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THE PERSPECTIVE OF THE FAMILIES AT CRANDALL CANYON

HEARING

BEFORE THE

COMMITTEE ON
EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, OCTOBER 3, 2007

Serial No. 110–66

Printed for the use of the Committee on Education and Labor

Available on the Internet:
http://www.gpoaccess.gov/congress/house/education/index.html

U.S. GOVERNMENT PRINTING OFFICE

37–913 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
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THE PERSPECTIVE OF THE FAMILIES AT CRANDALL CANYON

Wednesday, October 3, 2007

U.S. House of Representatives

Committee on Education and Labor

Washington, DC

The committee met, pursuant to call, at 10:36 a.m., in room 2175, Rayburn House Office Building, Hon. George Miller [chairman of the committee] presiding.

Present: Representatives Miller, Payne, Andrews, Scott, Woolsey, Tierney, Kuchinich, Wu, Holt, Grijalva, Bishop of New York, Sarbanes, Sestak, Loebsack, Hirono, Yarmuth, Hare, Clarke, Courtney, Shea-Porter, McKeon, Petri, Castle, Platts, Wilson, Kline, and Bishop of Utah.

Also present: Representative Matheson.

Staff present: Aaron Albright, Press Secretary; Tylease Alli, Hearing Clerk; Jordan Barab, Health/Safety Professional; Jody Calemine, Labor Policy Deputy Director; Lynn Dondis, Policy Advisor for Subcommittee on Workforce Protections; Patrick Findlay, Investigative Counsel; Michael Gaffin, Staff Assistant, Labor; Peter Galvin, Senior Labor Policy Advisor; Ryan Holden, Senior Investigator, Oversight; Brian Kennedy, General Counsel; Thomas Kiley, Communications Director; Danielle Lee, Press/Outreach Assistant; Alex Nock, Deputy Staff Director; Joe Novotny, Chief Clerk; Michele Varnhagen, Labor Policy Director; Michael Zola, Chief Investigative Counsel, Oversight; Mark Zuckerman, Staff Director; Robert Borden, Minority General Counsel; Kathryn Bruns, Minority Legislative Assistant; Cameron Coursen, Minority Assistant Communications Director; Ed Gilroy, Minority Director of Workforce Policy; Rob Gregg, Minority Legislative Assistant; Richard Hoar, Minority Professional Staff Member; Victor Klatt, Minority Staff Director; Alexa Marrero, Minority Communications Director; Jim Paretti, Minority Workforce Policy Counsel; Molly McLaughlin Salmi, Minority Deputy Director of Workforce Policy; Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel; and Loren Sweatt, Minority Professional.

Chairman MILLER. The Committee on Education and Labor will come to order to conduct an oversight hearing on the accidents in Crandall Canyon Mine. This is not an investigative hearing. This is an oversight hearing.

I want to thank all of the members for their attendance and, certainly, thank all of those who have traveled to Washington for this hearing from Utah.

In August, we all watched the unfolding tragedy at Crandall Canyon Mine with deep sadness. After the collapse, six miners never came out of the mine again, and three brave rescuers attempting to reach their fellow miners also died. Family members whose miners and rescuers perished are with us today.

On behalf of all of my colleagues, I want to express our sympathies to each of you and to your families. I know that your testimony today will be painful for you to deliver, but it is critical for us to hear from you directly. Families must be able to speak for those who have died. I thank you very much for agreeing to participate in today's hearing.

I would also like to thank all of the brave miners involved in the rescue effort. We greatly admire their devotion and selflessness, and we wish a speedy recovery for those who were injured.

I would also like to extend our gratitude to Governor Jon Huntsman and Congressman Jim Matheson for their concerns and involvement in helping the families and the miners during the rescue efforts and for joining us here this morning. I want to thank both of their offices publicly for the cooperation they provided to the staff from both sides of the aisle who went out to Utah immediately after the accident. They were very helpful in helping the staff make contacts with local people and with their offices and with the agencies.

Today, we will first hear from a panel of family members about how this tragedy has affected them, and then we will hear from a panel of leaders and policymakers to provide further context for this tragedy and what we must learn from it. I will be introducing all of those witnesses shortly.

This month, the committee intends to mark up additional legislation that would build on the legislation approved by Congress last year to improve mine safety. The committee is also committed to a thorough investigation of what happened at Crandall Canyon Mine.

In late August, we requested a comprehensive list of critical documents and communications from both Murray Energy Corporation and the Department of Labor to help us with our independent investigation of the Crandall Canyon Mine Tragedy. I regret to say that neither the Department nor the company have been fully cooperative with us to date. They have yet to comply with many of the basic requests for information, information that is necessary for the committee to investigate this disaster.

Let me be very clear. This committee will not be deterred from getting all of the information we need to do our independent investigation, and we will not tolerate obstruction and delay by either the Department or by the company in pursuit of that information and this investigation. We will take every action necessary to hold individuals responsible for what appears to have been a preventable tragedy.

We believe it is critical to get the truth of the events before, during and after this disaster in order to prevent another one. The families of the miners who died, the miners who continue to work

underground and the communities in which they live deserve to know the straight facts.

We have carefully documented the past year with the Department of Labor and how seriously it neglected the responsibilities to miners. Over the past few years, the Department has cut staffing levels for inspectors, torpedoed health and safety regulations and hired top officials who came right from the coal industry.

Today, the Department of Labor is failing to move decisively to require miners to have modern state-of-the-art wireless communications as soon as the technology becomes available. It is failing to require rescue chambers, as West Virginia has done, that could immediately provide safe havens for trapped miners. It is failing to track compliance with rescue plans submitted by mine operators.

And it failed to take control of the communications with the public after the Crandall Canyon disaster as law required. Instead, the Department of Labor allowed Mr. Murray to repeatedly provide false information to families and public.

The lessons learned from Crandall Canyon will take some time to sort out. There will be no easy, quick answers, but this hearing as well as the future hearings that result from our investigation will help us learn what steps are necessary to make mining safer for those who go underground every day.

I want to thank all of those who are participating today.

I would like now to recognize the senior Republican on this committee, Mr. McKeon, from California.

Prepared Statement of Hon. George Miller, Chairman, Committee on Education and Labor

Good morning. Welcome to today's hearing on "The Perspective of the Families at Crandall Canyon."

In August, we all watched the unfolding tragedy at the Crandall Canyon Mine with deep sadness. After the collapse, six miners never came out of the mine again. Three brave rescuers, attempting to reach their fellow miners, also died.

Family members of those miners and rescuers who perished are with us today.

