

July 19, 1985

Opinion issued in letter form; name and address deleted)

Re: Resolution of Dispute
Case Number 84-063

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 the facts and circumstances of this dispute concerning the provision of benefits coverage for laid-off Employees under the terms of the Employer Benefit Plan and hereby render their opinion on the matter.

According to the information submitted to the Trustees, the Employees were employed in classified positions at Incoal, Inc. until February 1985, when Incoal ceased operations. The Employees maintain that Trojan Mining, Inc. assumed the leases and mines of Incoal, Inc. as a successor company and that they were rehired by Trojan Mining shortly thereafter. On April 30, 1985, the Employees were informed by Trojan Mining that they were being laid off. Health benefits coverage provided by the company was subsequently terminated on May 31, 1985, based on their individual accumulations of less than 500 hours of work during their employment with Trojan Mining.

It is the Employees' position that continued benefits coverage should have been calculated based on the combined work hours from both Incoal, Inc. and Trojan Mining, Inc.

Trojan Mining maintains that it is not a successor of Incoal, although it does mine coal under a lease on the same property previously mined by Incoal. Trojan claims that all Employees it hired in February 1985 were hired as new Employees, not because it was obligated to recall them as laid-off Employees from Incoal, Inc. Therefore, Trojan maintains that it has no obligation to consider hours worked for Incoal, Inc. in calculating the period of continuation of benefits coverage for Trojan's laid-off Employees.

The Funds previously determined that Incoal, Inc. was "no longer in business" within the meaning of Article II E (4) of the UMWA 1974 Benefit Plan and Trust, effective February 15, 1985. In arriving at that decision, the Trustees concluded that although Trojan Mining assumed operations of the same mine leased by Incoal, Inc., it is not a successor to Incoal. Funds' records show that Trojan Mining, Inc. is signatory to the 1984 Coal Wage Agreement. In accordance

Opinion of Trustees
Resolution of Dispute
Case No. 84-063
Page 2

with Article III D (1) (a) of the Employer Benefit Plan, incorporated by reference into that Agreement, continued benefits coverage for laid-off miners is based on hours worked for the Employer in the 24 month period prior to the date last worked. Because Trojan is not a successor Employer to Incoal, the Trustees conclude that only those hours worked for Trojan Mining are to be considered in determining the appropriate period of continuation of benefits coverage following layoff.

Sincerely,

Joseph P. Connors, Sr., Chairman

Paul R. Dean, Trustee

William B. Jordan, Trustee

William Miller, Trustee

Donald E. Pierce, Jr., Trustee