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H.R. 5373

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JOHN G. OLIVEIRA
24280 Fairfax Avenue
Lemoore, CA 93245
209-924-8011

October 8, 1992

Honorable James Baker
Chief of Staff
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Transmitted via Facsimile: 202-456-2481

Dear Mr. Baker:

My wife and I are family farmers and the passing of the proposed CVP (Central Valley Project "reform" legislation could very possibly put us out of business. We realize the severe political pressure that is being applied to the president at this point, but we ask that you express our concern to the president so he may veto this legislation to save our farm and the jobs of our employees.

Sincerely,


John G. Oliveira

LEONARD W. OLIVEIRA
9235 24th Avenue
Lemoore, CA 93245
209-924-2463

October 8, 1992

Honorable James Baker
Chief of Staff
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Transmitted via Facsimile: 202-456-2461

Dear Mr. Baker:

My wife and I are family farmers and the passing of the proposed CVP (Central Valley Project "reform" legislation could very possibly put us out of business. We realize the severe political pressure that is being applied to the president at this point, but we ask that you express our concern to the president so he may veto this legislation to save our farm and the jobs of our employees.

Sincerely,


Leonard W. Oliveira

JOHN D. OLIVEIRA
262 Helene
Lemoore, CA 93245
209-924-4256

October 8, 1992

Honorable James Baker
Chief of Staff
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Transmitted via Facsimile: 202-456-2461

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Sincerely,


John D. Oliveira

MICHAEL L. LYON
233 Deodar
Lemoore, CA 93245
209-924-8430

October 8, 1992

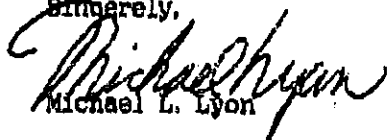
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Sincerely,


Michael L. Lyon

ANTHONY T. OLIVEIRA
24476 Fairfax Avenue
Lemoore, CA 93245
209-924-4051

October 8, 1992

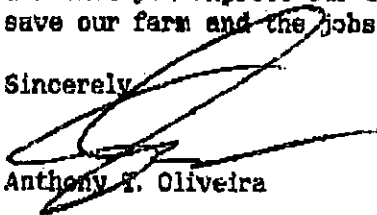
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Sincerely,



Anthony T. Oliveira



THE NORTH AMERICAN COAL CORPORATION

CLIFFORD R. MIERCORT
*President and
Chief Executive Officer*

SIGNATURE PLACE II, 14785 PRESTON ROAD, SUITE 1100
DALLAS, TEXAS 75240-7891

October 7, 1992

The Honorable George Herbert Walker Bush
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear President Bush:

I urge you to veto the National Energy Strategy Bill because of the inclusion of the Rockefeller United Mine Workers of America (UMWA) Retiree Amendment. The Rockefeller Amendment includes a provision called the "super-reachback" which would require companies that are not current signatories to a UMWA Coal Wage Agreement to be taxed to pay for health and medical costs for all retirees who worked for it. This legislated liability will be imposed upon companies even though they never negotiated nor have an obligation to pay for this benefit under any of the labor agreements they signed.

In our case, which is not unusual, The North American Coal Corporation would have a liability under this legislation that could exceed \$157 million. The company has been out of the business of mining bituminous coal from its parent company operations since 1983. When we were mining bituminous coal, we had the right to pass the benefit costs on to the customers we had at the time. Under the Rockefeller Amendment, we would have to adsorb the entire costs with no chance of passing them on to our past or present customers. It is fundamentally unfair that under the Rockefeller Amendment the company will be forced retroactively to assume this totally new liability.

Even worse is that the "super-reachback" does not benefit the retired miners, but is for the benefit of the current signatories to the Bituminous Coal Operators Association (BCOA)/UMWA Wage Agreement. The BCOA companies will reap a significant windfall from the reduction in benefit obligations they are obligated to pay under their current labor agreement. In fact, we calculate that the two largest BCOA companies, foreign-owned or controlled Peabody Coal and Consolidation Coal, will save nearly \$70 million per year. However, many smaller domestic companies, which are no longer signatories to the UMWA agreement, will be forced into bankruptcy.

The Honorable George Herbert Walker Bush
October 7, 1992
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This is not only bad legislation which sets a terrible precedent by allowing collective bargaining to be bypassed and abrogating existing labor agreements through retroactive legislation, but also taxes parties who should not be involved. In my view, if this bill is signed into law, the Administration will be confronted with similar federal legislation designed to require persons not party to a collective bargaining agreement to pay for the benefit obligations provided by such agreement.