On behalf of all of my colleagues, I want to express our sympathies to each of you and your families. I know your testimony today will be painful for you to deliver. But it is critical for us to hear from you directly. I thank you very much for agreeing to participate in today's hearing.

I would like to also thank all of the brave miners involved in the rescue effort. We greatly admire their devotion and selflessness, and we wish a speedy recovery to the injured rescuers.

I would also like to extend our gratitude to Governor Jon Huntsman and Congressman Jim Matheson for their concern and involvement in helping the families and miners during the rescue efforts, and for joining us.

Today we will first hear from a panel of family members about how this tragedy has affected them, and then we will hear from a panel of leaders and policymakers to provide further context for this tragedy and what we must learn from it. I will be introducing all of those witnesses shortly.

This month, the Committee intends to consider additional legislation that would build on legislation approved by Congress last year to improve mine safety.

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But let me be very clear. This committee will not be deterred from getting all the information we need to do our independent investigation. We will not tolerate ob-

struction or delay by the Department of Labor. And we will not tolerate obstruction or delay from the Murray Energy Corporation or from Mr. Murray himself.

We will take every action necessary to hold individuals responsible for what appears to have been a preventable tragedy. We believe it is critical to get to the truth of the events before, during, and after this disaster in order to prevent another one.

The families of the miners who died, the miners who continue to work underground, and the communities in which they live deserve to know the straight facts.

We have carefully documented in the past year that the Department of Labor has seriously neglected its responsibility to miners.

Over the past few years, the Department has cut staffing levels for inspectors, torpedoed health and safety regulations, and hired top officials who came right of the coal industry.

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The lessons learned from Crandall Canyon will take some time to sort out. There will be no easy or quick answers.

But this hearing, as well as future hearings and the results of our investigation, will help us learn what steps are necessary to make mining safer for those who go underground every day.

I thank you all for coming today.

Mr. MCKEON. Thank you, Chairman Miller.

Let me begin by sharing my deepest sympathies with the families of those whose lives were lost at Crandall Canyon. They have suffered an unspeakable loss, and I thank them for being here today to share their powerful personal testimonies.

On September 5, the House passed a resolution mourning the miners and MSHA personnel whose lives were lost, recognizing those involved in the rescue effort, and honoring the long national heritage of coal-mining families.

Let me reiterate to the families the deep condolences offered by myself and my colleagues.

The challenges of ensuring mine safety are ones that this committee, unfortunately, knows all too well. Last year, in response to mining tragedies in West Virginia and Kentucky, industry and labor worked together with Congress to enact the Mine Improvement and New Emergency Response Act, known as the MINER Act.

With that law, we required MSHA to revise its penalties, increase penalties for major violations, undertake several studies regarding mining practices and work to improve technology for communications underground. We also established an aggressive timeline for MSHA to comply with these requirements, reflecting the urgency of mine safety reform.

We have been in regular contact with MSHA since that law was enacted, including two public hearings held earlier this year to examine the progress that has been made on these reforms.

I appreciate the efforts of MSHA, led by Administrator Richard Stickler, to meet those deadlines. I also appreciate the efforts of labor and industry leaders to bolster mine safety through rapidly changing technology.

The action taken last year was an important step toward improving mine safety. It is possible that some will argue that we are not seeing improvement quickly enough. Some may also argue that the Crandall Canyon disaster is evidence of the need for further legislation.

I am confident the committee will examine these questions in the coming months, and I am hopeful that this examination will involve all stakeholders—employees, workers, academics, consumer advocates and government—in order to ensure a balanced comprehensive process. At this juncture, it is our duty to allow the investigation to run its course unimpeded so that we can determine what happened at Crandall Canyon and what can be done to prevent such a tragedy in the future.

While the investigation is underway, I believe it is also important that information be made available to stakeholders seeking answers about this tragedy. That is why I joined Representatives Wilson, Bishop and Matheson, along with Senators Hatch and Bennett, yesterday to urge MSHA to reasonably share information with the newly formed Utah Mine Safety Commission. In our letter, we noted that working cooperatively with the MSHA personnel would give the Utah commission unparalleled insight into how the agency operates and lay a positive foundation for future interaction between the state and MSHA.

I believe strongly that nothing should be done that would compromise the investigation or jeopardize the ability of MSHA to take any enforcement actions that may ultimately be necessary. For that reason, my staff has been closely monitoring the effects of the administration and working with Mr. Miller's staff to ensure the activities of this committee do not in any way undermine the federal inquiry.

At the same time, it is my opinion that MSHA should be working collaboratively with the effort underway in the State of Utah to ensure as full and open a process as possible. I understand that just yesterday, MSHA sent a letter to the Utah commission extending additional offers of cooperation. While MSHA officials have stopped short of providing the information we requested, I believe they are acting in good faith to collaborate with the commission, and I urge MSHA once again to consider our suggestion that it provide for the duration of the investigation any information that could be obtained through the Freedom of Information Act.

In a disaster such as this, it is only natural that we as policymakers want to respond quickly, but the desire to act must not supersede our obligation to act responsibly. I hope we do not rush to judgment, but instead proceed with a thorough, thoughtful examination of the facts of this case understood within the broader mining industry context.

The United Mine Workers of America has proposed a broad-based inquiry such as this, suggesting that it be carried out by a bipartisan congressionally appointed commission. I am interested in such a concept and hope Mr. Roberts of the UMWA who is here to testify today will discuss this proposal in greater detail.

We are here today to hear the stories of those who have suffered a tragic loss. Another devastating incident occurred just yesterday at a power plant in Colorado. As we understand it, five workers be-

came trapped in an empty water tunnel approximately a thousand feet underground after a fire broke out. This sad event reminds us of the inherent dangers to those who work below ground and the complexity of underground rescue. I extend condolences to the families of those workers killed in Colorado yesterday.

Finally, let me once again thank the witnesses for being here today, particularly the family members who have agreed to share their stories. The committee has a history of working collaboratively in an inclusive, bipartisan manner to address the challenges of mine safety. It is my hope that our review of Crandall Canyon and broader issues facing the miner industry will maintain that cooperation.

I yield back the balance of my time.

Prepared Statement of Hon. Howard P. "Buck" McKeon, Senior Republican Member, Committee on Education and Labor

Thank you Chairman Miller.

Let me begin by sharing my deepest sympathies with the families of those whose lives were lost at Crandall Canyon. They have suffered an unspeakable loss, and I thank them for being here today to share their powerful, personal testimonies.

