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MINE SAFETY AND HEALTH: A CONGRESSIONAL PERSPECTIVE

HEARING

BEFORE THE

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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MINE SAFETY AND HEALTH: A CONGRESSIONAL PERSPECTIVE

Thursday, March 16, 2006
U.S. House of Representatives
Subcommittee on Workforce Protections
Committee on Education and the Workforce
Washington, DC

The subcommittee met, pursuant to call, at 12:22 p.m., in room 2175, Rayburn House Office Building, Hon. Charlie Norwood [chairman of the subcommittee] presiding.

Present: Representatives Norwood and Owens.

Staff present: Robert Borden, General Counsel; Steve Forde, Director of Media Relations; Kevin Frank, Coalitions Director for Workforce Policy; Ed Gilroy, Director of Workforce Policy; Rob Gregg, Legislative Assistant; Richard Hoar, Professional Staff Member; Kimberly Ketchel, Press Assistant; Jim Paretti, Workforce Policy Counsel; Molly McLaughlin Salmi, Deputy Director of Workforce Policy; Deborah L. Emerson Samantar, Committee Clerk/Intern Coordinator; Loren Sweatt, Professional Staff Member; Tylease Fitzgerald, Legislative Assistant/Labor; Peter Galvin, Senior Legislative Assistant; Tom Kiley, Communications Director; Rachel Racusen, Press Assistant; Marsha Renwanz, Legislative Associate/Labor; and Mark Zuckerman, Minority Staff Director.

Chairman NORWOOD [presiding]. A quorum being present, the Subcommittee on Workforce Protections will come to order.

We are meeting today to hear testimony on mine safety and health, a congressional perspective.

Under committee rule 12(b), opening statements are limited to the chairman and the ranking minority member of the subcommittee. Therefore, if other members have statements, they may be included in the hearing record.

With that, I ask unanimous consent for the hearing record to remain open for 14 days to allow member statements and other extraneous material reference during the hearing to be submitted in the official hearing record.

Without objection, so ordered.

Two weeks ago, this subcommittee began a series of hearings examining the health and safety regulations of our nation's mines. At our first hearing, we heard from federal mine regulators with representatives of both the mining industry and mine workers as to how current law works and where it might be improved.

Since our first hearing, I was pleased to see that MSHA finalized and published emergency temporary standards to immediately increase protections for mine workers. These regulatory changes will require a mine operator to notify MSHA within 15 minutes of an accident occurring.

The changes will also require placing more self-contained, self-reducers in mine and in specific areas of the mine. Training is heavily emphasized throughout the standard. Miners will be required to have hands-on training, self-reducers and will have to perform evacuation drills.

Earlier this week, MSHA held a technology meeting to explore improving existing communications and location systems. Several people have asked the same question I did in the last hearing: Why are we unable to communicate with miners underground? What are the limits of this technology? I understand that progress is being made in this area, but I am interested in hearing how this progress can be accelerated in order to get MSHA permissible equipment in place and in place now.

Is it an area the subcommittee is going to continue to push and shove and explore till we get answers.

Our hearing today will feature a congressional perspective on mine safety and health. I am honored that our colleagues have agreed to meet with us today regarding the issue of mine safety. These members will bring us a different perspective of issues of state law and tax mine operations differently throughout the country.

I trust they will also discuss various legislative proposals addressing mine safety improvements.

As I said at the outset of our first hearing, we are here foremost to listen and to learn so that if we must legislate, we do so responsibly. I hope and trust that each of my colleagues on the subcommittee share that view and that we conduct this hearing accordingly.

With that, I welcome my colleagues and look forward to hearing their comments. I would like to thank our witnesses for taking time out of their day on their busy schedule to testify before us. I think it is very important for you, I think it is important for your district and your constituents that you have this opportunity to come and put your thoughts and feelings and ideas on the record. And I very much look forward to it.

I now yield to Mr. Owens for whatever opening statement he may wish to make.

[The prepared statement of Chairman Norwood follows:

Prepared Statement of Hon. Charlie Norwood, Chairman, Subcommittee on Workforce Protections

Two weeks ago, this Subcommittee began a series of hearings examining the health and safety regulation of our nation's mines. At our first hearing, we heard from federal mine regulators, and representatives of both the mining industry and mine workers as to how current law works, and where it might be improved.

Since our first hearing, I was pleased to see that MSHA finalized and published Emergency Temporary Standards to immediately increase protections for mine workers. These regulatory changes will require a mine operator to notify MSHA within 15 minutes of an accident occurring. The changes will also require placing more self-contained self-rescuers in mines and in specific areas of the mine. Train-

ing is heavily emphasized throughout the standard. Miners will be required to have hands on training with self-rescuers, and will have to perform evacuation drills.

Earlier this week, MSHA held a technology meeting to explore improving existing communications and location systems. Several people asked the same question I did in the last hearing. Why are we unable to communicate with miners underground? What are the limits of technology? I understand that progress is being made in this area, but I am interested in hearing how this progress can be accelerated in order to get MSHA-permissible equipment in place. It is an area the Subcommittee will continue to explore.

Our hearing today will feature a Congressional perspective on mine safety and health. I am honored that our colleagues have agreed to meet with us today regarding the issue of mine safety. These members will bring us a different perspective of the issues as state law impacts mine operations differently throughout the country. I trust they will also discuss various legislative proposals addressing mine safety improvements. As I said at the outset of our first hearing, we are here foremost to listen and learn, so that if we must legislate, we do so responsibly. I hope and trust that each of my colleagues on the Subcommittee shares that view, and that we conduct this hearing accordingly.

With that, I welcome my colleagues and look forward to hearing their comments.

I would like to thank our witnesses for taking time out from their busy schedules to testify before us today. I very much look forward to your testimony.

Mr. OWENS. Mr. Chairman, I, too, want to begin by acknowledging all the members of Congress who have agreed to take time form their busy schedules to address the critical issue of mine safety with us. We are all peers, and somehow it does not seem quite fitting to have subcommittee members seated up here on the dais and eight members of Congress who have agreed to come testify seated below us.

By the way, I understand very well why some of the members are not here, given the disruption caused by the lengthy vote. I understand Representative Costello is having lunch with President Bush and the president of Ireland. So you can see that his priorities are in the right direction, even though we also consider our hearing quite important. And others, I am sure, have very important appointments, and that is why they are not able to be here.

A roundtable seating arrangement might have been preferable as a more congenial and appropriate setting. This is a very special hearing, because the issue is a life-and-death matter.

That said, since our March 1 subcommittee hearing, several alarming new reports have underscored the appalling state of mine safety standards implementation and enforcement in this country.

First, press reports have documented serious questions about U.S. standards for mine seals. Designed to wall off abandoned sections from working areas of the mine, these seals are constructed with concrete blocks or other approved materials. In the Sago Mine disaster, methane gas built up and somehow ignited in an abandoned area, blowing out the thin walls built to seal if off from the working places.

Under current federal MSHA rules, mine seals must be able to withstand explosive forces of 20 pounds per square inch. Here again we lag far behind other western industrialized nations in safeguarding the lives of frontline mine workers. Our standard is less than half that required for mines in the United Kingdom, Canada, Australia and elsewhere in Europe.

In Queensland, Australia, for example, mine seals must, at a minimum, withstand a major explosive force of 50 pounds per square inch.

Policymakers and mining company owners throughout Australia and Europe accept wholeheartedly that such safety standards not only save lives, they help make mines more productive.

I ask unanimous consent that two articles in the Pittsburgh Post Gazette and one from the Charleston Gazette on this topic be placed in the record in their entirety.

Chairman NORWOOD. So ordered.

[The information follows:]

(From the *Pittsburgh Post-Gazette,* March 12, 2006)

Sago Inquiry Focuses on Blocks;
Wall Did Not Fully Match Designs That Had Passed Tests

BY DENNIS B. RODDY

The high-density foam block wall that failed in the Jan. 2 Sago Mine explosion did not fully match designs that passed earlier tests, both in 1992 and a decade later.

Crews at Sago used Omega Block, a concrete-and-fiber material marketed by Burrell Mining Products, based in New Kensington, to seal 10 openings to an abandoned section of the mine last year. That section is believed to be where a buildup of methane ignited, blowing out all 10 walls built to close it off from the working areas of the mine.

Federal and state investigators looking into the blast have focused attention on the wall and why it failed.

Several questions are under examination in the Sago blast, including what ignited the methane in the sealed areas and the delays in entering the mine to rescue men who could have walked out.

The failure of the seals has focused attention on the established minimum blast resistance standards and the margins of error that exist between the science of testing them in a controlled setting and the varied factors that surround their actual construction.

The federal Mine Safety and Health Administration approved the plan to seal off an abandoned section at Sago last year, signing off on a plan that called for a 40-inch-thick Omega Block barrier, and which included the words "no hitching required."

Hitching—cutting out a notch in the mine's floor and walls into which the sealing wall is recessed for additional strength—was done in 1992 when scientists at the Bureau of Mines laboratory, now part of the National Institute for Occupational Safety and Health, tested an Omega Block wall able to meet government standards. The test was done at the bureau's Lake Lynn Laboratroy Experimental Mine near Fairchance, Fayette County.

Under federal regulations, walls sealing off abandoned sections of mines must be able to withstand explosive forces of 20 pounds per square inch.

In August and September of 2001, a team at NIOSH did another test which included a 40-inch-thick wall of Omega Block without such hitching. The test, though, was part of a series of experiments to develop "seal designs for rapid deployment during mine emergencies." The seals presumably would be rushed into service to close off sections of mines during emergencies and were not originally envisioned as standard structures inside working mines. The study's title suggested the rushed nature by which such seals would be put in: "Designs for Rapid In-Situ Sealing."

Nonetheless, because the walls withstood repeated blasts, including one at 27 psi, MSHA permitted that study to be the basis for approving the construction of Omega Block walls without hitching. Notice of the approval was sent to the agency's 11 district offices.

Even under that standard, the Sago Mine seal plan approved by MSHA did not exactly match the dimensions described in the study.

The NIOSH test that was done without hitching assumed a wall of no more than 6.8 feet in height at 40 inches in thickness. The plan approved for the Sago seals described seals ranging in height from eight to 12 feet. Early indications are that the seals installed at Sago did not exceed 8 feet in height, running, on average, 7 feet.

Michael Sapko, one of the researchers who performed the 2001 test that MSHA later used to approve unhitched walls, said the height of a seal could affect its blast resistance.

"As you increase the height of the seal, typically, you need to increase the thickness of the seal in order to maintain the same explosion-resistance," Mr. Sapko said.

Mr. Sapko said that once the unhitched Omega Block wall withstood repeated blasts at 20 psi and higher, the product's maker, Burrell Mining Products, sought MSHA approval for its use as a mine seal that did not require hitching.

A company technical representative, Charles Lash, helped to erect the wall that was tested, Mr. Sapko said.

Reached last week, Mr. Lash declined to comment.

At Burrell Mining's headquarters, a receptionist said there was no one in the office and that the company would have no comment.

Omega Block, introduced in the 1990s, is a composite of concrete, ash and fiber which has become widespread in mine seals because its lower weight allows for quicker installation, often with fewer back strain injuries for crews. Mine safety officials, notably those at the United Mine Workers of America, have expressed skepticism about the block's capacity to withstand blasts. Earlier NIOSH studies showed that traditional and more expensive concrete walls, notched into mine floors and walls, more readily withstand methane blasts as great as three times the 20 psi minimum standard.

What becomes clear from various test reports and interviews with mining experts is that the installation procedure necessary for Omega Block to withstand a 20 psi blast is intricate and must be followed carefully.

Installation of the block includes 20 parameters that must be met, according to Mark Skiles, MSHA director of technical support.

"That's a detailed list of stuff you have to do right. Any step you leave off is critical. You've got to do it just right," Mr. Skiles said.

Among areas the Sago investigators are looking at is whether the Omega Block wall, built by a crew of contractors, was assembled according to specifications.

When Bureau of Mines officials tested Omega Block in 1992 at the Lake Lynn Experimental Mine, they detailed the construction of four Omega Block test seals in the report later used to gain approval for the block from MSHA. The report limited its language carefully in saying the block could meet federal standards.

Researchers constructed three Omega Block walls which were 24 inches thick and a fourth which was 32 inches thick.

"Simulating keying—hitching—on the floor and ribs using a six- by one-half-inch steel angle secured with 24-inch-long by 1-inch-diameter case-hardened steel bolts on 18-inch centers was applied to all of the seal designs," the report stated.

The four test walls survived an explosion of 20 psi force, and researchers concluded that the block met the requirements of the federal code governing mine seals "if constructed in the same manner as the seals in the [Lake Lynn Experimental Mine]."

Omega Block underwent one other blast test, in July 2001, at Lake Lynn, but the results were never used to assess its reliability by MSHA because the test itself was an experiment of testing methods.

NIOSH scientists were searching for a way to allow the testing of mine seals inside mines, something that cannot be done currently because testing procedures require the creation of a methane explosion.

Scientists looked for ways to replicate such blasts by using water and air pressure, and set up various types of mine seals inside a specially designed chamber at the laboratory.

To determine the ultimate failure pressure of various seal designs that withstood the pneumatic tests, researchers pumped a methane-oxygen mixture into the chamber and triggered explosions.

While eight of the 11 traditional concrete block walls withstood blasts ranging from 66 psi to 86 psi, three to four times the standard, the unhitched, 40-inch thick Omega Block wall, the design cleared for use at Sago, failed at 17.9 psi. The earlier approved design that included hitching into the floor and walls ruptured at 22 psi.

The unhitched wall that failed in the hydrostatic chamber test in some respects matched the Sago design in terms of height more closely than the ones that passed a test one month later, the test of emergency mine seals that MSHA later adopted to approve unhitched Omega Block walls.

