

March 28, 1984

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

Re: Opinion of Trustees
Resolution of Dispute
Case No. 81-262

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 coverage for a UMWA 1974 Pension Plan Pensioner.

According to the information available to the Trustees, you last worked for Coal America, Inc. ("Coal America"), a signatory Employer, in September 1981, at which time Coal America stopped operating its mine. You were approved for a UMWA 1974 Pension Plan Pension effective February 1, 1982. Coal America sold its mining operations to Aurora Mining Company ("Aurora") in January 1982. Aurora signed the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1981 on January 19, 1982, and mined coal until June 1982, when it ceased operations. Both Coal America and Aurora were contract miners for another company. You were provided with benefits coverage through the other company's insurance carrier. You have asked who is responsible for providing you with benefits coverage. The Trustees have asked Coal America and Aurora for a statement of their position in this dispute, but have received no response.

Under Article XX, Section (c) (3) (i) of the 1981 Wage Agreement and Article II B. of the Employer Benefit Plans, Coal America is required to provide you with benefits coverage, because it is signatory to the 1981 Wage Agreement and it your last signatory Employer. Although the Trustees have received information indicating that Aurora may be a successor to Coal America, there is no evidence that, when it sold its operations, Coal America transferred its obligation to Aurora to provide your benefits coverage.

Funds' staff are also currently investigating the separate issue of whether you may be eligible for benefits coverage under the UMWA 1974 Benefit Plan and Trust. This investigation requires a determination of whether Coal America as well as its successor, Aurora, are no longer in business and are financially unable to provide your benefits coverage. To this end, the Trustees filed a Complaint in the United States District Court for the Southern District of West Virginia on January 3, 1984, asking for the court to require Aurora to make its records available for inspection by Funds' staff. The court has not yet ruled on the Trustees' Complaint. You will be informed as soon as the Trustees are able to secure the necessary information and to make a determination on these questions.

Sincerely,

Harrison Combs, Chairman

John J. O'Connell, Trustee

Paul R. Dean, Trustee

Enclosure