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Finally, let me once again thank the witnesses for being here today, particularly the family members who have agreed to share their stories. This Committee has a history of working collaboratively, in an inclusive, bipartisan manner, to address the challenges of mine safety. It is my hope that our review of Crandall Canyon and broader issues facing the mining industry will maintain that cooperation. I yield back the balance of my time.

Chairman MILLER. I thank the gentleman very much for his statement.

All members will be provided the opportunity to put a statement into the record.

And without objection, our colleague, Congressman Matheson, will sit along with the members of the committee.

Hearing none, so ordered.

[The prepared statement of Mr. Altmire follows:]

Prepared Statement of Hon. Jason Altmire, a Representative in Congress From the State of Florida

Thank you, Mr. Chairman, for holding this hearing on the perspective that families impacted by the Crandall Canyon tragedy have on mine safety.

On August 6, the Crandall Canyon Mine collapsed trapping six miners several miles below ground. Rescue workers immediately began working to save the trapped miners. On August 16, the disaster was compounded when a second collapse trapped three rescue workers. Tragically, all six miners and three rescue workers died.

While this committee has heard testimony about mine safety from other groups, this is the first hearing in which we will hear from mine workers' families. I commend all of you for your strength testifying today and extend my condolences to everyone who lost a loved one at Crandall Canyon.

Thank you again, Mr. Chairman, for holding this important hearing. I yield back that balance of my time.

Chairman MILLER. We have numerous family members at the witness table this morning, but we will be hearing from five of those members.

We will hear from Steve Allred, who is from Cleveland, Utah. Mr. Allred is a disabled coal miner and is Kerry Allred's brother. He is here on behalf of Kerry's widow, Bessie, and his children, Tiffani, Cody and TyLee. Cody has also joined us today.

Mike Marasco is a fuel tank driver in Helper, Utah. He is married to Kerry Allred's daughter, Tiffani, and is speaking on behalf of the Allred family.

Cesar Sanchez is a coal miner and Manny Sanchez's brother. He has recently left his job in Wyoming to help Manny's family in this time of need. Mr. Sanchez is speaking on behalf of Manny's widow, Marta, who is here along with her daughter, Aydaliz. I am mispronouncing this.

Mr. SANCHEZ. Aydaliz.

Chairman MILLER. Manny and Marta also have a son, Arturo, and two daughters, Adriana and Apolonia.

Sheila Phillips is a surface employee of the Crandall Canyon Mine. Ms. Phillips, along with her husband, Jamie, are here today on behalf of their son, Brandon. They also care for Brandon's son, Gage, who is here with her today.

Wendy Black is from Huntington, Utah. She is Dale Black's wife. Today, Mrs. Black will speak on behalf of her family. They have two children, Ashley and Corey, and Mrs. Black's father and grandfather were Utah coal miners.

I want to welcome you and thank you again for agreeing to testify.

Mr. Allred, we will begin with you.

STATEMENT OF STEVE ALLRED, BROTHER OF MINER, KERRY ALLRED

Mr. ALLRED. Thank you.

I want to thank Chairman Miller for the opportunity to testify before the committee this morning. I also want to thank United Mine Workers of America for its assistance and generous support of our appearance before you.

In addition to those testifying today and the other family members sitting at this table, there are many more family members from the Crandall Canyon Mine disaster who are here today. Some of them also have prepared written statements, Chairman Miller. On behalf of our delegation, I ask that you accept all of our written statements for the record.

Chairman MILLER. Thank you. We will. No objection.

Mr. ALLRED. I have been a union miner since 1978. I was 24 years old when I started at the Wilberg Mine just outside of Orangeville. I had never been underground before and did not care for it for quite a while. In fact, I told myself and my family members that I was only going to be in the mining industry for about a year, and then I would move on to other things.

But when I was allowed to get into the section work of the mine and to do different jobs and the more I learned and the more I became friends with my coworkers, my attitude began to change. I became addicted. Coal mining got into my blood.

I became a fireboss and then a miner operator, and it was then that I became acquainted with MSHA. I did not like MSHA telling me what I could and could not do, and I got frustrated with the oversight. I guess you could say we butted heads. Then the Wilberg Mine disaster happened in December of 1984, and it was a drastic changing point in my life as a coal miner.

After the fire at Wilberg, during the recovery work, I learned so much about the safety aspects of mining and the dos and the don'ts. I realized what an important role MSHA can play in the safety and protection of miners and the coal mine in general. I learned to appreciate the expertise of MSHA.

In 1993, PacifiCorp bought the Trail Mountain Mine. I was among the first few men to go rehabilitate that mine. The Trail Mountain Mine was previously a nonunionized operation. As I entered the mine for the first time, I was stunned at the difference between the nonunion mine and the unionized Wilberg Mine. I was shocked and disappointed with both MSHA and the previous owners at the terrible safety conditions that were permitted to exist without the oversight and protection of the United Mine Workers of America.

At the Crandall Canyon Mine, had the mine operator been responsible and held accountable by the United Mine Workers and by MSHA, my brother would not have died. So much of the coal had been mined that all that was left was coal meant to hold the mountain up.

If the UMWA had been there, the pillars and barriers would not have been mined, as the miners who were concerned about the mountain coming down would have had a voice. A unionized mine would have allowed a safety withdrawal to be called had union miners felt that something was not safe. The miners would have had the UMWA to back them up had the miners felt that someone was going to get hurt or killed.

This lack of responsibility by the companies and lack of oversight by MSHA, coupled with no protection by the UMWA, has led to my family's being devastated. Our lives are changed forever. My brother Kerry's wife is having a very hard time and will for some time to come. Her kids and I are trying to be strong for her. That is all we can do. We all know that only God can provide her the comfort she needs for the loss of her husband.

Thank you, again, for the opportunity to be here and to testify.

[The statement of Mr. Allred follows:]

Prepared Statement of Steve Allred, Brother of Kerry Allred

I want to thank Chairman Miller for the opportunity to testify before this Committee. I also want to thank the United Mine Workers Association for its assistance and generous support of our appearance before you.

I have been a union miner since 1978. I was 24 years old when I started at the Wilberg Mine outside of Huntington. I had never been underground before and did not care for it for quite awhile. In fact, I told myself and family that I was working with mining for only a year and then I would move on to other things. But when I was allowed to get into the section work of the mine and to do different jobs and the more I learned and the more I became friends with my coworkers, my attitude began to change. I became addicted. Mining got into my blood.

I became a fireboss and then a miner operator. It was then that I became acquainted with MSHA. I did not like MSHA telling me what I could and could not do and I got frustrated with its oversight. Then, the Wilberg Mine Disaster happened in December of 1984 and it was a drastic changing point in my life as a coal miner.