The July 2001 blast test in the hydrostatic chamber was of a wall 81/2 feet tall, somewhere in the range of the 8-foot walls approved for Sago.

Mr. Sapko later did calculations for the walls tested in the hydrostatic chamber and calculated that, at 8 feet, "it may have held at 20 psi."

"Until we find out how they were actually constructed, then we'll have a better picture of what may or may not have happened," Mr. Sapko said.

Omega Block's uses inside mines came under new scrutiny in Alabama two weeks ago when workers at the Drummond Co.'s Shoal Creek Mine reported that three Omega blocks had been sucked out of an 18-inch-thick mine ventilation wall by the fan that courses air through the shaft.

Such ventilation walls, known as "brattices," run from ceiling to floor and direct fresh air through a mine and into its work area. In addition to providing breathable air to miners, they are essential for diluting and drawing out methane gas that might have seeped into the mine from the coal strata.

"These blocks cannot withstand these kinds of pressures," said Timothy J. Baker, deputy administrator for occupational health and safety for the United Mine Workers, which represents Shoal Creek's 533 miners.

Mr. Baker said that, before an evacuation could be ordered, an explosion erupted in the mine, leading to speculation that the missing blocks had interfered with the air flow and allowed methane to gather.

(From the *Pittsburgh Post-Gazette,* March 12, 2006)

Sago Inquiry Focuses on Blocks; Standards Are Higher Elsewhere

BY STEVE TWEDT

The mine seals at Sago Mine No. 1, where 12 miners died after an explosion trapped them underground Jan. 2, would have been considered substandard in many industrialized nations.

The U.S. standard—that a seal withstand an explosive force of 20 pounds per square inch—is less than half what British, Canadian, Australian and some European authorities require.

"If it was an active mine, we wouldn't accept" a 20 psi seal, said Fred Hermann, chief inspector of mines in British Columbia.

"We would probably be up in the 35 to 40 psi range, maybe as high as 50. If you've got people in there, you go to your risk factors. If it's an active mine, then the objective is to protect people."

Queensland, Australia, requires a minimum 50 psi tolerance, and some European countries' standards are higher.

While the cause of the Sago Mine explosion has not been determined, investigators believe methane ignited behind a walled-off area inside the mine, blowing out all the Omega block seals. What ignited the gas remains unknown.

Regardless of the cause, the Pittsburgh Post-Gazette has uncovered troubling questions about the 20 psi standard for seals in U.S. mines and whether that standard makes a seal "explosion proof," as required by federal law.

"I think 20 psi would probably withstand a moderate force explosion, but certainly not a major one," said Mr. Hermann, who is based in Victoria, B.C.

When the 20 psi standard was adopted in 1992, officials cited a 1971 study done in Pittsburgh's Mining and Safety Research Center that said a 20 psi seal may be considered explosion-proof as long as the sealed area "contains sufficient incombustible [material] to abate the explosion hazard" at the seal as well as the surrounding area.

It's the issue of monitoring and controlling the gas environment that might get lost in the translation from research to regulation to accepted practice. This is especially true as the number of sealed areas has increased, with tens of thousands of seals now installed in underground mines. The report—"Explosion-Proof Bulkheads: Present Practices"—appears to assume that any explosion would occur at the mine's working face, away from the sealed area.

"The important thing is that, with the 20 psi, you need to control the atmosphere behind the gob [sealed area], and not just look at the seal itself," said Michael Sapko, a physical scientist and engineer with the National Institute for Occupational Safety who specializes in fire and explosions research.

"You can't just let the whole area fill up with an explosive mixture. You have to look at it as a systems approach."

Dennis O'Dell, administrator of occupational health and safety for the United Mine Workers of America, believes research on mine seals has to be updated to reflect current mining operations.

"The mines are getting deeper and we're getting into seams that are more gassy. The conditions are not the best, so they need to take all those things into consideration," Mr. O'Dell said.

He suggested building on existing research and looking at what other countries are doing.

The 1971 paper noted that authorities in Poland and Germany had decided that seals should be able to withstand a 72 psi explosion. It cited a United Kingdom commission report which said those designing bulkhead seals should "assume that pres-

sures of 20 to 50 psi may develop * * * and that the figure of 50 psi gives a good margin of safety in practice."

None of that was included in the May 15, 1992, final rule language on seal construction published in the Federal Register.

After 12 men died at Sago, though, the mine seal standard "is obviously an important part of the question that we're going to need to ask," J. Davitt McAteer said last week.

Mr. McAteer, the former U.S. assistant secretary of labor for mine safety and health chosen by West Virginia Gov. Joe Manchin III to head up the state's Sago investigation, said he was unaware the U.S. standard was lower than other countries'.

The 20 psi threshold "has always been the accepted test parameter when testing ventilation seals," said Joe Sbaffoni, director of Pennsylvania's Bureau of Mine Safety. "But I'm sure that's what's going through everyone's minds right now, is 20 psi enough?"

The group of U.S. engineers involved in the first tests of seals in the 1920s used a 50 psi standard and it was made part of the coal mining regulations for leased government lands.

According to a footnote in a 1931 Bureau of Mines Bulletin, that decision "was made by the conference of engineers, including representatives of various state mining departments, and was based on the general opinion of men experienced in mine-explosion investigations."

Later language required that the bulkhead seals be "substantial" without designating a specific standard.

The sealing of mined-out or abandoned sections dates to pre-World War II days, although Pennsylvania did not allow it until the 1980s.

Mine operators seal off areas so they don't have to be ventilated or maintained, an approach many consider safer for underground workers. Methane typically builds up after an area is sealed. Methane is considered explosive when it is within 5 percent to 15 percent of the air mixture, but it will not explode once it exceeds 15 percent because there is insufficient oxygen to make it flammable. That can make newer seals, such as the one at Sago, vulnerable as the methane levels move through that explosive range.

Mr. Sapko said no one knows for sure what happened at Sago, including the force of the explosion. He said later research, looking at explosions over a 13-year period, found that they usually did not exceed 20 psi.

But at least one federal investigation warned in 2001 that a mine explosion could exceed 20 psi "if a large flammable gas volume exists in the gob."

A mine explosion remains an unusual event. A 2001 NIOSH newsletter reported seven explosions in the previous six years in sealed areas of underground coal mines. The explosions did not cause any injuries—no miners were working near the areas at the time—but numerous mine seals were destroyed. In each case, the explosions, which were believed to have been started by lightning, generated a force up to 138 psi.

A 20 psi rating for a seal 8 feet wide and 4 feet tall means it can withstand a force of 92,000 pounds. While that may sound substantial, "when you're talking about an explosion, that's really not a lot," said Anthony Whitworth, whose Jasper, Ga., company trains mine workers in 10 countries.

"It only has to get to that point. It doesn't have to stay there."

Luke Popovich, spokesman for the National Mining Association, which represents mining industry corporations, said mine operators would abide by whatever standard is required.

"But virtually all of our mines today routinely build seals beyond the standard required in the code of regulations, although how much beyond the current standard, we can't say."

With 12 men dead at Sago, though, officials are likely to be paying more attention to the specifics of those seals.

While coal mining "to its credit" has become safer, accidents will still happen, Mr. Hermann said. "It's unfortunate, but you learn from these kind of incidents and you adjust the standard appropriately."

(From the *Charleston Gazette,* January 13, 2006)

Sago Blast Area Was Recently Sealed;
State OK'd Foamlike Seals, Not Mandated Concrete

BY KEN WARD JR. AND PAUL J. NYDEN

FAIRMONT—The explosion at the Sago Mine occurred in a mined-out area that had been sealed perhaps only weeks before the Jan. 2 disaster, state government records show.

A state mine safety inspector examined the seals Dec. 12 and determined that they were properly constructed, according to the records.

"The seals may be closed," wrote John Collins, an inspector with the state Office of Miners Health, Safety and Training. "The seals are built as approved."

Less than three months before the blast, on Oct. 14, state regulators had approved a plan to seal an area of the mine called "2nd Left Mains."

In media coverage, the bodies of 11 of the miners who died in the Sago disaster were reported found in "2nd Left."

But actually, they were found in a new production section, called "2nd Left Parallel." That section was located between the sealed "2nd Left" and another section called "1st left."

In that sealing plan, state officials approved the use of "Omega blocks," a product resembling dense plastic foam.

During a public meeting Thursday, C.A. Phillips said the explosion blew out the seal that protected the active mine workings from the mined-out 2nd Left area.

Officials from International Coal Group, which owned the mine, have said the explosion blew the seals into the active mine, a finding that led them to believe the blast occurred in the sealed-off section.

On Thursday, Phillips told the state Board of Coal Mine Health and Safety that, "The seals, made with foam, could withhold pressures of five pounds per square inch."

Rick Glover, a board member and retired United Mine Workers safety official, said those seals were much too weak.

Glover said federal mining regulations require that underground mine seals, installed to isolate mined-out areas from active sections, must be able to withstand pressures of 20 pounds per square inch.

U.S. Mine Safety and Health Administration rules actually require all seals to be built using "solid concrete blocks." Alternate materials can be used only if they will withstand 20 pounds per square inch of pressure, the MSHA rules state.

In a summary of its research on coal mine seals, the National Institute for Occupational Safety and Health reported that "ventilation seals are used extensively in mining to safely isolate old workings and fire areas from the active sections of a mine to protect underground workers from explosions.

"Without reliable seal designs, miners' lives could be in jeopardy from the consequences of an underground explosion," said the NIOSH report.

NIOSH said one company alone reported that its seal products were used an average of 70 times per month in underground mines.

In its summary, NIOSH also noted that an explosion occurred in a sealed area of the Gary 50 Mine, owned by U.S. Steel, in Pineville in June 1995.

That mine used 4-foot-thick pumped cement seals tested by NIOSH and approved by MSHA. The seals "effectively contained the explosion, thereby sparing the miners working nearby," NIOSH reported.

Mr. OWENS. The second alarming report appeared on the federal pages of The Washington Post on March 9 of this year. In the special interest column on that page, an article entitled, "Mining for Legislation," described visits of some 24 mine executives and more than 60 members of Congress on the other side of aisle to deliver wish lists of what industry is seeking in any mine safety legislation considered this year.

I ask unanimous consent that this article be placed in the record also.

Chairman NORWOOD. So ordered.

[The information follows:]

(From the *Washington Post,* March 9, 2006)

Mining for Legislation

BY JUDY SARASOHN

With the coal industry's improving safety record pretty much shot already for 2006 by the explosion in a West Virginia mine in January and other incidents that have left 21 coal miners dead—22 died in all of 2005—about two dozen mine executives and industry representatives lobbied the Hill this week in support of mine safety legislation.

"We're not there to argue or fight or to prevent anything," explained Michael J. Quillen, chief executive of Alpha Natural Resources, a leading Appalachian coal producer. "We're not looking for feel-good legislation. We want something that works."

To that end, the coal executives told more than 60 lawmakers about what they called a "set of guiding principles" for Congress to consider as it works on mine safety legislation. Those principles include expediting the development of two-way communication and tracking technology, improving safety training and rescue capabilities, and mandatory drug testing of all mine personnel. Also, the mine executives want a liability shield and indemnification for rescue activities and tax incentives to help pay for safety equipment and training.

Quillen and Luke Popovich, vice president for external communications for the National Mining Association, said coal mining is a technologically difficult and hazardous operation. Communications and other safety devices have to be developed to withstand explosions and not cause them by sparking, they said. Without federal legislative backing and directives, the industry is too small to encourage manufacturers to develop the necessary technology. Moreover, it has no authority to go to NASA or the Defense Department for help, they added.

"We can't walk up to Wal-Mart and get the technology off the shelf and put it into use," Quillen said.

The mining executives did run into some skepticism on the Hill, they said. And some folks who represent miners aren't convinced of the mine operators' good faith. But Popovich said that "instead of running from the problem, they're running toward it—in hopes of finding a legislative solution that actually leads to safer mines."

The West Virginia delegation has introduced legislation to increase mine safety, but little has been done on it. The Senate last month approved an amendment by Sen. John D. Rockefeller IV (D-W.Va.) to a tax bill to provide tax incentives to help mining companies pay for safety equipment and train rescue teams. That bill goes to conference with a House measure that was passed before this year's mine accidents.

Change to Win, the new labor federation whose members split last year from the AFL-CIO, has snagged Frank Clemente, director of Public Citizen's lobbying arm, Congress Watch. Clemente started this week as the labor group's issues campaign director.

Clemente had been at Public Citizen for about 12 years, directing major public education and advocacy efforts on campaign finance, improving access to health care, as well as fighting GOP proposals for product liability and securities litigation legislation.

Among the Change to Win members are the Laborers' International Union of North America, the Teamsters, the United Farm Workers and others. "The reach is big," Clemente said. "This is a major political force," he added, with "the ability to move these big issues."

Also moving about town * * * Winnie Stachelberg has signed on as senior vice president for external affairs at the Center for American Progress, the liberal think tank and advocacy group founded by Clinton White House chief of staff John D. Podesta. Stachelberg was vice president of the Human Rights Campaign Foundation and earlier served as political director of the Human Rights Campaign, the gay civil rights organization. She called the move " a great opportunity to help promote progressive policies and ideas."

Shahira Knight is beating her former boss, House Ways and Means Committee Chairman Bill Thomas (R-Calif.), out the door. Before Thomas's announcement this week that he will retire from the House, Knight joined the C2 Group as a partner in the lobby shop. The C2 Group was founded by Tom Crawford, a former Michigan state legislative aide, and John Cline, a former assistant secretary of transportation in the Bush I administration.

Penelope Naas, most recently director of the Office of European Union at the International Trade Administration, next month joins Citigroup as vice president of global government affairs and chief of staff. Naas started at the Commerce Depart-

ment during the Clinton administration. Citigroup's senior vice president for global government affairs is Nicholas Calio, former top lobbyist to the current president.