Many members of Congress believe the Rockefeller legislation is totally inequitable as exemplified by the attached statement from Congressman Jake Pickle made during deliberations on the Energy Bill.

It is now up to you to show the type of leadership and statesmanship that only you can give by vetoing the National Energy Strategy Bill.

Sincerely,

A handwritten signature in cursive script, reading "Clifford R. Miercort".

Clifford R. Miercort
President and Chief Executive Officer

CRM/mhc
Attachment

Distribution List Attached

REMARKS OF CONGRESSMAN J.J. PICKLE
H.R. 776
October 5, 1992

Mr. Speaker, I rise today in support of the energy bill. I support this bill because it includes important incentives for solar energy and much needed relief for independent producers who explore and develop our domestic energy supplies. And I'm especially pleased about new incentives for expanding our use of alternative fuels, like compressed natural gas. Alternative fuels will not only help curb our imports of petroleum, but will also improve our environment by cutting down on harmful emissions. These are all good, and vital pieces to our national energy strategy.

But there is one part of this bill which is deplorable, and that is the bituminous coal health benefit bailout. Mr. Speaker, this bailout, as well intended as it may be, is a terrible injustice, and sets a precedent in the area of employee benefits that we will all live to regret.

Simply put, the mine workers and the bituminous coal operators agreed decades ago to establish a health plan that would be paid for by all who mined coal in the eastern United States. As long as "coal was king" this agreement worked reasonably well. Unfortunately, the coal industry has changed dramatically. Today the eastern states coal industry is dominated by two foreign owned companies and the number of miners has drastically declined. About four years ago, the coal operators decided that they were no longer going to live up to their responsibility to pay for the health benefit plan. And so they reduced their contributions to the plan, and the plan today faces insolvency. And now the Congress is being blackmailed into bailing this plan out by taxing companies that have no current connection with the bituminous coal industry.

Mr. Speaker, we should not do this! It is wrong! It is as if we are a street gang mugging an innocent passerby, and justifying it by saying that our family and friends are hungry.

We should stick to the original agreement and force those companies who are mining eastern coal to meet their obligations. We can all be sympathetic to the plight of the mine workers, many of whom are elderly and in ill health. But these benefits should be paid by the coal companies, not everyone else. Why are we kowtowing to these huge foreign owned coal companies? Why are we raising taxes on domestic energy companies to pad the profits of these foreign profiteers? It was their cut throat business practices that drove the domestic coal companies out of business, and now we bail them out. We let them escape their obligations and ship their profits overseas. We should be ashamed!

Let me also warn my colleagues, you have not heard the last of this issue. We pay for this bailout by taxing any company or its successor which ever had any connection with mining coal under the BCOA agreement. We have no idea who all these companies are. There will now be a rush to track them down and tell them that they will have to pay millions of dollars a year into this health plan over which they have no control. Some will be forced into bankruptcy, others will be forced to lay off workers. And they will blame you and me, and they will be right. So plan today what you will tell them, it won't be easy.

Finally, I tell you that we are setting a precedent today that will come back to haunt us. Today we are bailing out the mine workers plan and letting the mine operators have a windfall. Who will be next? Will it be the steel industry? The airlines? Tire and rubber companies? Perhaps it will be the auto industry? I tell you right now that there is good reason to believe that the steel industry is already making plans to get a similar bailout.

The members should know that our defined benefit pension plans, which are guaranteed by the Pension Benefit Guaranty Corporation, are underfunded by over \$40 billion dollars. Some of the largest companies in America have deliberately chosen to

underfund their plans by billions of dollars. And, when I raise this issue no one wants to talk about it. The companies refuse to appear before the Oversight Subcommittee. I am accused of frightening people and undermining confidence in our pension system. I do not want to frighten anybody. But we must insist that companies that make benefit promises keep their promises.

At the same time the other Body was hatching this plan to bail out the coal health plan, it balked at adopting a proposal to make companies properly fund their pension plans. It seems inconvenient to pressure companies to keep their pension promises. There are always a thousand excuses for putting this responsibility off to a later day. But the later day always comes. For the coal industry it comes today and we have chosen to rob Peter to pay Paul. Who will we hijack when the time comes to bail out the rest of our retirement system? Every company that has ever sponsored a pension plan or ever intends to should ask that question. Because today we are telling the world that if you play by the rules and meet your responsibilities you pay the penalty, and the sharp operators who run and hide go free.