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unionized operation. As I entered the mine for the first time I was stunned at the difference between this non-union mine and the unionized Wilberg Mine. I was shocked and disappointed with both MSHA and the previous owner at the terrible safety conditions that were permitted to exist without the oversight and protection of the United Mine Workers Association.

At the Crandall Canyon Mine, had the mine operator been responsible, held accountable by the United Mine Workers Association and by MSHA, my brother would not have died. So much of the coal had been mined from the mine that the only thing left was the support that was to hold the mountain up. If the UMWA had been there the pillars and barriers would not have been mined, as the miners who were concerned about the mountain coming down would have had a voice. A unionized mine would have allowed a "safety withdraw" to be called had union miners felt that something was not safe. The miners would have had the UMWA to back them up had the miners felt like someone was going to be hurt or killed.

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Thank you again for the opportunity to be here to testify.

Chairman MILLER. Mr. Marasco?

STATEMENT OF MIKE MARASCO, SON–IN–LAW OF MINER, KERRY ALLRED

Mr. MARASCO. I want to thank Chairman Miller for the opportunity to testify. I also want to thank the United Mine Workers of America for making it possible to be here.

My father-in-law, Kerry Allred, was a coal miner. He was a great father, husband, brother, and son and grandfather. He was loved by everyone and well known.

We miss you, Dad.

I want everyone to know that we are very thankful for the thoughts and prayers and for the rescue efforts. You are all our heroes.

I want to focus my comments on how the families were treated after the collapse by both the company and by MSHA.

The past 2 months have been like a roller coaster for all of us. From day one, we have been let down by Mr. Murray and by MSHA. Mr. Murray told us immediately after the collapse that we could trust God and in him, and he would stop at nothing to find our loved ones, dead or alive.

Every day went by when we were thinking, "Maybe today." But we just continually got let down. Mr. Murray appears to have lost interest pursuing the miners now being discussed, and the families are trying to stop that process. We think that the families need closure.

The manner in which Murray and MSHA dealt with us for the first 2 weeks after the collapse was unbelievable. They just told us what we wanted to hear and not the facts. All we heard was earthquake, earthquake. We did not want to hear about earthquakes but wanted to know when we were going to see our loved ones again. Murray more than once yelled at us when we asked questions.

For the families that are Hispanic, there was no translator for the first 2 days, so it was extremely upsetting for them.

Questions were asked, and the responses were always, "That question has already been asked" or "We are looking into it." I feel that we were not treated with respect we should have been given.

Finally, we made suggestions to help the rescue efforts and were just amazed at how quick both Murray and MSHA were to say no to all of our suggestions.

These are just a few examples of how poorly we were treated. But time is short. We all have tragedies in our lives, but this one that should have not happened happened.

Thank you again for the opportunity to be here to talk to you, and may God bless all miners and their families.

[The statement of Mr. Marasco follows:]

Prepared Statement of Michael Marasco, Son-In-Law of Kerry Allred

I want to thank Chairman Miller for the opportunity to testify. I also want to thank the United Mine Workers Association for making it possible to be here.

My father-in-law Kerry Allred was a coal miner. He was a great father, brother, son and grandfather. He was loved by everyone, and well-known. We dearly miss you, Dad.

I want everyone to know that we are very thankful for the thoughts and prayers and for the rescue efforts. You are all our heroes.

I wish to focus my comments on how the families were treated after the collapse, by both the companies and by MSHA.

I want to let everyone know how these last two months have been like a roller-coaster for all of us. From day one we have been let down by Mr. Murray and by MSHA. Mr. Murray told us immediately after the collapse that we could trust God and him and he would stop at nothing to find our loved-ones. Everyday went by where we were thinking maybe today. But we just continually got let down. Mr. Murray appears to have lost interest. Sealing the mine is what is now being discussed.

The manner in which Murray and MSHA approached the families for the first two weeks after the collapse was unbelievable. They just told us what we wanted to hear and not the facts. All we heard was "earthquake, earthquake." We did not want to hear about earthquakes but wanted to know when we were going to see our loved ones again. Murray more than once yelled at us when we would ask questions.

For the families that are Hispanic, there was no translator for the first two days. How does one explain to them what has been going on.

Questions were asked and the responses were always, "that question has already been asked" or "we are looking into it." I feel that we were hardly treated with the respect we should have been given.

We made suggestions to help the rescue efforts and were just amazed at how quick both Murray and MSHA were to say "no" to all of our suggestions. These are just a few examples of how poorly we were treated.

We all have tragedies in our lives, but this was one no one ever had to experience. Thank you again for the opportunity to be here to talk to you.

Chairman MILLER. Thank you.

Mr. Sanchez?

STATEMENT OF CESAR SANCHEZ, BROTHER OF MINER, MANUEL SANCHEZ

Mr. SANCHEZ. I want to thank Chairman Miller for the opportunity to testify and give life to the memory of my brother, Manuel Sanchez, or as I called him, Manny. I also want to thank the United Mine Workers Association for its generosity in making it possible for us to be here.

As a family, we have many questions. We want to know how the mine owner got a permit to do this kind of mining. We want to know how MSHA put a rubber stamp on the mining plans submitted by the mine owner. We want to know how often this mine

got inspected by MSHA, especially because there was more than one complaint made by the miners about bumps and their severity. The company ignored these complaints.

When he died, my brother had been a miner for 17 years. He was concerned about safety and asked for a meeting. The meeting never took place. Manny said the mine safety was not right. My brother was concerned about safety at the mine, and he had asked me to get him a job at the mine that I was working at in Wyoming. The Sunday-Monday shift was his last scheduled working day for him. Unfortunately, he did not leave soon enough.

I worked for this company 10 months ago. The company's goal was production over safety. With this company, the number one goal is cut coal and mine out the longwall production at the West Ridge Mine. When you get people that all they care about is production and competition and worry about safety later, this has been devastating. It was very hard to learn that after the tragedy happened, one of the old mine supervisors said in a meeting that he had told them not to cut the barriers out.

As families, we want the truth of what happened. MSHA says that the company is thinking about sealing this portal of the mine. We feel like this is not being investigated at all. It has appeared that MSHA and Murray were together on this in both the mining and the rescue.

Someone needed to look over after our interests, but before the collapse, which would have prevented it, and after the collapse, to assure everything possible was being done to rescue and now to assure everything possible is being done to find my brother and the other miners.