Celia Wallace, previously energy and environment legislative aide to Sen. Craig Thomas (R-Wyo.), has joined Tongour Simpson Holsclaw as a vice president. Earlier, she worked on the Senate Energy Committee for then-Chairman J. Bennett Johnston (D-La.). Members of the firm include former senator Alan K. Simpson (R-Wyo.) and his former chief counsel, Mike Tongour.

Barbour Griffith & Rogers has hired Shalla Ross, most recently policy director at the House Republican Conference Committee.

Mr. OWENS. What is most disturbing about this report is not simply the implied connection with campaign contributions or special favors, what is disturbing is the sheer inability of ordinary mine workers and their families to meet with members of Congress at all, let alone as routinely as mine executives or mining company lobbyists do.

What is even more troubling is the refusal of this committee to allow mine workers, surviving family members of mine tragedies or even mine rescue team members to appear before us as witnesses at official hearings. Frontline mine workers are put in harm's way every day they go underground simply to earn enough money to feed, cloth and shelter their families.

A comment was made at the last hearing that underground mining was an interesting career choice. These mine workers don't necessarily see it as a choice. They, in those dangerous jobs, earn a living wage where they could not earn it otherwise for their families. They remain in even greater danger because of the failure of this Congress to conduct appropriate oversight of MSHA's conduct since 2001.

Mr. Chairman, we can rectify some of this neglect of oversight duty this morning by focusing on an important bipartisan bill, H.R. 4695, the Federal Mine Safety and Health Act of 2006. It was introduced by Representative Nick Rahall, Alan Mollohan and Shelley Moore Capito, who are all here today. They are all here with us.

Others on this committee have already joined the West Virginia House delegation in cosponsoring this important bill. I look forward to hearing them all.

And on that note, Mr. Chairman, I ask you again to please schedule a markup on H.R. 4695 immediately following next week's recess.

I yield the balance of my time.

Chairman NORWOOD. We have a panel of very distinguished witnesses today. Of course I want to hear from all of you. I am going to try to hold this hearing open as long as I can get somebody to stay with me so members can drop in and out. I know we have been disrupted a great deal with the vote, but I really, truly want everybody to have an opportunity to have their say on this.

I would like to introduce our witnesses, though I think we all know each other. The Honorable Shelley Moore Capito is of course the representative of the 2nd District of West Virginia. Later, hopefully, the Honorable Tim Murphy is the representative from the 18th District of Pennsylvania; the Honorable Dick Rahall is the representative for the 3rd District of West Virginia; the Honorable Artur Davis is the representative of the 7th District of Alabama;

the Honorable Jerry Costello is the representative of the 12th District of Illinois; the Honorable Rush Holt is the representative of the 12th District of New Jersey; the Honorable Alan Mollohan is the representative of the 1st District of West Virginia; and the Honorable Ben Chandler is the representative of the 6th District of Kentucky.

I would like to remind the members that we will be asking questions of the witnesses after testimony. In addition, Committee Rule II poses a 5-minute limit on all questions.

With that, I would like to start with Congresswoman Capito.

Welcome.

Mrs. CAPITO. Thank you.

Chairman NORWOOD. You are recognized for 5 minutes.

STATEMENT OF HON. SHELLEY MOORE CAPITO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

Mrs. CAPITO. Thank you, Mr. Chairman, Ranking Member, my distinguished colleagues on the panel and my fellow West Virginians. Actually, we are all full West Virginians seated here. I want to thank you for holding this important hearing and for the opportunity to testify.

You well know the tragedy that West Virginians have endured in the coal fields just this year, and I appreciate the willingness of the subcommittee to examine steps that Congress and MSHA can take to improve the safety of our minors.

On the morning of January 2, an explosion rocked the Sago Mine in Upshur County, West Virginia, which is in my district. Thirteen men were trapped 260 feet below the surface. One miner survived but he had serious injuries resulting from a lack of oxygen. Twelve other miners were killed. Four other miners were subsequently killed in West Virginia in accidents at the Alma Mine and in Boone County during the month of January.

The one positive that should come from these tragic deaths is a renewed commitment from government, from industry and from miners themselves to improving safety in our underground mines.

MSHA emergency rules, which you talked about in your opening statement, are certainly a step in the right direction in enhancing safety, but it is only a first step in what we must do to prevent future accidents and respond effectively if an accident would happen to occur.

West Virginia's congressional delegation introduced a bill, H.R. 4695—all five of us are on that bill—that I believe outlines the areas your committee should focus on as you examine MSHA regulations and consider legislation. These areas include the structure and availability of mine rescue teams, the emergency oxygen supply for miners and new and emerging technologies like tracking devices, two-way communications and rescue chambers.

Many have complained that new mining technologies are not available. Both in the meetings I have had on mine safety and indeed in this hearing that was held on March 1, there has been disagreement on which tracking and communications systems work. My response is that if there is no two-way communications system

at all, one must be developed and developed quickly. And if there is none at all, we are not going to save one life.

We know that at least 12 of the 13 Sago miners were alive hours after the explosion. Lives could almost certainly have been saved if rescuers could have communicated with the trapped miners and directed them out of the mine. What a tragedy.

I believe that where a serious will exists to develop a new technology the goal can be achieved. Indeed, seven new two-way, wireless communications devices will be tested in West Virginia next week. MSHA has said that it received over 80 proposals, and I feel like I have seen 80 in my office, demonstrating that there are companies and individuals willing to create this technology.

We know that tracking systems are available now, despite limitations that may mean that a miner's location is only known based on the last tracking beacon that they passed. I believe this technology could and should be improved, but when it comes to safety perfection should not be the enemy of the good. We should require that tracking systems become standard across the underground mining industry.

Most of us now know that a mine rescue chamber saved dozens of lives at a mineral mine in Canada. I certainly understand the viewpoint expressed in the March 1st hearing that miners should be trained to get out of the mine in an emergency. Clearly, evacuation is preferable in an accident. Still, we know there are instances where miners will not be able to immediately escape. We need to seriously evaluate rescue chambers and how they would work in underground coal mines. And if they will, then they should be included as a life-saving device for American miners.

I believe that Congress must act, and must act on our bill, to require that regulations be issued on new safety technologies. Steven Luzik,the chief of MSHA's Approval and Certification Center, told the Associated Press this week that prior to the accidents in West Virginia, MSHA had not done much to test or evaluate new communications equipment. That is a startling statement, I find.

While I am encouraged that new two-way wireless communications devices will be tested next week, I fear that as we move further away from the tragedies at Sago and Alma that complacency could take hold when it comes to new safety technologies. I can tell you as a member of the West Virginia delegation, we will not let complacency set in.

Only congressional action, through legislation and continued oversight, can ensure that positive steps currently being taken in regards to mine safety are not swept under the rug when the public spotlight turns away from the issue.

In addition to evaluating new technologies, we should take steps to improve our mine rescue teams, ensuring that they are familiar with the mines and can respond as soon as it is safe to enter an accident scene. At the Sago Mine, the waiting and waiting and waiting before we got any mine rescue teams into that mine was excruciating, not only for those of us who were there but certainly for the families.

We, as a Congress, also must do our part by ensuring that MSHA has adequate funding to carry out its mission of protecting our miners. The president's budget proposes a modest increase for

mine safety, but it is my hope that a more substantial increase is given to MSHA to add inspectors, allow for larger training grants and provide additional resources for the evaluation of new technologies.

I appreciate you holding the hearing for those miners and families of the Sago Mine tragedy. I know that they don't want to see any future mine families go through the devastation and the heartbreak that they have suffered because of the tragedy of January 2 and the subsequent tragedies in West Virginia.

West Virginians are a family. We feel it all in our heart when one of us goes down. And the mining community and coal mining is in our blood, and it is vitally important to this nation's economy.

So I look forward to working with the subcommittee on this vital issue to my state and to others around the country, and I appreciate the opportunity.

Thank you.

[The statement of Ms. Capito follows:]

Prepared Statement of Hon. Shelley Moore Capito, a Representative in Congress From the State of West Virginia

Mr. Chairman: I want to thank you for holding this important hearing and for the opportunity to testify. You well know the tragedy that West Virginians have endured in the coal fields this year, and I appreciate the willingness of the subcommittee to examine steps that Congress and the Mine Safety and Health Administration can take to improve the safety of our miners.

On the morning of January 2 an explosion rocked the Sago Mine in Upshur County, West Virginia in my congressional district. Thirteen men were trapped 260 feet below the surface. One miner suffered serious injuries resulting from a lack of oxygen. Twelve other miners were killed in the tragedy. Four other miners were killed in West Virginia in accidents at the Alma Mine and in Boone County during January. The one positive that can come from these tragic deaths is a renewed commitment, from government, from industry, and from miners themselves to improving safety in our underground mines.

MSHA and the mining industry deserve credit for making 2005 the safest year in the history of the industry. But I sat with the families and friends of the trapped miners as we awaited word from the Sago mine and I attended memorial services, and when tragedy strikes no one cares how safe the previous year was. One death is too many and we must take whatever steps are necessary to improve safety.

Last Thursday, MSHA published emergency rules that are a positive first step in the process. These rules will require additional self-rescuers to be placed in underground mines and provide training for miners on how to transfer from one Self-Contained Self Rescue device to another, The rules will also increase the use of lifelines to guide miners out and require companies to report mining accidents to MSHA within 15 minutes.

These emergency rules are certainly a step in the right direction in enhancing the safety of our underground miners, but they are only the first step in what must be done to prevent future accidents and respond effectively if an accident does occur.

West Virginia's congressional delegation introduced a bill, HR 4655, that I believe outlines the areas your committee should focus on as you examine MSHA regulations and consider legislation. These areas include the structure and availability of mine rescue teams, the emergency oxygen supply for miners, and new and emerging technologies like tracking devices, two-way communications, and rescue chambers.

Many have complained that new mining technologies are not available. Both in the meetings I have had on mine safety issues and indeed in the hearing this subcommittee held on March 1 there has been disagreement on which tracking and communications systems work. My response has been that if there is no two-way communications system now, one must be developed and developed quickly. We know that at least 12 of the 13 Sago miners were alive hours after the explosion. Lives could almost certainly have been saved if rescuers could have communicated with the trapped miners and directed them out of the mine.

I believe that where a serious will exists to develop a new technology, the goal can be achieved. Indeed, seven new two-way, wireless communications devices will be tested in West Virginia next week and MSHA has said that it received over 80

proposals in response to its January request for public comment, demonstrating that there are companies and individuals willing to create this safety technology.

We know that tracking systems are available now, despite limitations that may mean that a miner's location is only known based on the last tracking beacon they passed. I believe this technology could and should be improved, but when it comes to safety perfection should not be the enemy of the good. We should require that tracking systems become standard across the underground mining industry.

Most of us now know that a mine rescue chamber saved dozens of lives at a mineral mine in Canada. I certainly understand the view point expressed in the March 1st hearing that miners should be trained to get out of the mine in an emergency—clearly evacuation is preferable in an accident to waiting in a rescue chamber. Still, we know there will be instances where miners will be unable to immediately escape. We need to seriously evaluate whether rescue chambers will work in underground coal mines, and if they will then they should be included as a life saving device for American miners.

It is my belief that Congress must act to require that regulations be issued on new safety technologies. Steven Luzik ,the chief of MSHA's Approval and Certification Center told the Associated Press this week that prior to the accidents in West Virginia, MSHA had not done much to test and evaluate new communications equipment. While I am encouraged that new two-way wireless communications devices will be tested in an underground mine in West Virginia, I fear that as we move further away from the tragedies at Sago and Alma that complacency could again take hold when it comes to new safety technologies.

Only Congressional action, through legislation and through continued oversight can ensure that the positive steps currently being taken in regards to mine safety are not swept under the rug when the public spotlight turns away from the issue.

In addition to new technologies we should take steps to improve our mine rescue teams, ensuring that they are familiar with the mines and can respond as soon as it is safe to enter an accident scene.

New mines are opening in West Virginia and we know that the population of miners is aging. As new miners join the workforce they must receive extensive training on how to prevent accidents in the first place and what to do if an accident occurs.

We as a Congress also must do our part by ensuring that MSHA has adequate funding to carry out its mission of protecting our miners. The President's budget proposes a modest increase for mine safety, but it is my hope that a more substantial increase is given to MSHA to add inspectors, allow for larger training grants, and provide additional resources for the evaluation of new technologies.

We all recognize the dangers of the mining profession, but we must do everything in our power to make underground mining as safe as possible. I saw the pain and suffering at Sago and we must act to prevent similar tragedies. Tragedies in West Virginia put mine safety on that national radar screen, and West Virginians want to lead the way towards improving mine safety around the country. I am committed to working with the subcommittee and all other interested members to save lives and reduce accidents across the country.

Again, Mr. Chairman, I thank you for holding this hearing. I look forward to continuing to work with the subcommittee on this vital issue to my state and to others around the country.

Chairman NORWOOD. Thank you very much, Ms. Capito.

Mr. Rahall, you are now recognized.

STATEMENT OF HON. NICK J. RAHALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

Mr. RAHALL. Chairman Norwood and Ranking Member Owens, I do express my appreciation as well as that of many who reside in our nation's coal fields for your holding this second hearing today on the issue of coal mine safety.

I appreciate the question, as you have asked at the previous hearing as well as in your opening comments today. They are pertinent and right on target, and I appreciate your commitment to improving our nation's mine safety as well as that of the ranking member, Mr. Owens.

My purpose in appearing before you today is to extol the virtues of legislation that the West Virginia congressional delegation introduced on February 1st, which has already been referenced, and to ask that it be expeditiously considered by this subcommittee and the full committee.

