

Pension Benefit Guaranty Corporation

84-6

October 25, 1984

REFERENCE:

[\*1] 4041(a) Termination by Plan Administrator. Filing of Notice of Intent to Terminat

OPINION:

On \* \* \* the PBGC received a Notice of Intent to Terminate the \* \* \* Pension Plan. The Notice was later supplemented, and incorporates a Spinoff/Termination study prepared by \* \* \*. The proposed date of termination pursuant to Section 4041(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"), was \* \* \*. According to the \* \* \* study, the assets and liabilities of the \* \* \* Pension Plan representing "the values associated with those plan participants who were active employees at the date of spinoff," \* \* \*, were transferred to a new plan to be created "to receive those values."

This transaction attempts to achieve the return of plan assets to the sponsor through what is commonly referred to as a spinoff/termination, in which Title IV's plan termination requirements would apply only to retired and deferred vested participants. As you are aware, the PBGC, the Internal Revenue Service and the Department of Labor have established a set of joint guidelines applicable to such transactions. Under these guidelines, a pension plan may be terminated if, as of the termination date, there is vesting [\*2] and annuitization of the accrued benefits of all participants who were in the plan prior to the purported spinoff.

By letter of \* \* \* you submitted an annuity bid, prepared by \* \* \* on \* \* \* that does not provide for annuity purchase for participants other than the retirees and terminated vested employees. After due consideration of the record before us, the PBGC has determined that there has not been a termination of the \* \* \* Pension Plan pursuant to Section 4041(a) of ERISA.

Accordingly, we are returning your proposed Notice of Intent to Terminate and accompanying documents.

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