It is very frustrating now to learn that MSHA has prevented the United Mine Workers of America from participating in its investigation. Someone needs to hear and represent us, the victims.

My brother and I were really good friends. He gave me a hard time, and I gave it right back to him. Unfortunately, he is not here.

Thank you again for letting us be here. Thank you.

[The statement of Mr. Sanchez follows:]

Prepared Statement of Cesar Sanchez, Brother of Manual Sanchez

I want to thank Chairman Miller for the opportunity to testify and give life to the memory of my brother, Manual Sanchez, or as I called him—"Manny." I also want to thank the United Mine Workers Association for its generosity in making it possible to be here.

As a family, we have many questions. We want to know how the mine owners got a permit to do this kind of mining. We want to know how MSHA put a rubber stamp on the mining plans submitted by the mine owners. We want to know how often this mine got inspected by MSHA, especially because there were more than one complaint made by the miners about the bumps and their severity. The company ignored these complaints.

When he died, my brother had been a miner for 17 years. He was concerned about safety and asked for a meeting. The meeting never happened. Manny said the mine safety was not right. My brother was so concerned about safety at the mine that he had asked me to get him a job at the mine I was working at in Wyoming. The Sunday/Monday shift was his last scheduled workday for him. Unfortunately he did not leave soon enough.

I worked for this company ten months ago and the company's goal is production over safety. With this company the number one goal is to cut coal and to out-mine the long wall production at the West Ridge mine. When you get people that all they care about is production and competition and worry about safety later, the results have been devastating. It was very hard to learn that after this tragedy happened,

one of the old mine supervisors said in a meeting that he had told them not to cut the barriers out.

As families, we want the truth of what happened. MSHA said that the company is thinking about sealing this portal of the mine. I feel like this is not being investigated at all. It has appeared that MSHA and Murray were together on this in both the mining and the rescue. Someone needed to look after our interests both before the collapse, which would have prevented it, and after the collapse, to assure that everything possible was being done to rescue and now to assure everything possible is being done to find my brother and the other miners. It is very frustrating now to learn that MSHA has prevented the United Mine Workers Association from participating in its investigation. Someone needs to hear and represent us, the victims.

My brother and I were really good friends. He gave me a hard time and I gave it back to him also. I know that the company that I worked for in Wyoming would hire him right now. Unfortunately, he is not here to do so.

Thank you again for letting me be here.

Chairman MILLER. Ms. Phillips? And Gage.

STATEMENT OF SHEILA PHILLIPS, MOTHER OF MINER, BRANDON PHILLIPS

Ms. PHILLIPS. First of all I would like to thank the Chairman Miller and the committee for inviting us, writing us to speak of my son, and my grandson, Gage.

I wish to thank the United Mine Workers for the generous assistance for making this possible for us to be here.

I want to speak how much we miss Brandon and how we do not want this to happen to anyone else. I would like to make the mine safer.

It is just hard to have hope and have your heart broke every day and then watch your grandson grow up without a dad. It is just——

And I would like to talk a little bit about Mr. Murray. I did not go to very many of the meetings because I could not stand to listen to the man. So he was talking about one day when he was moving the drill holes, and they had the pad ready for one, and then they decided to drill it somewhere else. I asked him why there were not two going, and he said the mountain could not support two drills going at one time.

This is a mountain, you know. They could climb it for water and fuel and stuff, and he said something else. I do not know what it was. And he said, "We can drill you a thousand holes. It would not make any difference." They would find them, wouldn't they, if they drilled at least a thousand?

I just miss him, and I would like to know where my son is in that hole so I could leave a marker on the mountain.

Thank you for the opportunity to talk to you.

[The statement of Ms. Phillips follows:]

Prepared Statement of Sheila Phillips, Mother of Brandon Phillips

First of all I would like to thank Chairman Miller and this Committee for the invitation to speak of my son, Brandon, and to my grandson, Gage. I wish to thank the United Mine Workers of America for its generous assistance in making it possible to be here. I want to speak on how we miss Brandon and how we do not want this to happen to anyone else. It is hard to have hope, only to have your heart broke. It is hard to see your grandson left fatherless.

During our family meetings after the collapse, Mr. Murray was talking about changing where they were going to drill. I asked him why there was only one drill going and why not two. He told us the road up there could not support rigs running at the same time. He also said that he could drill a thousand holes and it would

not make a difference. I would like to know—where the thousand holes are? I want to know where my son is even if they never able to get them out of the mine.

Thank you again for the opportunity to be here to talk to you.

Chairman MILLER. Thank you. Thank you very much. I know how tough this is for you and for Gage.

Ms. Black?

STATEMENT OF WENDY BLACK, WIFE OF MINER, DALE "BIRD" BLACK

Ms. BLACK. Hello. My name is Wendy Black, and I would like to thank you for giving me this opportunity to speak to you today.

First, I would like to tell you a few things about my husband, Dale Black.

He was a terrific father. He had two beautiful children, Ashley, 22, and Corey, 17. Dale loved to four-wheeler ride. He liked to boat and hunt and fish and spend valuable time with his family and friends.

Dale "Bird" Black was killed on August 16, 2007, at the Crandall Canyon Mine while trying to rescue the six trapped miners—Brandon Phillips, Don Erickson, Manny Sanchez, Luis Hernandez, Carlos Payan and Kerry Allred.

Dale had 24 years of experience in the mines. Twenty of those years were spent at GENWAL. He started at GENWAL in March of 1984. That is when GEMWAL was just reopening. He learned to run every piece of equipment in that mine, including the roof bolter and the miner.

Dale became a production boss in 1993, and he also had 2 years as a longwall supervisor. Three-and-a-half of those years of his experience was spent at West Ridge where he helped portal in three portals and develop new sections and mains.

He willingly went back to GENWAL because of the H2S, which is Hydrogen sulphide, that they had at West Ridge. He went to GENMWAL as a section foreman. All the men loved working with Dale. They always told me so.

I have never known my husband to be afraid to go to work, but the last part of his life he was. He actually told me he was, and why, on August 5. While we were getting ready to go to bed, he said that they had been hitting the Richter scale at work, and I asked him what he meant by this, and he said that they were having big enough bounces at the mines that they were registering on the Richter scale.

So I feel in my heart that he was worried enough about this that he was letting me know what was going on. This was the night before the initial collapse.

He also said that the crew members had been discussing bounces, and they were worried also.

On August 6, Dale had went to work for his last day shift before his days off. When he drove up to the mines, he met a cop at the entrance. That is how he found out about the mine collapse. Right way, he was helping to get those men out. I found out around 8:00 a.m. that something had happened at GENWAL, and I instantly called the mine conspect, and they assured me that Dale was all right.