The legislation, as you know, H.R. 4695, the Federal Mine Safety and Health Act of 2006, reflects what I and many others views as common sense approach to dealing with the most immediate and pressing shortcomings of the current mine safety regulatory regime.

This bill is the opportunity for this Congress to demonstrate that the lessons from the tragedies earlier this year at Sago, Melville and two other mining operations in West Virginia, and elsewhere for that matter, are not falling on deaf ears.

The simple fact of the matter is that currently MSHA's regulations and polices are woefully inadequate on several fronts, such as their neglect of advances in technologies that could be deployed to increase the survival of coal miners involved in emergency situations.

In this regard, our legislation would provide a road map to MSHA on where, using existing statutory authorities, it could dramatically improve mine safety. This legislation does not amend the Federal Mine Safety and Health Act of 1977, and I would like to emphasize that point. Rather, it points to existing statutory authorities, and it prods MSHA into action.

Frankly, just about the entire bill, Mr. Chairman, could be implemented administratively if the agency simply had the will to do so.

But that, unfortunately, is not the case. For instance, the emergency rulemaking it recently announced, MSHA addresses several neglected safety issues, including the need for increase oxygen supplies in the mines. However, I must point out that even here the proposed rule is deficient. It would require an additional one hour's worth of oxygen for a total of a 2-hour supply. By MSHA's own admission, at 76 of our nation's underground coal mines, miners would need more than 2 hours of air to escape.

So what does the rulemaking say to those coal miners? By contrast, our West Virginia delegation bill would require enough oxygen to maintain trapped coal mines for a sustained period of time. If, as a result of adequate study and input, during the rulemaking process sustainability is determined to be 3 hours, 4 hours or whatever, that is what the standard would become.

We do not set that time in our legislation. We do leave it up to the rulemaking process to determine what that sustained period of time is.

We do not leave the coal miners at those 76 mines I referenced stranded without an equal chance of survival.

Attached to my submitted testimony is an overview of H.R. 4695. You can read it at your leisure, and at this point I just would conclude with an observation.

Since we introduced the legislation on February 1, only one coal company has come to visit us to review the bill and raise concerns, and that is rather amazing to me. As a veteran of introducing legislation affecting the coal industry, past experience has been more like the barbarians at the gate. So this particular situation, I be-

lieve, stands as testimony to the fact that the bill is flexible in achieving its purpose.

At the same time, I have read of concerns being expressed by some that the types of technology we are seeking to have placed in underground coal mines either may not work in all cases or are not immediately available.

For America, which has long led the world in promoting workforce health and safety, the recent mine tragedies have been something of a black eye. They have highlighted advances abroad and a lack of sufficient innovation here at home. With the know-how of this nation, overcoming the technology hurdle is a small challenge, nudged along by regulation called for in this bill.

For instance, the legislation says that within 90 days of enactment, the secretary shall engage in a rulemaking to require the implementation of electronic tracking systems in underground coal mines. This legislation does not prescribe the particular technology that is to be used nor, for that matter, does it prescribe exactly when electronic tracking must be in place at all U.S. underground coal mines. We leave that to the rulemaking, to the public comment, to the mine health and safety experts.

If the record shows that technology is immediately, all the better. If the record shows, however, that it may take several months for it to be available, then I expect there would be the timeframe established by the regulation.

But the bottom line, Mr. Chairman, under this legislation is that electronic tracking will ultimately be a requirement.

And with that, I thank you for your time and, again, for having this hearing today.

[The statement of Mr. Rahall follows:]

Prepared Statement of Hon. Nick J. Rahall, II, a Representative in Congress From the State of West Virginia

Chairman Norwood and Ranking Member Owens, I would like to express my appreciation, as well as that of many who reside in the Nation's coalfields, for your holding this second hearing today on the issue of coal mine safety.

My purpose in appearing before you today is to extol the virtues of legislation the West Virginia Congressional Delegation introduced on February 1st and to ask that it be expeditiously considered by this subcommittee and the full committee.

This legislation, H.R. 4695, the "Federal Mine Safety and Health Act of 2006" reflects what I, and many others, view as a common-sense approach to dealing with the most immediate and pressing shortcomings of the current mine safety regulatory regime.

This bill is the opportunity for this Congress to demonstrate that the lessons learned from the tragedies earlier this year at the Sago, Melville and two other mining operations in West Virginia, and elsewhere for that matter, are not falling on deaf ears.

The simple fact of the matter is that current Mine Safety and Health Administration regulations and policies are woefully inadequate on several fronts, such as their neglect of advances in technologies that could be deployed to increase the survival of coal miners involved in emergency situations.

In this regard, H.R. 4695 would provide a roadmap to MSHA on where, using existing statutory authorities, it could dramatically improve mine safety. This legislation does not amend the Federal Mine Safety and Health Act of 1977. I would like to emphasize that. Rather, it points to existing statutory authorities and prods MSHA into action.

Frankly, just about the entire bill could be implemented administratively if the agency simply had the will to do so. But that, unfortunately, is not the case. For instance, in the emergency rulemaking it recently announced, MSHA addresses several long-neglected safety issues, including the need for increased oxygen supplies in the mines.

However, I must point out that, even here, the proposed rule is deficient. It would require an additional one-hour's worth of oxygen for a total of a two-hour supply. By MSHA's own admission, at 76 of the Nation's underground coal mines, miners would need more than two hours of air to escape. So what does that rulemaking say to those coal miners?

By contrast, the West Virginia Delegation's legislation would require enough oxygen to maintain trapped coal miners for a sustained period of time. If, as a result of adequate study and input during the rulemaking process, sustainability is determined to be three hours, four hours, or whatever, that is what the standard would become. We do not leave the coal miners at those 76 mines I referenced stranded without an equal chance of survival.

Attached to my submitted testimony is an overview of H.R. 4695. You can read it at your leisure. At this point, I would like to conclude with an observation.

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For America, which has long led the world in promoting workplace health and safety, the recent mine tragedies have been something of a black eye. They have highlighted advances abroad and a lack of sufficient innovation here at home. With the know-how of this Nation, overcoming the technology hurdle is a small challenge, nudged along by regulation called for in this bill.

For instance, the legislation says that, within 90 days of enactment, the Secretary shall engage in a rulemaking to require the implementation of electronic tracking systems in underground coal mines. The legislation does not prescribe the particular technology that is to be used, nor, for that matter, does it prescribe exactly when electronic tracking must be in place at all U.S. underground coal mines. We leave that to the rulemaking. To the public comment. To the mine health and safety experts. If the record shows that technology is immediately available, all the better. If the record shows, however, that it may take several months for it to be available, then I expect that would be the time frame established by the regulation. But the bottom line under the legislation is that electronic tracking will ultimately be a requirement.

With that, thank you and I would be pleased to respond to any questions you may have.

Overview of H.R. 4695

"Federal Mine Safety and Health Act of 2006"

Enhanced Rescue Requirements

(1) Better notification—Require underground coal mine operators to expeditiously provide notification of any accident where rescue work is necessary, and insure that the Mine Health and Safety Administration has a system to immediately receive these notifications.

(2) Rapid emergency response—Require operators to maintain mine rescue teams whose members who are familiar with the workings of the coal mine as well as to have a coordination and communications plan between the teams and local emergency response personnel. In addition, the Secretary is directed to issue regulations to address the adequacy of rescue team training and member qualifications, the type of equipment used by the teams, the use of contractor teams, as well as liability and insurance issues.

(3) Emergency air and communications—Require operators to maintain emergency supplies of air and self-contained breathing equipment at strategic locations within the mine for persons awaiting rescue. Operators would also be required to maintain independent communications systems to the surface.

(4) Emergency tracking—Require operators to implement an electronic tracking device for rescue and recovery, and each person in an underground coal mine would be provided with a portable device to communicate with the surface and mine rescue teams.

Penalties

Requires the Labor Secretary to prescribe a minimum civil penalty of up to $10,000 for a violation of the health and safety standards in instances where an operator displays "negligence or reckless disregard" of the standards. The Secretary

is also directed to establish a penalty of up to $100,000 in instances where an operator fails to expeditiously provide notification of any accident where rescue work is necessary.

Prohibited Practices

The bill reaffirms the existing statute's prohibition on using entries which contain conveyor belts to ventilate work areas in underground coal mines. When mines are arranged this way, and a fire breaks out on a belt, the belt tunnel can carry flames and deadly gases directly to the miners' work area, or to vital evacuation routes.

Technological Advances

An Office of Science and Technology Transfer would be established within the Mine Health and Safety Administration to conduct research and development to advance new technologies for underground coal miner health and safety.

Miner Ombudsman

The position of Miner Ombudsman would be established within the Labor Department's Office of Inspector General to ensure that coal miners may confidentially report mine safety and health violations.

Chairman NORWOOD. Thank you, Mr. Rahall.

Let me say, in case some of you testifying leave, let me just get the chairman's position on the table. This isn't going away. I don't care if a week passes or a month passes. I am not going to let this go away, period.

Now, we have an obligation as a subcommittee to understand as much as we can about this, and we need to listen to both sides. I have started looking at the bill, and we are certainly going to come up with something. So be patient with us as we learn, because we really, truly want to do this thing right. And we are going to improve communications one damn way or the other where we can talk to these men underground.

So trust me, I know Ms. Capito fears that if we don't do something next week, oh gosh, we will forget it. This chairman is not going to forget it, and I am not going to leave it alone. And I want to give you those assurances today.

Thank you for your testimony.

Let's see, what order are we going in?

Well, I think we need to go ahead with you, Mr. Holt, since you came in first. You are now recognized.

STATEMENT OF HON. RUSH D. HOLT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. HOLT. Thank you. I would be happy to yield to my colleague, Mr. Mollohan. When I arrived, I was railing against the seniority system, but I find it grows on you.

[Laughter.]

Well, thank you, Mr. Chairman, then.

Well, there is no question that mining is a dangerous job, but it does not have to be that way. I am here today both as a scientist but I was also asked as a member of the Committee on Education and Labor because I have paid some attention to mine safety technology.

I also feel strongly about this issue because I was born and raised in West Virginia where my father many years ago, as a U.S. senator, was known as one of the best friends a miner ever had. And I am struck by the fact that although fatalities in coal mines have decreased considerably over the last half dozen years, so has

the number of mines. So that the marginal improvements in safety really have been quite modest.

In the event of an emergency, miners are often left to rely on outmoded emergency breathing devices, and they have little communications. And, meanwhile, the Mine Safety and Health Agency has been downsized under the current administration, and NIOSH is not adequately funded to fulfill its research mandate.

And I am particularly struck by the fact that so far this committee has failed to really get on the record the answers to questions that we need. I appeared, as you know, at your previous hearing, and I think there are a number of questions left unanswered.

Technology to locate the positions of miners underground has been available since the 1970s. Why hasn't the Mine Safety and Health Administration required operators to use it? Why has the MSHA yet to require mine operators to use continuous dust monitors to help new cases of black lung to an end? Why hasn't MSHA required self-rescuers that last longer than an hour? Why hasn't to the agency required that air supplies and independent communication systems be strategically located throughout the mine? Why hasn't the agency insisted on the development of two-way communications?

Much of the above-mentioned technology exists. It is in use, whether required or voluntary, in a number of other countries—Australia, New Zealand, Canada, Mexico. Why is it not required in the United States?

I could go on, but my point in being here today is to say, we have to get answers to these questions on the record, from experts. We, all of us here, care about the miners, care about mine safety, as do the members of the committee, but caring isn't enough. We have to get the facts, and I am struck by the fact of our failure to do so, so far.

Now, this is an issue that brings me to another related point. There are questions. I mean, should we have hybrid wireless communications, or leaky feeder communications systems?

No one on this committee is prepared to address that question technically. The benefits and the importance of medium-frequency technology and personal electronic devices and personal dust monitors require expert advice, and I am constantly aware that here in Congress members cast hundreds of votes on issues that have scientific components, and without the appropriate background and time, members of Congress are casting votes without the expert advice they need.

I have been working for some time to restore to Congress something like the Office of Technology Assessment, which in a fit of reform was abolished a decade ago and has left us, well, as one of my colleagues said, with a self-imposed lobotomy. This hearing is a perfect example of how our decisions could be better informed and more rigorously tested through independent and non-partisan assessment of these technological issues.

I look forward to your support in getting the Rahall bill marked up and through here, but I also look forward to your support in the creation of a body that will help us make the decisions on these technological questions in an informed way by having something like the OTA restored to advise us in Congress.

I thank you, Mr. Chairman.

[The statement of Mr. Holt follows:]

Prepared Statement of Hon. Rush D. Holt, a Representative in Congress From the State of New Jersey

Thank you Mr. Chairman for the opportunity to speak here today.

There is no question that mining has been a dangerous job. It does not have to be that way. Today, coal mining is rated among the most dangerous jobs in America.

I was asked here today because as a scientist, I have paid some attention to mine safety technology. I also feel strongly about the concerns of the mining industry because I was born and raised in West Virginia, where my father many years ago as a U.S. Senator, was known as one of the best friends a miner ever had.

Though fatalities in coal mines have decreased 58% from 1990-2004, the number of coal miners decreased by 48% over that same time period. Therefore, the marginal improvements in safety have been quite modest. Other mining industries (metals/non-metals) show similar data. These data show that the majority of lives 'saved' in the mining industry have been due to improvements in productivity rather than safety. Fewer miners are working, leading to fewer fatalities. These productivity improvements are an impressive achievement of the mining industry, but why is miner safety not a higher priority? We must find ways to improve conditions for miners, rather than just subjecting fewer to severe risk of injury or death.

We also must pay attention to more than just those accidents that are fatal. Each year, thousands of incidents resulting in severe injury occur. Approximately 400 hundred fires, explosions, inundations, and other 'near-misses' were reported since 2000. The long-term health implications of coal-mining are also not included in these data. Miners often face severe illness from extended duty in atmospheres polluted with particulates and noxious fumes.

