

Although Big Valley has closed the mine where the Complainants last worked, the Trustees are of the opinion that, based on the Arbitrator's decision, Condor must be considered the Complainants' last signatory Employer. As such, it is responsible for providing whatever benefits coverage they are entitled to under the specific requirements of Article III D. (I) (a) of the Employer Benefit Plans based on their hours worked for Big Valley.

Sincerely,

Harrison Combs, Chairman

John J. O'Connell, Trustee

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Paul R. Dean, Trustee