I did not hear from him again until 10:00 p.m., when he arrived home. I was so relieved to see him and that he was okay, just really tired and worried about how they were going to get those men out of there.

Every morning from then on, Dale was up and ready to leave at 4:15 a.m. Dale and Petie rode to work together every day of the rescue because there were so many people up there trying to help. I never knew when Dale would get home from the rescue, sometimes 8:00 p.m., sometimes 10:00 p.m. I was just glad when he came home.

For the entire rescue, he would get between 4 and 5 hours of sleep before he was back up there at the mine trying to help in any way. I know how hard it was for all those rescue crews to continue to work in there every day, knowing what they knew as experienced miners. Still, they never gave up hope.

On Sunday, August 12, I sat up with Dale because he could not sleep. There was a meteor shower that night, so we sat outside and he began to cry, and he told me a lot of things that had been happening at the mine, for instance, how mine manager Gary Peacock came up to Dale and said, "You know, I will be taking this to my grave." Gary knows that I know what he had said to Dale, because a day or 2 after Dale died, I told him that I knew this, and I told him, "I guess it was Dale that had taken what he had done to the grave." His expression was stunned silence.

On another instance, on August 5, on day shift before the initial collapse, Dale was trying to have his miner operator pull back when shift foreman Jesse Gordon came up and asked Dale, "What are you doing?" Dale said he told him it was too risky and he was pulling out. Gordon told Dale, "You cannot leave all that coal. Hit it harder on the bottom."

Dale said he wished he would have yelled and argued louder, pushed his point. He wanted them to move out further to Section 121, but he was not being heard. I feel this had something to do with the initial collapse on August 6, but he did what he was told to do.

On the last day of Dale's life, August 16, he did not take his lunch bucket to work with him, which he did every day, even during all of this, and it was also the only day of the rescue he drove by himself. Why?

I have so many unanswered questions about the rescue, like who was in charge at the time of the rescue, who approved of this mining plan, and who was to oversee this plan and that it was being followed correctly, and who in their right mind would send rescuers underground while the mine was still bouncing, then drill from the top when they had no idea what this would do to the stability of the mine while the miners were underground mining.

I would like to know how a K order, which is an imminent danger or a closure order, be modified 15 times as they proceeded into the mines. To my understanding from fellow workers, the plan was that only the minimum amount of workers would be in there while the miner was running. When finally they got the miner up and ready to go, Bob Murray and the media came in. The underground MSHA worker, Mike Shumway, told the operator not to start the

miner until the plan was being followed, and another MSHA worker, Ted Farmer, overrode this plan and told them to proceed.

My husband felt that he had to be there because of these trapped miners. They were his friends—friends, all of them, and family in a way. Dale was always first man in, last man out. He had told me about the letters and the pictures that the families had put up at the mine. The one he remembered the most said, "Please bring my daddy home." This gave Dale the courage and determination to go back into that hell hole.

I want to know if there are rules and regulations made to protect the miners, then who is to be accountable for making sure these rules and regulations are being followed? Please at least have one person with enough backbone to say, "No more." MSHA has one job: mine safety and health administration. It would have taken just one MSHA official or one official from the company doing his job to have saved my husband's life. Which one of them was not doing their job?

Now explain something to me. How do you truthfully investigate yourself?

Thank you.

[The statement of Ms. Black follows:]

September 26,2007

BREATH

Hello, My name is Wendy Black, I like to thank you for giving me the opportunity to speak to you today. First I would like to tell you a few things about my husband Dale Black, he was a terrific father of two beautiful children Ashley 22 and Corey 17. Dale love to 4 wheeler ride, boat, hunt, fish, and spent valuable time with his family and friends.

Dale Bird Black was killed on August 16, 2007 at the Crandall Canyon mine, while trying to rescue the six trapped miners; Brandon Phillips, Don Erickson, Manning Sanchez, Luis Hernandez, Carlos Payan, and Kerry Allred.

Dale had 24 years of experience in the mine. Twenty of those years were spent at Genwal. He started at Genwal in March of 1984. That is when Genwal was just reopening. He learned to

run every piece of equipment in the mine, including the roof bolter and the miner. Dale became a production boss in 1993 and also two years as a long wall supervisor. Three and a half years of his experience was spent at West Ridge where he helped portal in three portals develop new sections and mains. He willing went back to Genwal because of the H2S (Hydrogen sulphide) at West Ridge. He went back to Genwal as a Section Foreman. All the men loved working with Bird they always told me so.

I have never known my husband to be afraid to go to work... But the last part of his life he was. He actually told me he was and why on August 5th, while we were getting ready to go to bed . He said " they had been hitting the rector scale at work." I asked him what he meant by this and he said," that they were having big bounces at the mine that were registering on the rector

scale." So, I feel in my heart that he was worried enough about this that he was letting me know what was going on. This was the night before the first collapse. He also said that the crew members had been discussing the bounces and they were worried.

On August 6th Dale had went to work for his last day shift before his days off. And he drove up to a cop at the entrance of the mine. That's how he found out about the collapse. Right away he was helping to get those men out. I found out around 8:00AM that something had happened at Genwal and I instantly called the mine conspect , and they assured me that Dale was alright. I didn't hear from him until about 10:00 PM, when he arrived home. I was so relieved when I seen him and that he was Ok , just really tired and worried about the men and how they were going to get them out. Every morning from then on

Dale was up and ready to leave at 4:15AM. Dale and Petie rode to work together everyday of the rescue because there was so many people trying to help up there.

I never knew when Dale would get home from the rescue, sometimes 8:00PM, sometimes 10:00PM I was just glad when he finally would come home. For the entire rescue he would get between 4 to 5 hours of sleep , before he was back up at the mine trying to help in someway. I know how hard it was for all those rescue crews to continue to go to work in there everyday. Knowing what they knew as experienced miners, but they still never gave up hope. On Sunday, August 12th , I sat up with Dale because he couldn't sleep. There was a meteor shower that night, so we sat outside. He began to cry, and told me about a lot of things that had been happening at the mine. For instance how mine manager Gary Peacock came up to Dale and said, you

know that I will be taking this to my grave." Gary knows that I know what he said to Dale, because the day after Dale died I told him that I knew what he had said. And I Told him that I guess it was Dale that took what you had done to the grave. His expression was stunned silence. On another instance on August 5th on day shift before the initial collapse, Dale was trying to have his miner operator pull back, when shift foreman Jesse Gordon came in and asked Dale "WHAT ARE YOU DOING" Dale said he told him that it was to risky, and he was pulling out. Gordon told Dale, "YOU CAN'T LEAVE ALL THAT COAL , HIT IT HARDER ON THE BOTTOM ."