All of these health and safety issues could be solved with increased research and development efforts, and the deployment of new, but tested, technologies. We need to start taking mine safety seriously. The Mine Safety and Health Agency (MSHA) has been downsized under the current administration, and the National Institute of Occupational Safety and Health (NIOSH), is not adequately funded to fulfill its research mandate.

In the event of an emergency, miners are often left to rely on outmoded emergency breathing devices (self-rescuers), which afford them only one hour of breathable air. This is not a reasonable amount of time to escape a mine which can be up to 5 miles long, and in case of fire or explosion, have zero visibility.

- Remote air quality monitoring technologies are needed to continuously detect dust/particulate concentrations, methane gas, diesel fumes, and other noxious pollutants that can impair the short and long term health of miners.
- Communications options are limited, due to the depth of the mine. Higher power transmitters would normally be used underground, but because of the ubiquitous presence of methane in coal mines, high-power electronics pose an unacceptable risk of explosion.

These are technological problems that can be addressed if we take a leadership role in ensuring the safety of our miners. Miner tracking systems, one and two-way communication devices, extended air reserves and other advanced technologies are employed, and even mandated in many other countries including Australia, Canada, Poland and Mexico. Why is it that we are not using the most advanced safety equipment in the world? One-way text pagers are a proven technology available today, and many believe that they could have saved the lives of the 12 miners who died this past January at the Sago mine in Tallmansville, West Virginia. Why aren't we using these? MSHA must hold the mining industry accountable for breaches of safety regulations, and NIOSH must be given the resources necessary to assist the mining industry in developing these necessary safety capabilities.

An exemplary scenario is that of the hybrid wireline-wireless communications, or 'leaky feeder', systems which offers promise for improving underground communications. Investment in this technology lagged in the private sector due to lack of financial incentives, and the primary developer (Motorola) scaled back its efforts. Recent attention to mine safety has spurred interest by the mining industry and the communications developer, aided by NIOSH involvement. Though the potential of this technology was clear, it would have sat on the shelf had there not been a collective push for increased safety. It was always on the laundry list of research efforts by NIOSH, but had to be prioritized below worker health due to limited funding.

We cannot expect the telecommunications industry to take responsibility for the safety of our miners. MSHA has shifted their attention from enforcement to compli-

ance assistance. The lack of resources provided to NIOSH is indicative of the lack of respect afforded by this Administration to research in general.

NIOSH has been hindered over the past few years. Employment cuts, and an aversion to funding research by this Administration has left them with a long list of priority fields of study going unaddressed. If we are to rely on coal for electricity, then the least we can do is support research into new safety technologies that could protect the lives of miners, and work aggressively to their expedite their implementation.

I appreciate your inviting me to testify for this hearing, but these are highly technical issues outside of my specialty. Although Members routinely deal with issues outside their base knowledge, we frequently rely on expert advice and testimony to inform us and to guide our actions.

In this particular case, the benefits and importance of medium frequency technology, personal electronic devices, and personal dust monitors could be more cogently presented with expert assistance. As a physicist, I am able to critically analyze data and information to create an informed opinion, but I am not an expert in this area. Hearings should be for the true experts to inform and guide us.

In each Congress, Members must cast hundreds of votes on issues that have a scientific component. Time constraints prevent us from attending every hearing and reading every scholarly publication to get expert advice in all areas. Congress needs a body that can offer nonpartisan assessment of science and technology issues. I am working to create a body to serve Congress in scientific and technology assessment, as the Office of Technology Assessment did until 1995.

This hearing provides a clear example of how our decisions could be better informed and more rigorously tested through independent and nonpartisan assessment of these technological issues. I look forward to your support in the creation of this body so that we are better able to make critical decision for the future of our nation.

Chairman NORWOOD. Thank you, Mr. Holt.

You know, I can't help but agree with you, we need experts. The problem is I keep getting experts telling me opposite views, and that is the ticket here is to try to get to actually the truth. Well, you can get an expert to say anything, as you well know, and we are going to try our best to find the truth in all of this before we get done.

Mr. Mollohan, you are now recognized.

STATEMENT OF HON. ALAN B. MOLLOHAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

Mr. MOLLOHAN. Thank you, Chairman Norwood and Ranking Member Owens. I appreciate the opportunity to testify here before your distinguished committee today. And thank you for holding this hearing on mine safety and health.

I appreciate the opportunity to testify in strong support of H.R. 4695, the Federal Mine Safety and Health Act of 2006.

I appreciate your response to the necessity to continue to address the need for improvement in coal mine health and safety, a need tragically reaffirmed by the recent mine disasters in my home state.

On January 2, 2006, an explosion in an explosion in the Sago Mine in Upshur County, West Virginia followed on January 19th by a second disaster in the Aracoma Alma Mine in Logan County took the lives of this nation's finest, our coal miners, forever changing the lives of their loved ones and shocking the state and the nation into once again revisiting the adequacy of our coal mine safety laws.

Everyone recognizes new approaches to safety challenges are needed, particularity in the light of advances in technology.

As you know, along with other members of the West Virginia delegation, I am an original cosponsor of H.R. 4695, which addresses the most immediate and important deficiencies in current mine safety regime. It does this by dealing with issues that the administration could have chosen to address on its own administratively but, unfortunately, that has not been done and so this legislation is necessary.

H.R. 4695 does not amend the Federal Coal Mine Health and Safety Act of 1977 but instead uses existing statutory authorities to get the administration to take action to improve mine safety by directing rulemaking within 90 days of enactment on various issues.

Mr. Rahall already pointed out H.R. 4695 is an improvement upon even the emergency rulemaking that the Mine Safety and Health Administration recently announced. For example, the West Virginia delegation's bill would require enough oxygen to maintain trapped coal miners for a sustained period of time, the exact length of which will be determined as a result of input during the rulemaking process. Whereas, the emergency rulemaking only requires an additional 1 hour of oxygen for a total 2-hour supply, which MSHA acknowledges is inadequate.

Additionally, this proposed legislation requires rulemaking to implement electronic tracking systems in underground coal mines. No particular technology is mandated; instead, that is left to the rulemaking process, which will include public comment and the input of mine safety and health experts.

A variety of other critical areas are also covered by this proposed legislation, such as penalties, prohibited practices and enhanced rescue requirements.

This legislation, I think, is particularly important, because it does allow for an expeditious addressing of these concerns and any other concerns that MSHA should determine could be taken up in rulemaking.

As the chairman and the ranking member know and all people on this committee, the rulemaking process is extremely flexible, and it addresses the expert testimony requirement, the need to have competing, if you will, Mr. Chairman, as you alluded to, competing expert advice on any particular issue. When a rule is proposed, comment is invited, and that is the opportunity for expert testimony and in addition to testimony and rulemaking comment from the community and of course from members of Congress.

This bill allows a process but allows expeditiously for these issues to be brought forward, for expert testimony to be applied to the problem and also for the community-at-large to comment. It is, in that sense, very addressing to the needs at hand in an expeditious manner.

Mr. Chairman, Ranking Member Owens, I serve on the Appropriations Committee. I just want to note for the record here, and while this isn't an appropriations hearing, of course, and numbers aren't always completely telling, I do think it is very instructional to understand that since 2001 to 2007 and in the request that we have before us, there is a drop in total MSHA staffing from 2,357 to 2,136. And that is MSHA overall.

In regard to the enforcement staffing, there is a drop from fiscal year 2001 or 1,233 FTEs to fiscal year 2006, 1,016 FTEs.

This administration needs more funding, more authorization and more appropriation, obviously. And it is particularly poignant, I think, in the area of coal mine safety and healthy where the drop is 17.6 percent in FTEs.

In addition to addressing these technological issues, which I think this bill does very eloquently, we also need to address the inadequacy of staffing at this agency.

Mr. Chairman, I appreciate the opportunity to appear before you and Ranking Member Owens, and I look forward to any questions that you might have.

[The statement of Mr. Mollohan follows:]

Prepared Statement of Hon. Alan B. Mollohan, a Representative in Congress From the State of West Virginia

Thank you, Chairman Norwood and Ranking Member Owens for holding this hearing on mine safety and health. I appreciate the opportunity to testify here today before you in strong support of H.R. 4695, the "Federal Mine Safety and Health Act of 2006." I regret that previous obligations at the Capitol will prevent me from staying for questioning after Members' testimony has been heard. I appreciate your response to the necessity to continue to address the need for improvements in coal mine health and safety, a need tragically reaffirmed by the recent mine disasters in my home State.

On January 2, 2006, an explosion in the Sago Mine in Upshur County, West Virginia followed on January 19th by a second disaster in the Aracoma Alma Mine in Logan County took the lives of this Nation's finest, our coal miners, forever changing the lives of their loved ones, and shocking the State and the Nation into once again revisiting the adequacy of our coal mine safety laws.

Everyone recognizes new approaches to safety challenges are needed, particularity in the light of advances in technology.

As you know, along with other members of the West Virginia delegation, I am an original cosponsor of H.R. 4695 which addresses the most immediate and important deficiencies of the current mine safety regime. It does this by dealing with issues that the administration could have chosen to address on its own administratively but, unfortunately, that has not been done and so this legislation is necessary. Indeed, H.R. 4695 does not amend the Federal Mine Safety and Health Act of 1977, but instead uses existing statutory authorities to get the administration to take action to improve mine safety by directing rulemaking within 90 days of enactment on various issues.

As Mr. Rahall has already pointed out, H.R. 4695 is an improvement upon even the emergency rulemaking that the Mine Safety and Health Administration recently announced. For example, the West Virginia delegation's bill would require enough oxygen to maintain trapped coal miners for a sustained period of time, the exact length of which will be determined as a result of input during the rulemaking process. Whereas, the emergency rulemaking only requires an additional one hour of oxygen for a total two hour supply, which MSHA acknowledges is not adequate.

Additionally, this proposed legislation requires rulemaking to implement electronic tracking systems in underground coal mines. No particular technology is mandated, instead that is left to the rulemaking process, which will include public comment and the input of mine health and safety experts.

A variety of other critical areas are also covered by this proposed legislation, such as penalties, prohibited practices and enhanced rescue requirements.

Once again, thank you for allowing me this opportunity and thank for your consideration of H.R. 4695. I truly believe its passage will go a long way toward ensuring a safer work environment for our Nation's miners and, hopefully, prevent tragedies such as the ones that have recently caused so much heartache for so many.

Chairman NORWOOD. Thank you, Mr. Mollohan.

Now, Mr. Chandler, you are recognized for 5 minutes.

STATEMENT OF HON. BEN CHANDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KENTUCKY

Mr. CHANDLER. Thank you, Mr. Chairman. I appreciate the fact that you and Ranking Member Owens decided to hold this hearing. I believe that it is extremely important, and I appreciate you allowing me the opportunity to testify.

As I sit here, I can't help but think about my fellow Kentuckian, Mr. Carl Perkins, whose portrait I am looking at right now. As I am sure you know, Kentucky is a very substantial coal mining state, and the gentleman, Mr. Perkins, whose name is on this room that we are sitting in, represented most of the coal miners in Kentucky in his day, and I can assure you he would have an abiding interest in this subject.

With the recent tragic mining accidents, it should be obvious all across America what Kentuckians have long known: Mining coal is a dangerous job, and federal and state governments must act now to improve safety in our mines. That means enforcing the rules on the books, making violators pay their fines and passing tough new laws to protect our miners.

Getting right to the point, Mr. Chairman, we can not afford to wait another day, in my view, to pass real mine safety reform. Each day we fail to act, we are failing our miners who are simply trying to go to work and provide for their families. While saying that, I appreciate the necessity of getting it right, so I do understand that it does take some time. But we need to be vigilant and we need to be as quick about it as possible.

Even after the devastating Sago tragedy, Timothy Caudill, father of two young children, was killed in Eastern Kentucky as a result of a collapsed roof in a mine with over 1,200 citations and orders from MSHA since September of 2001. That is not acceptable.

As representatives, it is our duty to protect people like Timothy Caudill and ensure that other miners are working in safe conditions. We must act quickly to protect our miners rather than simply serving the narrow interests of the coal companies.

The appeals process must speed up, and operators should be denied new mining licenses if they have a history of excessive violations. The current system is flawed, it doesn't work, and it is costing miners their lives.

I urge you to pass H.R. 4695, the Federal Mine Safety and Health Act. This legislation will not only prevent accidents, but ensure a higher rate of success during rescue operations. While several mining states have proposed or passed important legislation, I believe it is our duty to act on the federal level to ensure miner safety.

Miners like Timothy Caudill should not die in vain, and this subcommittee, I believe, should report out H.R. 4695 just as soon as practicable.

I appreciate, Mr. Chairman, you giving me the opportunity to speak briefly on this issue, and I, again, appreciate your concern.

Thank you.

[The statement of Mr. Chandler follows:]

Prepared Statement of Hon. Ben Chandler, a Representative in Congress From the State of Kentucky

Thank you Mr. Chairman. I commend you for holding this hearing on this important topic and appreciate the opportunity to testify.

With the recent tragic mining accidents, it should be obvious all across America what Kentuckians have long known: mining coal is a dangerous job, and federal and state governments must act now to improve safety in our mines. That means enforcing the rules on the books, making violators pay their fines, and passing tough new laws to protect our miners.

Getting right to the point, Mr. Chairman, we can not afford to wait another day to pass real mine safety reform. Each day we fail to act, we are failing our miners who are simply trying to go to work and provide for their families.

Even after the devastating Sago Tragedy, Timothy Caudill, father of two young children, was killed in Eastern Kentucky as a result of a collapsed roof in a mine with over 1,200 citations and orders from MSHA since September of 2001. This is unacceptable.

