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## OPINION OF TRUSTEES

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### In Re

Complainants: Laid-off Employees  
Respondent: Employer  
ROD Case No: 88-477 - January 21, 1992

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee; Thomas H. Saggau, Trustee.

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 health benefits coverage for laid-off Employees under the terms of the Employer Benefit Plan.

### Background Facts

The Complainants worked for the Respondent in classified positions until October 18, 1991, when they were laid off. The representative for the Complainants states that the Respondent terminated the Complainants' health benefits coverage effective November 1, 1991 and notified the Complainants of their right to elect continued coverage at their own expense under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

The Respondent, New Era Coal Company, is signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1988. The representative for New Era Coal Company states that Mate Creek Development is responsible for providing continued coverage for the Complainants because effective November 1, 1991 Mate Creek Development has "assumed all operations, including liabilities" of New Era Coal Company. The representative for Mate Creek Development states that Mate Creek Development did not execute a successor agreement with New Era Coal Company, nor has it assumed any of New Era Coal Company's obligations or liabilities.

### Dispute

Whether the Respondent is required to provide health benefits coverage for the Complainants as laid-off Employees beyond October 31, 1991.

### Positions of the Parties

Position of the Complainants: The Complainants' representative asks whether New Era Coal Company is required to provide health benefits coverage for the Complainants beyond October 31, 1991.

Position of the Respondent: New Era Coal Company is not required to provide health benefits coverage for the Complainants beyond October 31, 1991 because Mate Creek Development has "assumed all operations, including liabilities" of New Era Coal Company effective November 1, 1991.

#### Pertinent Provisions

Article XX Section (c)(3)(i) of the National Bituminous Coal Wage Agreement of 1988 provides in pertinent part:

- (3)(1) Each signatory Employer shall establish and maintain an Employee benefit plan to provide, implemented through an Insurance carrier(s), health and other non-pension benefits for Its Employees covered by this Agreement as well as pensioners, under the 1974 Pension Plan and Trust, whose last signatory classified employment was with such Employer. The benefits provided by the Employer to Its eligible Participants pursuant to such plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans....

Article I (1), (2) and (4) of the Employer Benefit Plan provide:

#### Article I - Definitions

The following terms shall have the meanings herein set forth: (1) "Employer" means (Employer's Name)

- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1988, as amended from time to time and any successor agreement.
- (4) "Employee" shall mean a person working in a classified job for the Employer, eligible to receive benefits hereunder.

Article III D. (1) (a) of the Employer Benefit Plan provides:

#### Article III - Benefits

##### D. General Provisions

(1) Continuation of Coverage

(a) Layoff

If an Employee ceases work because of layoff, continuation of health, life and accidental death and dismemberment insurance coverage is as follows:

Number of Hours Worked for the Employer in the 24 Consecutive Calendar Month Period Immediately Prior to the Employee's Date <u>Last Worked</u> <u>Date Last Worked</u>	Period of Coverage Continuation from the
2,000 or more hours	Balance of month plus 12 months
500 or more but less than 2,000 hours    6 months	Balance of month
Less than 500 hours	30 days

Discussion

Article XX Section (c)(3)(i) of the 1988 Wage Agreement requires each signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Employees. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such Plan shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such Plan.

Article III 0. (1) (a) of the Employer Benefit Plan provides continued benefits coverage for laid-off Employees based upon the number of hours worked for the Employer during the 24-month period immediately prior to the date last worked. Inasmuch as the Complainants were actively employed in classified positions by the Respondent until October 18, 1991, when they were laid-off, the Respondent is responsible for providing continued health benefits coverage for the Complainants beyond October 31, 1991, for the remainder of their individual periods of eligibility, as determined pursuant to Article III D. (1) (a) of the Employer Benefit Plan.

Because there is no evidence to indicate that Mate Creek Development expressly assumed the health benefits obligations of the Respondent and no evidence of an arbitration or court decision holding that Mate Creek Development is responsible for providing health benefits coverage for the Respondent's laid-off Employees, the Trustees have no basis on which to find Mate Creek Development responsible for providing health benefits coverage for the Complainants.

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The Respondent is required to provide health benefits coverage for the Complainants and their eligible dependents beyond October 31, 1991 for the remainder of their individual periods of eligibility for continued coverage as laid-off Employees, consistent with the terms of the Employer Benefit Plan.