Dale said he wished he would have yell and argued louder push his point. He wanted them to move out further to about section 121 but he was not being heard. I feel this has something to do with the initial collapse on August 6th.

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The last Day of Dale life August 16th he didn't take his lunch bucket to work with him, which did everyday even during all of this, and also was the only day that he drove by himself. Why?

I have so many unanswered questions about the rescue, like

Who was in Charge at the time of the RESCUE?

Who approved this mining plan? And who was to oversee this plan and that it was being followed correctly?

And who in their right mind would send rescuers underground while the mine was still bouncing, then drill from the top when they had no idea what this would do to the stability of the mine, while the miners were underground mining.

I would like to know how a K Order (imminent danger or closure order) be modified 15 times as they proceeded into the mine? To my understanding from fellow workers the plan was that only the minium amount of workers would be in there while

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the miner was running. When they finally got the miner up and ready to go, Bob Murray and the media came in. The underground MSHA worker that was with the miner, told the operator not to start the miner until the plan was being followed. And another MSHA worker Ted Farmer overrode the plan and told them to proceed.

My husband felt that he had to be there because these trapped miners were his friend , his family in a way. Dale was always first man in last man out. He had told me about the letters and picture that the families had put up at the mine, the one he remembered the most said "PLEASE BRING MY DADDY HOME." This gave Dale the courage and determination to go back into that hell hole.

I want to know, if there are rules and regulations made to protect the miners, then who is held accountable to make sure these rules

and regulations are being followed.

At least have one person with enough back bone to say

NO MORE!

MSHA has ONE job. MINE SAFETY HEALTH

ADMINISTRATION.

It would have taken just one MSHA man doing his job to have

saved my husband's life. Which one of them wasn't doing their

job?

Now... explain to me how do you investigate yourselves?

Thank you

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Chairman MILLER. Thank you very much.

And, again, our thanks and appreciation to all of the families who are here and to those of you who testified.

If I might just ask a couple of questions, Mr. Marasco, you raised the issue that we have heard about, certainly read about in the press, and that is the question of how communications were relayed from either government officials or the company to members of the family and to members of the rescue teams. Could you elaborate on those?

Mr. MARASCO. First of all, from day one, we had a couple of meetings, first in the morning, then in the afternoon, and the way we feel how it should have been taken was when MSHA stepped

in, we thought MSHA was going to be in charge. But every time we got down there, we had Mr. Murray and Mr. Moore always there, and they would be always representing what we did not want to hear. We felt like MSHA should have been there more instead of what we were hearing from Mr. Murray and Mr. Moore.

I would like to see efforts to communicate openly and honestly with the families from the very beginning of any tragedy like this. The families deserve to be told the truth and to be able to count on the information that is given to be accurate. A way of regularly contacting the families, updating them and keeping them in the loop is essential to the families feeling informed and cared about.

Chairman MILLER. Those concerns have been raised from a number of fronts, and I just want to let you know that that is one of our concerns, too—at what point is MSHA supposed to take over the communications with the public and to provide some sort of an impartial in between families and the mining operation, the rescue operation.

We have had this problem tragically at other mine disasters. So it appears that something has to be restated about how that is conducted because we all appreciate the difficulty and the urgency and the adrenaline after a mine accident, but there has to be some arbiter of what is accurate and not accurate so we can convey the best information to the families.

Ms. Black, you mentioned that your husband was operating the miner, which was not really within his responsibility. Why was he doing that?

I am sorry. You are——

Ms. BLACK. It was too dangerous at the time, and he did not want to give that responsibility to someone else. He actually did not have to be right there, but he did not want——

Chairman MILLER. This was during the rescue?

Ms. BLACK. Yes. Actually, on the 2 days that they had given him the day off, he had went back up there and the miner operator that were supposed to be running the miner could not do it because he was too scared, so my husband went in on his day off just to run the miner, because there was not anybody that would do it.

Chairman MILLER. So another worker felt the safety issue was such that he did not want to——

Ms. BLACK. Yes. And Dale did not want to give that responsibility to someone else. He took it upon himself to do it. So that is why.

Chairman MILLER. Thank you.

Ms. Phillips, how is Gage doing?

Ms. PHILLIPS. Okay.

Chairman MILLER. Gage, I told you I was going to ask you a question, Gage. So you are on TV now, so you can do whatever you want, you know.

Gage, thank you very much for joining us this morning. We appreciate it.

Sorry about your pop.

Mr. Andrews?

Oh, senior——

Mr. ANDREWS. Yes.

Chairman MILLER. I am sorry.

Mr. McKeon?

Mr. Andrews?

Mr. ANDREWS. Thank you, Mr. Chairman.

I know that the words "we are sorry" are incredibly hollow, and they provide little comfort to the feelings that the families have here today. But we are sorry that so much of your government has let you down and put you in a position where you are facing a tragedy in your families for which you have been given no explanation and, frankly, very little hope that you will get one. And it is our job to try to fix that and we thank you for giving us the chance to do so.

It is my understanding that on June 3 of this year, the operators of the Crandall Canyon Mine submitted a plan to engage in something called retreat mining at the mine. Now I know almost nothing about this, but from what I read, that is a pretty risky practice, a pretty dangerous practice, and on June 15th, 12 days later, this plan was approved by the mining regulators, by MSHA. Do you all think that 12 days is long enough to take a careful look at something that risky? Does anybody care to answer that?

Mr. Allred?

Mr. ALLRED. Mr. Andrews?

Mr. ANDREWS. Yes?

Mr. ALLRED. Absolutely not, especially in a situation where in this particular mine, there were not enough barriers left and there was not enough support because the rest of the mine had all been longwalled out or pillared out, retreat mining. Longwall is retreat mining, and pillar—what they call a pillar section—is also retreat mining. I have looked at them maps, I have been a miner for 27 years, and I just shook my head because I could just tell right off that there was absolutely nothing there to hold that mountain up, but yet they was pulling pillars. They——

Mr. ANDREWS. Mr. Allred, how long do you think it would take a careful, qualified person to make a competent judgment as to whether that plan was the right thing to do or not?

Mr. ALLRED. I would say at lest 30 days. At least.

Mr. ANDREWS. Was there any public notice that you are aware of that this plan was about to go forward so you could come in and testify about it or give your opinion?

Mr. ALLRED. Absolutely not.