As representatives, it is our duty to protect people like Timothy Caudill and insure that other miners are working in safe conditions. We must act quickly to protect our miners rather than simply serving the narrow interests of the coal companies.

The appeals process must speed up, and operators should be denied new mining licenses if they have a history of excessive violations. The current system is flawed, does not work, and is costing miners their lives.

I urge you to pass H.R. 4695, the Federal Mine Safety and Health Act. This legislation will not only prevent accidents, but ensure a higher rate of success during rescue operations.

While several mining states have proposed or passed important legislation, I believe it is our duty to act on the federal level to ensure miner safety.

Miners like Timothy Caudill should not die in vain, and this subcommittee must report H.R. 4695 without delay.

Thank you, Mr. Chairman. I appreciate the opportunity to be here today as you address this issue of great importance.

Chairman NORWOOD. Thank you, Mr. Chandler.

Happy St. Patty's Day. Sorry you had to be last.

Mr. Murphy, you are now recognized for 5 minutes.

STATEMENT OF HON. TIM MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. MURPHY. Thank you, Chairman Norwood and Ranking Member Owens, distinguished colleagues of the subcommittee, and thank you for the invitation to express my views about how Congress can better protect the health and safety of our nation's mine workers.

Mine safety has been at the forefront of public policy issues in 2006 because this year was ushered in by heartbreaking disasters at the Alma and Sago mines in West Virginia. Two months after the tragedies, our prayers and our thoughts continue to be with the families who experienced the loss of the 16 lives in the accidents.

I sit before you as the great-grandson of a coal miner, who worked in Pennsylvania mines back in the day when carts were pulled by mules and mines were lit by candles. I sometimes think I was one spark away from never being here. Mining was very dangerous work back then, but the industry has made some remarkable strides ever since. But as we debate legislative action, we must keep the focus on mine safety and do everything we can to ensure the safety of workers.

I represent in my district coal miners, coal mines, coal mine owners, coal mine suppliers. I have visited three of those mines,

longwall and continuous mining, and have seen firsthand what miners experience.

In my district in southwestern Pennsylvania, the mining industry has been an integral part of the way of life for a century and a half. During the Industrial Revolution, Pittsburgh coal made Pittsburgh steel, and Pittsburgh steel built America and the world. Andrew Carnegie, the steel magnate, made steel in Pittsburgh not because the area had iron ore, but because the region had a colossal supply of coal and the water resources to move it.

To this day, Pittsburgh sits on a 250-year supply of coal. The Pittsburgh coal seam remains one of the most valuable natural resource stockpiles in the world. Moreover, the promise of expanded clean coal technologies can unlock coal's potential to lead our nation toward energy independence and greater economic security. In an era which foreign leaders threaten to increase the price of oil when we block their wishes to acquire and threaten to use nuclear weapons, King Coal takes on even greater importance.

However, as this subcommittee and all members of the House consider proposals to change the laws governing the mining industry, the most important goal of any legislation simply must be to make mining safer. I know all my colleagues share this priority. Every miner and their families expect, as they take that long elevator ride down to start their shift, the mines should be as safe as possible.

Though safety must be the priority of any congressional action, it should be pointed out that safety measures over the years have worked and have improved mining safety. Mining fatalities have steadily decreased over the last several decades, reaching a record low in 2005. The last single year in which 100 or more miners died was 1984. Only once in the last 10 years has more than 40 miners perished in the same year. But every miner's life lost is one loss too many.

Indeed, advanced mining technology, including the introduction of longwall mining machines, remote control miners, and the installation of methane monitors on production equipment, has helped substantially reduce both injury and fatality rates in our nation's coal mines over the years. The lesson is, we know that applying safety measures does work.

The recent tragedies have shined a spotlight on all aspects of mining. There are concerns about whether miners are sufficiently employing technology to communicate, whether procedures are properly followed in the event of an emergency and using "belt air." Belt air refers to air that is directed into the underground coal mine, but it passes through the same tunnels in which conveyor belts transport coal out of the mine. This air, quite frankly, can be unhealthy to breathe and even flammable. On each of these issues and others, I hope we can all learn from our constituents and each other through the process.

In addition, I hope we recount the success stories of the mining industry alongside some of the failures. For instance, CONSOL Energy, based in my district, sent their own rescue teams that arrived first at the Sago mine. The CONSOL rescue teams again and again work tirelessly to help miners throughout Pennsylvania and West Virginia, regardless of who owns the mine. We would all do well

to learn from their successes. How were they equipped, how were they trained, what can they teach us? And what, in other instance, can we learn from the Quecreek Mine rescue?

Certainly, legislation should provide additional measures where they are needed. But let's not just reinvent the wheel. First and foremost, I believe the Department of Labor must be better able to enforce existing laws. We must make sure they have all the tools they need to enforce these laws vigorously. Also, we need to carefully review procedures used by mining companies that have great safety compliance records. How do they manage to make mining safer when others do not? A review of best practices will help us do better, as well as examining those who fail to meet safety standards.

Mr. Chairman, I thank you for this hearing and your commitment to protecting our nation's mine workers. Congress must, and I know Congress will, take appropriate steps to help ensure the tragic circumstances at Sago and Alma never develop again. The coal industry has helped fuel this nation for 150 years, and coal can be used to heat our homes, power our economy and protect our nation for at least another 150 years if we continue to use it. But let us address the operational safety concerns of the critical American coal industry carefully, not just quickly, for the lives of too many miners are at stake.

Thank you very much, Mr. Chairman.

[The statement of Mr. Murphy follows:]

Prepared Statement of Hon. Tim Murphy, a Representative in Congress From the State of Pennsylvania

Chairman Norwood, Ranking Member Owens, distinguished colleagues of the subcommittee, thank you for the invitation to express my views about how Congress can better protect the health and safety of our nation's mine workers. Mine safety has been at the forefront of public policy issues in 2006 because the year was ushered in by the heartbreaking disasters at the Aracoma Alma and Sago mines in West Virginia. Two months after the tragedies, our prayers and our thoughts continue to be with the families who experienced the loss of the 16 lives in the accidents.

I sit before you as the great-grandson of a coal miner, who worked in Pennsylvania mines back in the day when carts were pulled by mules and mines were lit by candles. Mining was very dangerous work then. The industry has made remarkable strides ever since. But as we debate legislative action, we must keep the focus on mine safety and do everything we can to ensure the safety of workers.

I represent coal miners, coal mines, coal mine owners, and coal mine suppliers. In my district in southwestern Pennsylvania, the mining industry has been an integral part of the way of life for a century and a half. During the Industrial Revolution, Pittsburgh coal made Pittsburgh steel, and Pittsburgh steel built America and the world. Steel magnate Andrew Carnegie made steel in Pittsburgh not because the area had iron ore, but because the region had a colossal supply of coal and the water resources to transport it.

To this day, Pittsburgh sits on a 250-year supply of coal. The Pittsburgh coal seam remains one of the most valuable natural resource stockpiles in the world. Moreover, the promise of expanded clean coal technologies can unlock coal's potential to lead our nation toward energy independence and greater economic security. In an era which foreign leaders threaten to increase the price of oil when we block their wishes to acquire and threaten to use nuclear weapons, King Coal takes on even greater importance.

However, as this subcommittee and all Members of the House consider proposals to change the laws governing the mining industry, the most important goal of any legislation simply must be to make mining safer. I know all my colleagues share this priority. Every miner and their families expect mines to be as safe as possible.

Though safety must be the priority of any congressional action, it should be pointed out that safety measures over the years have significantly improved mining safe-

ty. Mining fatalities have steadily decreased over the last several decades, reaching a record low in 2005. The last single year in which 100 or more miners died was 1984. Only once in the last ten years has more than 40 miners perished in the same year.

Indeed, advanced mining technology, including the introduction of longwall mining machines, remote control miners, and the installation of methane monitors on production equipment, has helped substantially reduce both injury and fatality rates in our nation's coal mines over the years. Thus, we know that safety measures do work.

The recent tragedies have shined a spotlight on all aspects of mining. There are concerns about whether miners are sufficiently employing technology to communicate, whether procedures are properly followed in the event of an emergency, and the use of "belt air." Belt air refers to air that is directed into the underground coal mine, and passes through the same tunnels in which conveyor belts transport coal out of the mine. This air can be unhealthy to breathe and even flammable. On each of these issues and others, I hope we can all learn from our constituents and each other through this process.

In addition, I hope we recount the success stories of the mining industry alongside some of the failures. For instance, CONSOL Energy, based in my district, sent their own rescue teams that arrived first at the Sago mine. The CONSOL rescue teams again and again work tirelessly to help miners throughout Pennsylvania and West Virginia, regardless of who owns the mine. We would all do well to learn from their successes.

Certainly, legislation should provide additional measures where they are needed. But instead of reinventing the wheel, first and foremost, the Department of Labor must be able to better enforce existing laws. Some provisions among the legislative proposals are redundant. Also, we need to carefully review procedures used by mining companies that have great safety compliance records. How do they manage to make mining safer when others do not? A review of best practices will help us do better, as well as examining those who fail to meet safety standards.

Mr. Chairman, I thank you for this hearing and your commitment to protecting our nation's mine workers. Congress must, and I know Congress will, take appropriate steps to help ensure the tragic circumstances at Sago and Aracoma Alma never develop again. The coal industry has helped fuel this nation for 150 years, and coal can be used to heat our homes, power our economy, and protect our nation for at least another 150 years if we continue to use it. Let us address the operational safety concerns of the critical American coal industry carefully-not just quickly-for the lives of too many miners are at stake.

Thank you very much.

Chairman NORWOOD. Thank you very much, gentlemen.

I will ask Major Owens now to ask some questions.

Mr. OWENS. I just have a few comments and questions. I want to congratulate the members of the West Virginia delegation for their unity and coming together and offering legislation.

I also want to congratulate them for all the people who testified. I thought that given that they were all members of Congress, I was going to hear repetition of the same thing over and over, but from each one of you I heard a message which is quite enlightening but different. You have each made a particular contribution, from Mr. Mollohan's observations about the appropriations to Mr. Holt's discussion of the scientific situation.

We were brought back, Mr. Chairman, to the fact that the guy behind me who was the head of this committee when I came to Congress, Carl Perkins, it was over his crusading, along with the outsiders like John L. Lewis in the mine fields, we reached a point where the atrocious conditions in the mine were alleviated so much so until we got smug. Things were made so much better as a result of the kinds of things that Carl Perkins and other folks did. Until we got smug, I think.

And we have allowed other countries to go off ahead of us because they continue to improve safety in the mines, while we rest

on our laurels. It is unforgivable that we allow other countries to get ahead of us in the area of technology, any technology. Mine safety technology certainly should be one of them.

Technology is supposed to be the last frontier, and the way we have learned to take care of the globalization of the economy and stay ahead of the rest of the world, to have technology in any area leap ahead of us is a sad fact. But, certainly, in this area we should not have become so smug, but we turned away from all those kinds of improvements that could be made in mine safety.

My question is, do you see any impediments in terms of partisan differences to an immediate forward movement toward the passage of this piece of legislation?

We all agree on this piece of legislation. I think I want to confess that the mine owners new president asked to see me and I had a conference with him. I was surprised to hear that one of the owners, the other side, I always take the side of the underdogs, the people who have been oppressed by the conditions in the mine, and I never expected a mine owner representative to ask to see me.

The president of the Mine Owners Association asked to see me, so we did have a sit-down. There is unprecedented opportunity for cooperation going forward and for a bipartisan effort here. We could raise up a model, an example here for the rest of our colleagues here in Congress of how to get things done. When they really have to be done in a way that takes care of the needs of our constituencies and puts aside some of our problems here in terms of Beltway rivalry.

So here is an opportunity. Do you see any impediments of us going forward? Have you picked up any differences among our colleagues that would stop us from moving forward with the markup and passage of this legislation?

Alan Mollohan?

Mr. MOLLOHAN. Thank you, Mr. Owens.

I really don't, for reasons I alluded to in my remarks. The focus of this legislation—and I am continuously amazed at my good friend and colleague, Nick Rahall's, appreciation and intuitiveness about what is needed for safety of coal miners at any particular time. In the time of this disaster and following it, he has fashioned this piece of legislation, and I think focuses right in on the area that there is this consensus and bipartisanship about, and that is bringing new technology to work in the coal mines.

And it has the beauty of focusing on technology, putting the process of studying it, looking at it in the rulemaking process so you don't have to develop all that information in statutory process. And everybody can, I think, sign up to that in a bipartisan way. And there are two pieces that obviously there is the authorization for it and then the appropriation for it. And I can assure you that the Appropriations Committee at least is going to have an opportunity to increase funding in these areas.

So you have the authorization for MSHA to do rulemaking, to address the technological challenges. You are going to have an opportunity in the rulemaking process to have all that expertise come to bear. And then we, on the appropriations side, we have the responsibility to bring forth the resources to do that.

Mr. OWENS. Nick?

Mr. RAHALL. Major, if I may respond as well in addition to what Mr. Mollohan has so well stated.

As far as opposition to our efforts, to this point, we are unified. As we have mentioned, our legislation is bipartisan. We also have seen in the state of West Virginia, for example, the coal industry support state legislation that passed in one day and signed into law by the governor.

Our legislation mirrors that state action. We have been consulting with the coal industry in West Virginia. Our governor has done it in a very remarkable manner and been able to bring the coal industry, for the most part, on board in every effort we have undertaken thus far, and that is to the industry's credit.

I believe they recognize that with increased profits, we all know what coal companies are making today, with the difficult time they had in recruiting more coal miners, that it is in their best interest to make their mine safer. Even if they have to invest some of their newfound profits, so be it. That is going to help them improve the safety of the coal mines, help them in their recruiting efforts and help them increase their bottom line, which, of course, is every shareholder's goal.

