Statement of Cecil E. Roberts, President
United Mine Workers of America
before the
Committee on Natural Resources
U.S. House of Representatives
on H.R. 5479,
the Coalfield Accountability and Retired Employee Act of 2010
June 23, 2010

Mr. Chairman and Members of the Committee:

I want to thank you for the opportunity to be here today to speak on behalf of over 120,000 current and former UMWA members who are participants in the UMWA 1974 Pension Plan. Let me state at the outset that the UMWA strongly supports H.R. 5479 and urges the Committee and the Congress to enact it as soon as possible.

The 1974 Pension Plan is a Taft-Hartley multiemployer pension plan negotiated between the UMWA and the Bituminous Coal Operators' Association (BCOA). It is part of the UMWA Health and Retirement Funds, a separate institution jointly administered by trustees appointed by the UMWA and BCOA. The 1974 Plan provides pension benefits to coal miners who work under the National Bituminous Coal Wage Agreement (NBCWA). Other funds administered by the UMWA Health and Retirement Funds provide health benefits to retired coal miners and their dependents under the Coal Act and the NBCWA.

When the last NBCWA was negotiated at the end of 2006, the 1974 Plan had approximately $6 billion in assets and was about 93% funded. As of May 31, 2010 the 1974 Plan had total assets of $4.3 billion and its funding level has fallen below 80%. It currently pays out about $650 million per year in pension benefits to some 97,500 retired and disabled miners and surviving spouses. Employers operating under the NBCWA of 2007 are currently contributing $5.00 per hour worked by their UMWA-represented employees. The rate will increase to $5.50 in January 2011. Under the provisions of the Pension Protection Act (PPA), because the plan's funding level is below 80%, the UMWA and the BCOA as plan sponsors will have to adopt funding improvement plans that may raise contribution rates to $20 per hour worked by UMWA members. If such rates are required, signatory employers may seek to withdraw from the plan or go out of business.

I have attached a chart to this statement that shows projections of the funded status of the plan made by the 1974 Plan's actuary in December 2007 and then again in October 2009. You'll note that prior to the financial crisis the 1974 Plan was well funded at about 93% and was projected to steadily improve its funded status throughout the coming decade. This projection, shown as the green line on the chart, was done at the end of 2007 before the credit crisis led to the financial meltdown on Wall Street. Now look at the same projection made in late 2009, shown as the red line. As you can see, instead of being in good shape for as far as the actuary could project, the 1974 Plan is now on a steady downward path. Only one thing changed in that intervening period between these two projections–the 2008 financial crisis caused markets to fall precipitously and placed the country in the worst economic slump since the Great Depression.

As I mentioned, the 1974 Plan currently pays out about $650 million per year in pension benefits to retired miners and surviving spouses. Due to the demographics of the coal industry this represents the period of our highest payout. The loss of assets in 2008 due to the financial crisis could not have come at a worse time for the 1974 Plan. The second chart attached to the statement shows the assets and liabilities of the 1974 Plan over the last fifteen years. As you'll note the economic decline in the aftermath of 9/11 terrorist attacks led to declines in the value of the Plan's assets in 2002 and 2003. But the assets of the Plan stayed relatively close to the liabilities. With the sharp market declines due to the 2008 financial crisis, the Plan has developed a significant separation between assets and liabilities, one that is not expected to close even with a return to less volatile financial markets.

The 1974 Pension Plan finds itself in dire financial straights solely as a result of the financial crisis of 2008. While it has been well managed and in good financial shape for many years, the market crash in 2008 and early 2009 left the 1974 Plan with a significant loss of assets just at the time of its greatest payout. Indeed, the trustees who govern the 1974 Plan and the investment professionals they employ have done an exemplary job investing the Plan's assets over many years. They have a well diversified portfolio of investments that has produced returns comparable to or better than many of their pension industry peers. However, the 2008 financial crisis left such a deep hole for the Plan that, without a significant increase in income, the plan's actuaries project that the financial condition of the plan will continue to erode.

