

ENCLOSURE B

AB79-COMM-10-2



Edward M. Green
(202) 624-2922
egreen@crowell.com

6158:blb
007879.013
27971903

May 23, 2014

VIA EMAIL AND MESSENGER

The Honorable Joseph A. Mair
Assistant Secretary of Labor for Mine Safety and Health
United States Department of Labor
Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, VA 22209-3939

Re: REQUEST FOR EXTENSION OF COMMENT PERIOD
OF THE REFUGE ALTERNATIVE RFI

Dear Mr. Secretary:

On behalf of the Bituminous Coal Operators' Association, Inc. ("BCOA") Safety and Health Committee, the purpose of this letter is to seek another 120-day extension of the period allowed for public comment on MSHA's Request for Information ("RFI") on Refuge Alternatives published in the Federal Register for August 6, 2013. 78 Fed. Reg.48,593. As you know, that comment period was most recently extended until June 2, 2014. 78 Fed. Reg.73,471 (Fri., Dec. 6, 2013). We respectfully seek this extension for the reasons set forth below.

The BCOA Safety and Health Committee was optimistic that we would be able to provide MSHA with substantive responses to the 31 questions MSHA identified in the RFI by June 2. However, for a variety of reasons (many of which led to your decision, we believe, to grant the earlier extension), we are not yet prepared to give you truly informed replies to the questions in the RFI.

Specifically, as you know, during the current extension time frame, NIOSH released the following very important reports of investigation ("RI") dealing with critical refuge alternative issues:

- * RI 9694, Investigation of Purging and Airlock Contamination of Mobile Refuge Alternatives; and
- * RI 9695, Investigation of Temperature Rise in Mobile Refuge Alternatives.

Both of these reports were published this past March. Quickly after release of RI 9694, to its credit, MSHA provided the mining community with a "Refuge Alternative Safety Alert." As of this writing, actions required by the Safety Alert are still being implemented. On March 20, you invited the BCOA and UMWA Joint Safety Committee to meet with you and your senior staff to discuss refuge alternatives. During this meeting the Joint Safety Committee requested that MSHA cooperate with the

The Honorable Joseph A. Main
Assistant Secretary of Labor for
Mine Safety and Health
United States Department of Labor
Mine Safety and Health Administration
May 23, 2013
Page 2

Joint Committee and NIOSH in an alliance or partnership to discuss these two reports and other pending refuge alternative research projects being carried out by NIOSH.

After some discussion at the March 20 meeting, you agreed to MSHA's engagement in this cooperative effort. However, Mr. Secretary, the first meeting of this nascent partnership only took place yesterday on May 22.

Unfortunately, as you may know, because of what we understand was a family emergency, the UMWA representative on our Joint Committee was unable to attend. Nevertheless, the meeting went forward. From our perspective, we deeply appreciate the participation of Pat Silvey, George Fesak, Steve Gigliotti, and Wes Shumaker in yesterday's meeting. We know their schedules are demanding.

Having said that, we think they will agree with us that the meeting was a very useful first step in partnership discussions of how to best develop "Generation 2" refuge alternatives, especially built-in-place in by refuge alternatives--not to mention improvements in the currently deployed "Generation 1" refuge alternatives. The meeting, however, also powerfully demonstrated how important it will be for all parties (including MSHA) for you to grant the 120-day extension we are requesting. Simply stated, only as these discussions continue will we be able to provide you with robust responses to your RFI.

The BCOA Safety and Health Committee will be grateful for your positive decision on our request for a 120-day extension of the June 2 comment period on your RFI. Please know that we are committed to working with NIOSH, you and your team and our UMWA colleagues on refuge alternative issues. To that end, we are committed to discussing yesterday's refuge alternative workshop in detail with the UMWA in order that the next meeting of the partnership will be as smooth as if the UMWA representative had participated in yesterday's meeting.

Sincerely,



Edward M. Green
Counsel for the BCOA

cc: Pat Silvey
George Fesak
Steve Gigliotti
Wes Shumacher
Heidi Strassler
Pat Brady
Dale Byram
Mike Parris
Dave Hales
Dennis O'Dell