The most opposition I have seen thus far has come from the Office of Management and Budget. Look at this latest emergency regulation that MSHA finally got through on an additional hour of oxygen. It had to go back and forth with OMB. We all know that OMB had problems with it, and I can foresee OMB having more problems in the future, as we try to pass this legislation, as we try to implement regulations. That is where I see the major problem, Major Owens—excuse the pun—is from, the budget angle downtown.

Mr. OWENS. I think, yes, certainly.

Chairman NORWOOD. Nick, why would they have problems with that? Why would OMB have a problem with more oxygen?

Mr. RAHALL. Well, I guess the cost of implementing it, Mr. Chairman. In my opinion, there should be no price tag on safety of our coal miners. We all know you can't put a price tag on it. It should not even be relevant, but I assume that is OMB's job.

Chairman NORWOOD. But whose cost? The taxpayers' cost?

Mr. RAHALL. I guess to MSHA of implementing it.

Chairman NORWOOD. Shouldn't the coal mine have additional air available, period?

Mr. RAHALL. Yes, sir.

Chairman NORWOOD. And pay for it.

Mr. RAHALL. Yes, sir. I totally agree.

Chairman NORWOOD. So OMB doesn't have a damn thing to do with it.

Mr. RAHALL. I totally agree. That is what we are trying to tell MSHA to tell the industry to do.

I could not agree with you any more, Mr. Chairman. But I am sure this committee is aware of what it took to get this latest emergency regulation implemented. It was all in the press. It went down to OMB, they sent it back, "no," one time. Had to go back down to them again.

Mr. OWENS. I just want to make one last comment that I think is very important in everything that is been said.

Coal is still our most abundant energy resource, and that fact keeps getting lost—thank you, Mr. Murphy, for reminding us—including right here in the Northeast. We still have Pittsburgh in that area which has coal mines that are sitting there waiting, and I think that the oil industry has run a game on us over the years and made us forget how important coal is or made us forget the possibilities of making coal environmentally safer.

I visited a plant some years ago in South Korea where coal was the primary energy source, and they had it wired so that they grew flowers throughout the plant and all around the plant and the neighboring town was a greenbelt because, despite the fact that the coal was the primary energy, they had reached agreement with the people in town and the workers that they wanted to control the coal. So they had a huge pipe where the gas, the fumes, everything was funneled back into the system and—the gas of the coal would burn again. All kinds of things were being done, and that was at least 10 years ago. It was a south Korea automobile plant, a huge conflict.

And I just wonder why we haven't done more to make coal environmentally safe and more desirable. In our discussions of where we are going in this nation in terms of our energy needs, coal keeps being shoved aside, and they are blaming the environmentalists in many cases, and environmentalists in many cases certainly falls into the trap of believing any coal increasing coal use is going to hurt the environment. And I think we need to come to grips with that.

And I thank you for reminding us that it is—compared to the oil in the Middle East, it is the answer to our future problems right here on our soil, which means that we should find ways to make those who produce coal safer.

I yield.

Chairman NORWOOD. As I stated earlier in the hearing, as new members come in, we will interrupt our questions and offer them the opportunity to testify.

Mr. Davis, you are now recognized, sir.

STATEMENT OF HON. ARTUR DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. DAVIS OF ALABAMA. Thank you, Mr. Chairman. Thank you for being gracious enough to do that. There are multiple markups going on, as the Chair is well aware.

Mr. Chairman, let me thank you and my friend from New York, the ranking member, today, let me thank him.

I am honored to have a chance to join my friends and my colleagues who also represent districts that have a significant mining presence. And I will begin my brief testimony, Mr. Chairman, with September 2001. The country was still reeling from September 11, and, frankly, because we are a country that sometimes focuses on one thing at a time, a lot of Americans never read about, never heard about, never learned about the tragedy in Brookwood, Alabama.

About 10 days after 9/11, 13 miners went into the mines, did not return because of a tragic accident. Huge loss of life in one instance. All of us tuned into our cameras just a few weeks ago re-

garding Sago land in West Virginia, something that was enormously moving to every single one of us. And I had the honor of holding a town hall meeting in my district with 150 to 200 individuals who work at that mine in Brookwood. There were two widows who were there, two enormously brave women. A lot of men and women who work in those mines, who work with the individuals who lost their lives 5 years ago.

And, Mr. Chairman, I will tell you what I learned just in the 2 hours I spent with them. They are very brave people. If they weren't miners, a lot of them would be in Iraq and Afghanistan right now. If they weren't miners, a lot of them would be police officers, a lot of them would be firefighters. These are people who would find some way to serve, and they would be willing to risk their lives to do it. They are the heroes and they are the heroines.

And all I would ask of this committee and frankly this institution, which I am honored to serve, is two things: First, I want to give those people a chance to have a voice. I thank you, Mr. Norwood, for convening this hearing and for providing other opportunities for them to lend their voice to the Congress. We need to do more of this.

And, today, I am sending a letter to the National Mine Safety Administration, NMSA as it is commonly referred, and I am asking them to do something that you have done that they haven't done. I am asking NMSA to take the time to sit down and to meet with representatives from mining employees around this country. They are very smart people. They know mine safety. They know the ramifications. They know the issues. And I think NMSA would benefit from talking to them directly without a filter.

I also believe it would say so much for them about our government's commitment to their safety.

The final two points I want to make, I want to thank my friend from West Virginia, Mr. Rahall. I am honored to be a cosponsor of this bill, but as I told one mining family, this institution is sometimes very slow. I wish we could find a way to make this bill pass the House and pass the Senate and have the president sign it immediately. I know that won't happen. I know it is going to be a long, long process.

So what values do we bring to that process? The first one, we have to make sure that mining violations don't just become the cost of doing business. These $60 fines, the men and women I met in Brookwood, Alabama are worth no more than a 3-month old parking ticket. And we do have to strengthen the punishment side.

And, second, we do have to make sure that we do tangible things to improve safety. I am sensitive to the fact that the industry is already struggling to be cost-competitive. I am sensitive to the fact that the industry doesn't want to be overburdened, but we have to make sure that if we know what we can do to make mining safety, that we take those steps.

And, finally, as my testimony runs into its final 40 seconds, I think that we have to recognize that these individuals are making an enormous sacrifice every day. We can't make the risk go away. People going 3,000 feet underground, you can't make the risk go away. But what you can do is to be as humane and as decent and to take away as much of the risk as we possibly can.

So I am honored to be here to lend my voice to this effort. I thank the Chair, and, most importantly, I thank these very brave men and women that I met 2 months ago for their character, their dignity and their courage.

Thank you, Mr. Chairman.

[The statement of Mr. Davis of Alabama follows:]

Prepared Statement of Hon. Artur Davis, a Representative in Congress From the State of Alabama

Chairman Norwood, Ranking Member Owens, Distinguished Colleagues, thank you for conducting this important hearing on an issue of critical interest to constituents in my congressional district. I appreciate the opportunity to participate.

On a Sunday in late September, 2001, 3 workers labored at shoring up the roof of the No. 5 mine at Jim Walter Resources' in Brookwood, Alabama. A falling rock struck a battery charger and ignited sparks, touching off a methane gas explosion that ensnared the three workers deep in the mine. Ten other miners moved quickly to rescue their trapped brethren when a second explosion occurred less than an hour later. All thirteen men perished in the explosions.

Recent tragedies in West Virginia illustrate, yet again, the heroic efforts of individuals who risk their lives every day to deliver energy to our nation. It also reinforces the need for a thorough reexamination of regulations and standards governing the industry. As policymakers, it is incumbent on us to ensure that our response is thorough and that we hear from those individuals who are most intimately connected with this vocation.

Last month I held a listening post with Alabama mine workers and their families. I heard extraordinarily moving testimony from the children, wives, parents, friends and brothers and sisters of those killed in the Brookwood explosion. A number of themes emerged from the conversation. First, a deep sense of frustration pervaded the event as person after person expressed feelings of disenfranchisement from the discussions with the Mine Safety and Health Administration over current safety regulations and their enforcement. Miners and their families feel they don't have a place at the table and want first and foremost to be heard. These constituents listed a litany of concerns that are best stated in a more technical discussion about the issue, but it is imperative that they be given an opportunity to share their perspectives.

As a result of the listening post, I sent a letter to MSHA encouraging Agency heads to sit down with miners and family members and open a constructive dialogue. I have also met with mine operators in my district who have expressed a willingness to work together on these vitally important issues of life and safety.

I also encourage this committee to closely examine laws currently on the books and question if these laws are still effective and if they are being properly enforced. We should evaluate both the structure of and funding for the Mine Safety and Health Administration and we should look to those mine operators with the best safety records and ask why their practices stand out from others.

As a cosponsor of Congressman Rahall's bill, I remain committed to working with all of you to craft meaningful legislation that will protect the lives and the jobs of our nation's mine workers.

Thank you, Mr. Chairman and Ranking Member for your continued interest in mine safety and thank you to all the miners and their families for their sacrifices.

Chairman NORWOOD. Thank you, Mr. Davis. I appreciate you taking your time to be here with us.

Let me just, sort of, throw it out to all of you, whoever wants to answer or all of you.

Why wouldn't we want our mines safe? Why wouldn't a mine owner want to do everything possible to make sure their mine is safe? Because everybody loses, some more than others, some with their lives, when it is not safe. And nobody gains when you scrimp on 2002. Nobody gains when you don't work at having good communications and making sure those men and women can talk to the service. What the devil is going on? Why is it so cost-competitive?

You mentioned cost-competitive, Mr. Davis. Is that what the dickens it is? I mean, coal is a major, major energy source we can't do without. It is bringing great prices. Why are we having this hearing?

Nick?

Mr. RAHALL. Very good question, Mr. Chairman.

Without question, every mine operators wants to have a safe operation and is concerned about safety within his or her operation. The coal industry is, I guess, much like human nature. It is hard to make an investment in something that you may think may or may not work, like technology, or that is going to take a little out of that bottom line unless there is somebody telling you, you must do it.

It is just very hard for the industry to come around, although, as I alluded to earlier, I think they are today, to come around to making some of these investments.

Chairman NORWOOD. That is just bad business.

Mr. RAHALL. It is bad business.

Chairman NORWOOD. Aren't they good businessmen?

Mr. RAHALL. Well, they are good businessmen, there is no question about that.

Chairman NORWOOD. Well, what is this cost going to be for the accident at the Sago Mine?

Mr. RAHALL. That should not be a factor. You cannot, as I said earlier, put a cost on a coal miner's life.

Chairman NORWOOD. But you can say for sure it is going to cost that company a lot of money. Let's just get cold-hearted here a minute. Let's just be the businessman. You don't want to spend the money for technology, but you are going to spend 10 times that much because you didn't have the technology.

Mr. RAHALL. Mr. Chairman, that is true, but there has to be a push from above. There has to be a push from somebody which has not been there in the past to say, "You have to do this. No cutting corners or else." And there has to be that, "or else."

Chairman NORWOOD. Mr. Davis and then Mr. Murphy.

Mr. DAVIS OF ALABAMA. Mr. Chairman, you ask an excellent question and let me come at this from a different perspective. As I understand the facts, in the last 5 years in this country there have been 300 mining safety problems, near misses, incidents, things that could have gone very wrong that ended up being spared at the last minute.

I know Nick will correct me if I am wrong, but, Nick, I think that is the number, around 300 accidents or near misses.

Imagine if the airline industry in this country had had 300 near collisions, near crashes, near blowups in the last 5 years. Can we conceive that Congress would not be very aggressively engaged in passing new regulations? Can we conceive that we wouldn't be frightened out of our minds?

Just because these people are literally underground and out of sight doesn't mean that they don't merit the same concern. Just because only some of them are exposed to this risk and not the large general population doesn't mean that we shouldn't be concerned.

And Congressman Rahall and you, Mr. Chairman, made the point, whatever is the cost of getting as safe as we can be surely

it is not the cost of fixing a major disaster. And it is also not the worth the cost of losing legitimacy for the industry.

I had a group of industry executives come to see me a short time ago, and I told them point-blank, "I respect your concerns. I know you are in business, I understand that. I know you are doing what you can. But you have every incentive, gentlemen, to try to make sure that this is safe and that it works. If you want people to keep being your employees, if you want good, talented, skilled people to keep working in your industry, you have got every incentive to do this the right way."

I always err on the side of believing that people want to do the right thing, and that doesn't always work in politics, but I think it will work here.

But Congressman Rahall is exactly right. We do have to incentivize them. We can't just do these hearings after a Sago or after a Brookwood. We have to have a constant concern. Frankly, we have got good federal laws in the books, in some respects, but we do have to make sure we are tougher about enforcement. And I will end on that point.

The average fine, Mr. Chairman, in the last 5 years for a safety violation is $60—a 2-month old parking ticket. These people deserve a much more committed safety and enforcement regime than that.

Chairman NORWOOD. And there are also state rules too, which I want to get into that.

But, Mr. Murphy, you wanted to——

Mr. MURPHY. Yes. I wanted to repeat my point before about we need to look at the best practices of companies that are making some efforts. So if you look at, in terms of safety, since 1970, coal production has increased 83 percent while fatal injuries have decreased 92 percent. Now, that tells me that someone is finding a way of making this work. I think it is about half of the U.S. coal mines operate each year without a single lost work-time injury. Now, that means the other half are having some problems here.

And this is where I agree with my colleagues. Perhaps it is a matter of enforcement, perhaps it is a matter of the size of the fine. It is also a matter of making sure that the enforcement is working. One mine, someone may fine someone as he takes his helmet off to wipe his brow, and yet, I am not sure what that does to improve overall mine safety. On the other hand, charging $60 for a fine for something that is a major issue is not appropriate. But the most thing is we have to make sure we have continued enforcement of these things.

I am concerned about the Department of Labor being able to do that and being able to follow through with some clout on these issues.