The UMWA 1974 Pension Plan grew out of a contract between the federal government and the UMWA at a time of government seizure of the nation's bituminous coal mines in 1946. The Krug-Lewis Agreement, named for Secretary of the Interior Julius Krug and UMWA president John L. Lewis, was signed in the White House under the watchful eye of President Harry S. Truman. The Krug-Lewis agreement called for the creation of a Retirement fund to provide for payments to miners for disability, death or retirement and a Medical and Hospital fund to provide medical, hospital and related services.

The Retirement fund created by the Krug-Lewis agreement became the object of intense dispute between the UMWA and the coal operators (when the government returned the mines to private control) and as a result, pension payments were delayed for several years. It was only after intervention by the Speaker of the House of Representatives and the appointment of Senator Styles Bridges of New Hampshire as the neutral trustee that pension payments were activated in 1950. Since that time, the 1974 Pension and its predecessors have provided pension benefits to hundreds of thousands of retired coal miners. The federal government has had a long history of involvement with the UMWA Health and Retirement Funds. Both Democratic and Republican administrations, as well as Democratic and Republican Congresses, have recognized the special promise contained in the agreement between the federal government and the coal miners. And while there were times when the fulfillment of that promise was in doubt, each time Congress and the president have risen to the occasion and ensured that the promise was kept.

The retirees and surviving spouses who depend on the 1974 Pension Plan live in all 50 states, but the majority of them still reside in the coal mining states of West Virginia, Pennsylvania, Kentucky, Illinois, Virginia, Alabama, Ohio and Indiana. A state by state breakdown of active, retired and terminated vested participants is attached to this statement. Many of the retirees are elderly with nearly 40% of the retired population over 75 years of age and about 17% of the population over 85 years of age. The 1974 Plan provides them with modest but crucial income. The average pension benefit for a retired miner currently receiving benefits from the 1974 Pension Plan is $590 per month and for a surviving spouse the average benefit is about $304 per month.

The financial crisis of 2008 and its economic aftermath were not the fault of the retired miners. Nor was it the fault of their representatives in the UMWA or the coal operators with whom we bargain. The cause of the financial crisis lay primarily with the banks and other large financial institutions on Wall Street. While the very same institutions that created the crisis were bailed out with taxpayer money, the victims of the crisis such as pension funds have been left to their own devices.

An analysis of the 1974 Plan shows that a significant portion of the Plan's population and liabilities are related to companies that are now defunct and no longer contribute to the Plan. About 40% of the Plan's liabilities are related to retirees whose employers no longer contribute to the 1974 Plan; nearly 54% of the 1974 Plan population is composed of participants whose employer no longer contributes to the plan. So the 1974 Pension Plan is dealing with the same orphan retiree problem that Congress has grappled with in the Coal Act.

The 2007 National Bituminous Coal Wage Agreement (NBCWA) is scheduled to expire on December 31, 2011. The Pension Protection Act enacted in 2006 requires multiemployer pension plans to maintain a certain level of funding or face consequences. Generally, this is 80% funding for multiemployer plans. Plans that fall below this level are considered in "endangered" status. Plans that fall below 80% and have an Accumulated Funding Deficiency in the next six years are considered "seriously endangered." Plans that fall below 65% funding and have a projected AFD in the next four years are considered in "critical"status. Under the PPA, plans that fall into endangered or critical status must adopt funding improvement or rehabilitation plans to reduce the underfunding over the next ten to fifteen years. These plans may involve increases in contributions by employers, reduction or elimination of certain benefits, or a combination of both. As noted earlier, the 1974 Plan's actuarial projections indicate that a contribution rate of about $20 per hour may be necessary to satisfy the PPA. As a bargainer I don't like making public predictions about what positions my bargaining partners may take in negotiations. But I will say that if the law requires coal operators a choice of paying $20 per hour or attempting to withdraw from the plan, many of them will be tempted to try to withdraw. The UMWA, of course, will seek to prevent that. The conflict that will result if employers seek to abandon the 1974 Plan will not be in the best interests of any of the parties to the contract, the coal field communities or the nation at large. The UMWA wants to avoid disruption in the nation's coal fields when the NBCWA expires in 2011. But we will take whatever actions are necessary and within our power to protect the 1974 Pension Plan and the more than 120,000 miners and widows who depend on it for economic sustenance. It may well be that conflict in the coal fields cannot be avoided; but we believe that H.R. 5479 offers a better way forward.