Mr. Speaker on balance this is a good bill. It would be better if we had stood our ground and held the coal operators to their own promises. This provision to make other companies pay the coal industry's bills is just a selfish regional request. The other body has caved in to this blackmail by three or four key senators. We can all agree to protect the miners benefits, but we should have agreed to make the mine owners and operators pay. I, for one, was willing to do so. However, I am not willing to block this entire bill for this one reason. But, I believe that the coal provision is a travesty of justice and an embarrassment to the Congress. We should never let ourselves be put in this corner again.

DISTRIBUTION LIST

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The Honorable Dan Rostenkowski
United States House of Representatives
2111 Rayburn House Office Building
Washington, D.C. 20515-1308

The Honorable George A. Sinner
Governor of North Dakota
State Capitol - 600 East Boulevard
Bismarck, ND 58505

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Secretary of Labor
Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

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Secretary of Energy
Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

The Honorable Manuel Lujan, Jr.
Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

The Honorable James A. Baker, III
Chief of Staff to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Honorable W. Henson Moore
Assistant to the President and
Deputy Chief of Staff
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

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Assistant Secretary for Fossil Energy
Department of Energy
Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585

David C. O'Neal
Assistant Secretary
Land and Minerals Management
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Harry M. Snyder, Director
Office of Surface Mining
Department of the Interior
1951 Constitution Avenue, N.W.
Washington, D.C. 20240

Thomas A. Scully
Associate Director
Human Resources, Veterans & Labor
Office of Management and Budget
Old Executive Office Building
17th St. & Pennsylvania Avenue, N.W.
Washington, D.C. 20503

Marian Marshall
Legislative Assistant
Office of Senator Malcolm Wallop
237 Senate Russell Office Building
Washington, D.C. 20510-5001



Alfred M. Rankin, Jr.
President and
Chief Executive Officer

October 8, 1992

The Honorable George Herbert Walker Bush
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

As Chairman of NACCO Industries, Inc., an Ohio company, I am writing to urge you to veto the National Energy Bill. Attached to this legislation is the so-called "Rockefeller Amendment," a proposal which imposes a highly discriminatory reachback tax on a few companies no longer engaged in the mining of bituminous coal. The ostensible purpose of this tax is to provide a new contribution scheme for the United Mine Workers of America retiree health funds. Unfortunately, this tax allows a group of employers, the Bituminous Coal Operators Association, to escape their contractual obligations to ensure that the UMWA funds are solvent.

Although our coal subsidiary was at one time a member of the Bituminous Coal Operators Association ("BCOA"), it is no longer -- and, in fact, shut down its last bituminous coal mine in 1983. Our coal company completely fulfilled all of its contractual obligations to the funds at the time when it legally withdrew from the BCOA. Inclusion of companies such as ours in the reachback mechanism is not only contrary to all principles of collective bargaining, but also is simply wrong. This discriminatory legislation amounts to a highly selective tax on our company. Ignoring the fact that we have contributed far more monies into the funds than any liabilities we have ever created, the enactment of this bill now requires that we pay into these funds a second time.

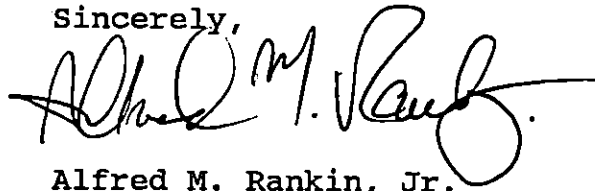
Finally, we never were the effective owners of these coal mines. We mined coal for a service fee, and those costs were always paid by our customers -- the utilities. These new and totally unanticipated costs would have been passed through to our customers if this law had been in effect during the time the mining took place.

The Honorable
George Herbert Walker Bush
President of the United States
October 8, 1992
Page 2

This discriminatory and confiscatory tax on us results in a present value charge in excess of the net worth of our lignite coal company. Such a tax is grossly unfair and simply wrong.

I urge you to veto this legislation, Mr. President, so the Congress will be put on notice that the imposition of these confiscatory taxes on taxpayers is not an acceptable way to solve the BCOA issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Alfred M. Rankin, Jr.", with a large, stylized flourish at the end.

Alfred M. Rankin, Jr.

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