There are some records of success among coal companies, and I hope it just proceeds forward. Fine them, talk to them, say, "How do you manage to do it and other people are not?" Because I think they have got things there we can learn from. I mean, I believe all mine owners, I would hope, as their employees go down the shaft each day, whatever it is, that they remember and as they look in their eyes they have got families behind them.

But we know that some mines are better off at enforcement than others, and we ought to talk to them.

Chairman NORWOOD. Your point, I think, is extremely well taken, and that is why I get confused. How can half of them be doing this right, making money, which is that is what the stockholders are there for, that is what it is about? How can they be doing that, and then how can we have the other half simply not paying attention?

Mr. MOLLOHAN. Mr. Chairman?

Chairman NORWOOD. Yes, sir?

Mr. MOLLOHAN. You know, I agree with Congressman Rahall, that is a great question. There may be some operators out there today that operate under the misguided belief that safety costs too much. I doubt that there are very many. That is certainly not a prevailing view, I can tell you, in my area and in my state. I think most operators understand that safety overall does pay and that a safe mine is a profitable mine.

But there is this whole aspect of change——

Chairman NORWOOD. Would the gentleman yield a minute?

Mr. Murphy, are you leaving?

Mr. MURPHY. Yes. I have to run.

Chairman NORWOOD. I have a couple of questions, but I will submit them to you. If you would put them back to us so I can put them in the record, please.

Mr. MURPHY. Yes, I would be glad to.

Chairman NORWOOD. Thank you very much.

Excuse me, sir.

Mr. MOLLOHAN. No, Mr. Chairman, of course.

There is this whole process of change, this phenomena of change that all of us resist in one way or another in our lives, and I think it manifests itself in any industry and particularly a highly regulated industry. They have got it set, change incorporating safety policies, safety practices. That is a very expensive process, and just contemplating that people do think of the budget and they think competitively and they think in some ways, well, perhaps that does create a competitive disadvantage.

That is not the same thing as saying that they don't believe safety doesn't pay. I do believe they think that safety incorporated, already assumed in their processes does pay, but there is this aspect of, well, if we spend all of this money for non-production purposes, that is going to create a disadvantage, an economic disadvantage.

So what is my point? This is a partnership, and this is where government comes into it. Because government creates that level playing field that makes people who makes operators who believes that safety doesn't pay, it makes them comply with safety standards, and it allows operators who believe that safety does pay to expend those initial costs that bring their operations up to that safe operating level. It creates that level playing field, and that is why this legislation, I think, is so important.

And it is elegant in the sense that I have tried to point out before, it proposes rulemaking to address technological challenges, which once these technological opportunities are identified and there are processes put in place to make them adaptive to a coal mining environment, then the regulatory regime can go in place,

mandating their incorporation into mining practices. Safety pays. I think cooperators understand it as well as everybody, but getting there is the hard thing, and government is the vehicle, it is the catalyst, if you will, that gets them there.

This is a capsule-intensive industry. They need to be made, everybody, on a level playing field, needs to be made to make the expenditures necessary to get up to the safe operating level and safe operating practices.

And I am repeating myself but, you know, when you talk about it is a hard thing and there was some comment about it taking a long time to pass legislation, well, this legislation, really, as I see it fashioned, is as poised for expeditious consideration as any I can imagine, because it is bipartisan as it is introduced. But because of the way it is structured, is proposes a rulemaking and gives everybody an opportunity to input in that rulemaking process, and what can be easier than that?

Thank you, Mr. Chairman.

Chairman NORWOOD. Let's say we don't pass something. Let's say we fumble. Will West Virginia have straightened itself out with its state law?

Mr. MOLLOHAN. Well, I go back to the competitive aspect of that, if I might, and I yield to my colleague.

Mr. RAHALL. Just what Alan was saying, the level ball-playing field is needed here, Mr. Chairman. We have taken the initiative at the state level, as I mentioned. We have got pretty much this same piece of legislation already passed and signed into law at our state level, but what about our neighboring states? What about those to which Alan referred that may make the decision that safety does not pay, and because of the competitive world to which he referred as well, they start relaxing safety conditions in order to be more competitive against their neighboring state, West Virginia. We are in a bad situation.

Chairman NORWOOD. I am not suggesting this now, Nick. I am just thinking out loud about this. You talk about doing that, but in the back of my mind I keep thinking those who don't do it are the real losers competitively, financially as well as simply hiring people to come to work.

Mr. RAHALL. But if we don't do it, and they find out that safety does not pay, it is going to be tragedy again, and that is what we are trying to prevent here.

Chairman NORWOOD. Yes.

Mr. Davis?

Mr. DAVIS OF ALABAMA. Mr. Chairman, let me engage this from Alabama's perspective.

Frankly, Alabama is not the best example, as we regulate almost nothing in the state of Alabama. We don't have a strong mine safety law today. And, again, as I know the Chair does understand, state legislatures are not dramatically different from this institution. There are collisions between interested people on sides of issues, and the interested people who sometimes have the most dollars to contribute, unfortunately, in most state legislatures, those are the folks who win out.

Interestingly, in Alabama, even after what happened in Brookwood 5 years ago, we didn't get strong new mine safety laws.

Why didn't that happen? Because the people who were concerned about the miners weren't able to quite wield enough political power to get a regulatory change.

So I am not one who believes that we can simply wait for the states to lead in this area. The states have frankly not done a very good job of leading, and this is an issue that cries out for national standards. It is true that mining is not present in every state, and it is fairly concentrated in certain parts of our country, but the issue still cries out for national regulation and for national engagement. I think that that is why it is so important for this process to go forward.

Chairman NORWOOD. Mr. Davis, I live next door to you. We don't have coal. We have marble, we have granite, we have kaolin, very important mining industries in my state. Does this bill need to include them?

Mr. DAVIS OF ALABAMA. Well, I will defer to Mr. Rahall who I know has certainly drafted the bill and has worked very hard on that.

Mr. RAHALL. Mr. Chairman, this bill, as crafted today, does not include those other industries, and it may be that we should. I am not that well versed in the mining aspects and dangers of those other industries to which you refer that exist in your state, but I am sure there are concerns with safety and that your industry people would want to make those operations safe as well before any disaster, God forbid, were to happen.

Chairman NORWOOD. Well, God forbid, we haven't had any problems, because there is a whole different world of mining that we are dealing with. I am just wondering out loud.

Mr. OWENS. Mr. Chairman?

Chairman NORWOOD. I would love for this to be specific for coal and then if we need to do something about kaolin, which is a whole different subject—and I need to yield to my friend here.

Mr. OWENS. Mr. Chairman, I am going to have to depart, and I just wanted to ask unanimous consent that the statement of Representative Costello be included in the record in its entirety.

[The statement of Mr. Costello follows:]

Prepared Statement of Hon. Jerry F. Costello, a Representative in Congress From the State of Illinois

Good Morning, Mr. Chairman, ranking member Owens, and members of the subcommittee, thank you for allowing me to testify before your subcommittee today on the important issue of mine safety and health.

I represent Southwestern and Southern Illinois, a region with a rich coal mining history. Coal mining has played a significant role in transforming and developing the region since the mid-1800s when substantial coal mining in Illinois began. In 2006, the coal industry continues to be a vital component of our economy, and one we are working to strengthen for the future. Improving mine safety standards is an important part of this process in Illinois, West Virginia, and other coal producing states.

These unfortunate coal mining fatalities in West Virginia have highlighted the pressing need to revise the national coal mine health and safety standards to ensure miners are equipped with state of the art technologies and tracking devices, and sufficient emergency supplies of oxygen. I am pleased West Virginia legislators acted quickly to enact a state law requiring coal companies to give employees electronic tracking devices and to store oxygen supplies underground. Precautionary measures are needed to protect the health and safety of our coal miners and penalties for flagrant violations of the law and regulations must be enforced. To this end, I have joined my colleagues in the House as a cosponsor of Representative Rahall's bill,

H.R. 4695, the Federal Coal Mine Safety and Health Act of 2006. This legislation contains sufficient authority for the Secretary of Labor to update, and enhance, underground coal mine health and safety regulations. Further, civil penalties for health and safety standard violations would increase.

Our priority and primary concern must be the safety and health of the mine workers. Therefore, I urge the Committee to take up H.R. 4695 so we can bring it to the floor for its immediate consideration.

Thank you.

Mr. OWENS. Let me make one last comment. I have been trying hard to be conciliatory here and end on a positive note, but as we advance united and bipartisan, we are going to find that blind greed is what we are up against. We are going to see just how powerful they are as we advance to try to get this very much needed legislation passed.

Chairman NORWOOD. Well, Major Owens, I am going to make you happy. Anybody messes with me on this that is trying to promote the unions, I am going to fight them. Anybody messes with this that is trying to promote coal mine owners, I am going to fight them.

This is not about anything in the world but one thing, and that is mine safety for the men who go down in our mines. And anybody else wants to play politics with it, they are going to have the damndest fight they have ever seen on their hands, because we are going to get some answers here, and we are going to try to do the right thing the best we know how.

I find it interesting, you have been talking to owners of mines in your office, and I have been talking to men who work in the mines in my office.

Mr. DAVIS OF ALABAMA. I have been talking to both of them, Mr. Chairman, I assure you of that. I have talked to both of them.

Chairman NORWOOD. That is where I learned the most as opposed to hearings is talking to these men who go down that shaft and just sitting down man to man and talking about this stuff. That way I am not a Republican, and they are not a Democrat. We are just two human beings trying to figure out how in the heck we are going to make this a better place for the people who are on the absolute front line of our fight for energy in this country.

So I promise you we are going to try to get something that is good, workable and helps all of our miners before this is over with.

Mr. RAHALL. Mr. Chairman, I might add, though, I have talked to all of them, as Art has, both the industry, the mine workers, the union, non-union and the mine rescuers just as they came out from their unsuccessful attempts to rescue miners in my area. I have talked to rescuers about their take on what happened below. In many cases, of course, they are not free to talk, and it had to be elsewhere.

Chairman NORWOOD. I understand. I would love to talk to some of them.

Mr. RAHALL. Right.

Chairman NORWOOD. Off the record.

Mr. RAHALL. Exactly. And this legislation, I might say, is drafted in response to some of those concerns, especially the training aspect where we say that local responders should be trained to go in immediately, so they don't have to—so they are the first ones on

the scene, so they don't have to sit around and twiddle their thumbs while hours are wasted waiting on rescue teams from elsewhere.

Mr. MOLLOHAN. Mr. Chairman?

Chairman NORWOOD. Yes?

Mr. MOLLOHAN. If I might, first, I want to express again an appreciation for your allowing me to be here to testify.

My experience is that miners and operators alike, but particularly miners because they in such a poignant way operate in the industry, have had a lot of intuitive and technical insight into the questions that are being raised in this legislation. The beauty of it, they can express it in the rulemaking process if it comes to that, but giving them an opportunity to get on the record is probably, in a great democracy, would be a tremendous benefit, however that might happen, in a hearing or otherwise. Just a comment on that.

If I might, our friend and colleague from Illinois, Representative Jerry Costello, who fully intended to testify here, Mr. Chairman—I feel us wrapping up, and so I want to get this out—he has asked that I ask permission of the committee that his testimony be submitted for the record. And he apologizes because he was going to be here during the regularly scheduled hour, but he could not be here when the hour was changed, and he wanted to make sure his testimony was made a part of the record.

Chairman NORWOOD. It will be.

Mr. MOLLOHAN. Thank you, Mr. Chairman.

Mr. DAVIS OF ALABAMA. Mr. Chairman, can I make one quick comment before we do wrap up? I want to go back to Mr. Mollohan's point.

I mentioned during my opening statement that these individuals want to be heard, and they don't just want to be heard by Congress. There was a regular theme during the times I have talked to these miners in my office, during the town hall meeting that we had, there was a regular theme about the National Mine Safety Administration not being responsive enough.

That is why I am going to ask NMSA, the National Mine Safety Administration, to sit down and convene a meeting with a group of mining employees around the country. There is no reason not to do that on Earth. Just because we are elected officials and we have the benefit of having this forum, that doesn't mean we are the only people who ought to get to hear from people in the world. The administrators, who every day have to enforce these laws, need to hear the perspective of the people in the mines.

I was struck, and I know my colleagues here are struck, when you talk to the miners, they are incredibly informed. They have an incredible knowledge and grasp of engineering issues. They are able to talk with great complexity about things in a way that would dazzle all of us sitting in this room with our law degrees, our medical degrees.

It would benefit the National Mine Safety Administration to listen to these people, but even more than that, it would send them a signal that they matter, that their concerns are legitimate, that they have a full stake in the process.

And, Mr. Chairman, I would certainly invite you to join me in that call.

Mr. Owens, I would invite you to join me in that call to the National Mine Safety Administration's director to convene a meeting with a group of mining employees.

So I will end with that request and that offer to the Chair and the ranking member.

Chairman NORWOOD. Gentlemen, thank you so much for your time.

This isn't over. We will have another hearing soon. I am most interested and anxious about technology. We are going to really look at that very, very carefully.

Mr. Davis, I hear what you are saying, but it has to be done so carefully about putting people together in a group or the next thing you know it is all politics. And I am interested in getting to the truth and getting to people who really want to sit down and bare their souls on this rather than people making political points.

That is why what you are asking for is so difficult to do. The minute you set it up, everybody starts gerrymandering and jumping around and trying to get positioned so they can make their particular point. We will do what we can.

Nick, you help me get together with some people privately. That is more useful to me than almost anything, I think, that we do when I meet with people who this is what they do, this is in their blood, they know what they are talking about and they are there just to simply tell me the truth.

With that, gentlemen, we stand adjourned.

Mr. MOLLOHAN. Thank you, Mr. Chairman.

[Whereupon, at 1:47 p.m., the subcommittee was adjourned.]