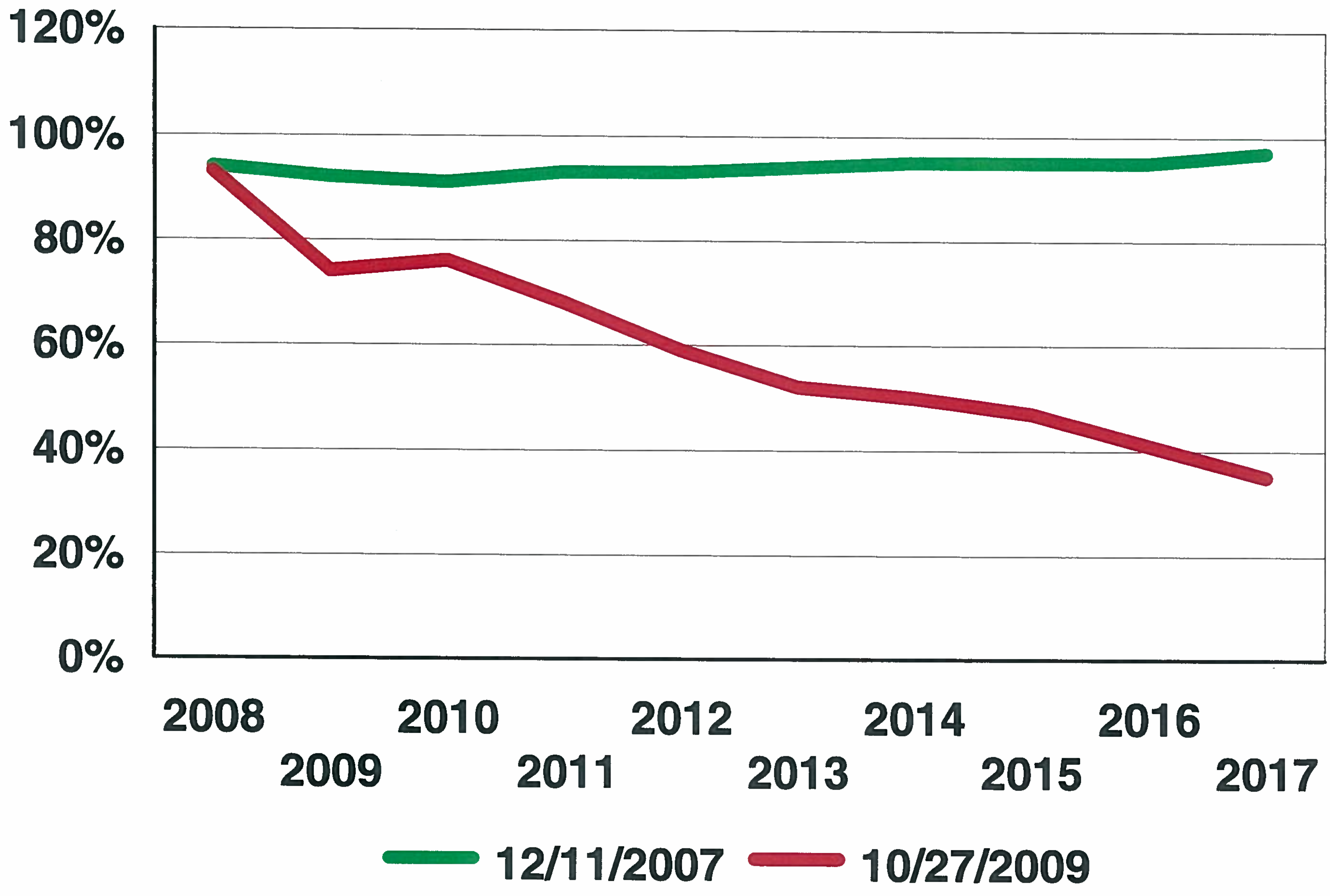
H.R. 5479 simply builds on the framework and mechanisms Congress has put in place to deal with the problem of orphan retiree health care benefits in the coal industry. It provides for the transfer to the 1974 Pension Plan of funds that exceed the amounts needed to meet existing obligations to the States and the UMWA Health and Retirement Funds retiree health plans under Title IV of the Surface Mining Control and Reclamation Act of 1977. In 2006, Congress amended Title IV to provide for a permanent appropriation of up to $490 million a year to repay 50% of the Abandoned Mine Land (AML) reclamation fees generated from certified States that have completed abandoned coal mine reclamation projects and to supplement interest earned on the AML fund to ensure the solvency of the three health plans administered by the UMWA Health and Retirement Funds. I want to point out that allowing the 1974 Plan to access the permanent appropriation would in no way jeopardize payments to the States or to the retiree health plans. They would continue to have first priority claim to the permanent appropriation. Under H.R. 5479, only funds not needed to fulfill those existing obligations would be available to the 1974 Plan.

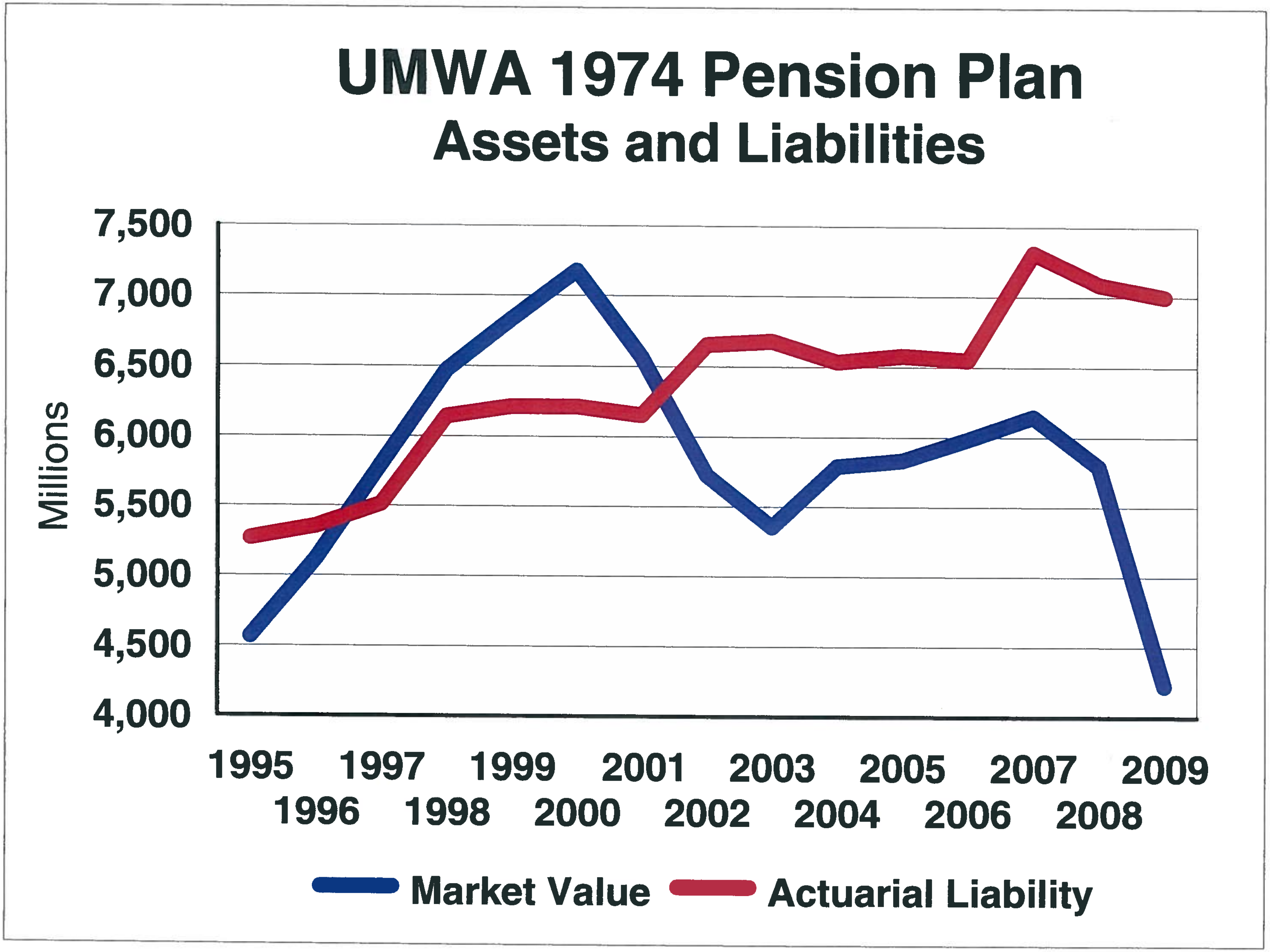
Mr. Chairman, a promise was made to the nation's coal miners in the White House long ago in 1946. That promise was that if the miners produced the energy that the nation so desperately needed, they would have pensions and health care when they retired so they could live out their lives with a small measure of dignity and security. I submit that coal miners have earned these benefits through hard work that has allowed many Americans to enjoy a better life. We only have to look at the recent disasters in the coal fields, such as the Sago mine and Upper Big Branch tragedies in West Virginia and the Crandall Canyon mine in Utah to know how dangerous the work of coal mining can be. While these tragedies draw public attention, many miners die quietly without notice each year from black lung disease. The National Institute for Occupational Safety and Health (NIOSH) estimates that up until a few years ago as many as 1,500 miners died each year from complications of black lung. That's a Titanic going down in the coal fields each and every year. All told, NIOSH estimates that more than 10,000 miners died of black lung disease in the last decade. I think any reasonable observer would agree that coal miners work in harsh conditions that endanger their lives in many ways. They should not have to worry about the modest pensions that have been promised them after they retire.

The miners who depend on the UMWA Health and Retirement Funds and the 1974 Pension Plan have upheld their part of the bargain made in President Truman's White House. Now, through no fault of their own, their pension plan has fallen into financial difficulty. Congress has already seen fit to permanently appropriate up to $490 million per year to fulfill the promise of retiree health care for these same retirees. It appears likely that because of the efficiency with which the UMWA Funds delivers medical care, the full amount will not be needed each year. We think it makes good sense to extend the application of that commitment to the 1974 Pension Plan. We urge the Committee and the Congress to enact H.R. 5479 to ensure that the promise is kept to the nation's coal miners.

We appreciate the opportunity to be here today and would be happy to answer any questions you may have.

UMWA 1974 Plan Funded Status Projection




UMWA 1974 Pension Plan
Assets and Liabilities
Millions
7,500
7,000
6,500
6,000
5,500
5,000
4,500
4,000
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
Market Value
Actuarial Liability

UMWA 1974 Pension Plan Participants

State	Count
Armed Forces Overseas	13
Alaska	26
Alabama	9,256
Arkansas	133
Arizona	173
California	148
Colorado	682
Connecticut	14
District of Columbia	11
Delaware	28
Florida	1,277
Georgia	271
Hawaii	7
Iowa	17
Idaho	20
Illinois	11,020
Indiana	3,557
Kansas	205
Kentucky	12,233
Louisiana	18
Massachusetts	9
Maryland	346
Maine	7
Michigan	155
Minnesota	15
Missouri	785
Mississippi	41
Montana	35
North Carolina	1,100
North Dakota	9
Nebraska	7
New Hampshire	6
New Jersey	54
New Mexico	391
Nevada	66
New York	107
Ohio	8,016
Oklahoma	263
Oregon	22
Pennsylvania	18,132

Puerto Rico	3
Rhode island	7
South Carolina	378
South Dakota	4
Tennessee	1,387
Texas	208
Utah	1,795
Virginia	9,598
Virgin Islands	1
Vermont	1
Washington	72
Wisconsin	33
West Virginia	38,052
Wyoming	91
Non-USA	19
Total	**120,324**

Note: Pension counts include active, retired and terminated vested participants.