Mr. ANDREWS. It is my understanding also that this plan had four phases. The first two, I believe, had to do with the north side of the mountain. The second two had to do with the south side of the mountain. If I am not mistaken, during the implementation of the retreat mining plan on the north side of the mountain, there were several bumps that occurred which caused the process to stop. Is that correct?

Mr. ALLRED. That is correct. In March of 2007, on the north where you are talking about, it is my understanding that they were retreat mining and it actually bounced so hard, it ran them out.

Mr. ANDREWS. Based on your experience, do you think that the experience on the north side of the mountain is something that the regulatory agency should have taken into account before approving the plan with respect to the south side of the mountain?

Mr. ALLRED. Absolutely.

Mr. ANDREWS. Did they take it into account as far as you know?

Mr. ALLRED. As far as I know, no.

Mr. ANDREWS. Did anybody ever ask the people who worked there for their input or their observations about the facts underneath that mountain?

Mr. ALLRED. I have never worked at that mine, Mr. Andrews. I have no idea.

Mr. ANDREWS. Does anybody know from the families that are here? Were any of the people that actually went into that mine every day ever asked about what they thought the consequences would be of retreat mining on the south side of the mountain?

Not at all.

I would suggest that our work needs to begin in two places. The first is to get you straight accurate answers as to what is and was going on from the officials who were responsible for that, and the second is to get busy writing and enforcing laws so this does not happen to anybody else, so the next time there is a plan that is this risky and this difficult that there is a competent review process over a reasonable period of time and that people who know the most about it, who are the ones actually inside the mountain every day in the mine, are asked about it so they can speak freely without fear of any retribution as to what they say.

I, again, thank you for giving us the chance to do something in response to that, and I could frankly hope that our actions will be a fitting memorial to those that you have loved and lost.

I also want to say to the rescue families the conduct of your loved ones is entirely characteristic of rescue workers around this country. We thank you for what they did.

I would yield back.

Chairman MILLER. Mr. Sanchez?

Mr. SANCHEZ. This plan was reviewed and approved by a graduate student. That is what we were told yesterday at our meeting from MSHA. So it was not really reviewed by a higher MSHA specialist.

Chairman MILLER. I saw that. I saw that report in the news, and I do not know if that is turned out to be completely accurate or not. I know there was a review apparently by a graduate student, but there may have been further review, and we do not know the accuracy of that yet, but we will——

Mr. ANDREWS. Mr. Chairman, if I may, is that one of the documents that you requested in late August, the nature of——

Chairman MILLER. I do not know whether that specifically is, but, obviously, the review process and the permit process for this is central to the investigation on how this retreat mining went forward.

Let me just say I was remiss in not introducing the other family members at the table who did not testify to us, and that is:

Nelda Erickson, who is the wife of Don Erickson. She is here today on behalf of her family. And Ms. Erickson's daughter, Amanda, is here with her today.

And Kristen Kimber is here with us today on behalf of Brandon Kimber and their three children, Bryton, Paxton and Peyton.

And Jose Luis Payan is a coal miner who had been working at the Crandall Mine at the time his brother Juan Carlos' death, and Mr. Payan is here on behalf of Juan Carlos' family.

And Robert Jensen is on behalf of his father, Gary Jensen, and he is accompanied by his mother, Lola, and sister, Haley. I wanted to say that Mr. Jensen's father was one of the rescue workers. Brandon Kimber was one of the rescue workers, also, that was killed in that effort.

Mr. Wilson?

Mr. WILSON. Thank you, Mr. Chairman.

In lieu of my asking questions, I would just like to thank the family members for being here today, your courage, your outspokenness, and I know that I look forward to working together with all sides to try to avoid such tragedies in the future.

Again, I want you to be aware that when this occurred, indeed, your loved ones, your family members have been in the thoughts and prayers of all Americans, and I would like to join with Mr. Marasco, may God bless all miners and their families.

Chairman MILLER. Thank you.

Mr. Scott?

Mr. SCOTT. Thank, Mr. Chairman.

I would like to thank all of our witnesses.

Your words remind us of how important our work is to try to avoid these tragedies from inflicting the same kind of pain that you have articulated today on others, and so I thank each and every one of you for coming today.

I just had a couple of questions. One, on a day-by-day basis on communications, what role did MSHA play?

Mr. MARASCO. MSHA was there, but they were more hesitant. Like perhaps Mr. Stickler, he was always there all the time. Mr. Murray or Mr. Moore would always come in and represent what was actually being said, and Mr. Stickler would just add to, or if they could not answer any questions so poorly. I would suggest, I would say if it were not for the community, if it were not for the families—I mean, we were getting more of our information on the outside than on the inside.

Mr. SCOTT. And, Mr. Allred, you mentioned the voice of miners in safety issues. You have suggested there is a difference between union mines and nonunion mines. Could you elaborate on that?

Mr. ALLRED. Yes. Like I say, I have been a union miner all my life, and I have worked in a nonunion mine, but I have heard a lot of horror stories from nonunion workers, non-UMWA workers in the coal mine.

I think some sort of system needs to be implemented, whether it be a nonunion mine or a union mine, that the nonunion mine people have a say as to when it comes to safety. There is strength in numbers, and when it comes to safety, there is definitely strength in safety, and it is just my opinion that there have been nonunion workers who have brought up safety issues. No, it is not an opinion. It is a fact because I heard it personally from a gentleman that worked at a nonunion mine.

His coworkers were afraid to say anything about safety because they were afraid of losing their jobs, especially the younger guys, you know, the new hands that did not really have a whole lot of

experience. They were not trained. In my opinion, they were not trained enough on safety, and there are not enough safety aspects and committees in nonunion mines to make them safe. They are just sitting there. The gun is pointed right at their head. They are playing Russian roulette, in my opinion.

Mr. SCOTT. Thank you.

And I want to thank each and every one of you for your testimony.

Thank you, Mr. Chairman.

Chairman MILLER. Thank you.

Mr. Platts?

Mr. PLATTS. Thank you, Mr. Chairman.

I want to certainly commend you and the committee for continuing the oversight of the issue of mine safety and the importance of learning from this tragedy.

I do not have a question for any of the family members, but do appreciate the opportunity to add my words of sympathy to each of you and your loved ones, and having lost a loved one in this tragedy, and to assure you that one of the ways that your loved ones will continue to serve their fellow miners is through what we learn from the investigations of this tragedy, and that we can then take that information and better ensure the safety of all miners throughout our country in the years ahead.

And your courage in coming here today to be able to talk about your families' loss, that personal loss, and your efforts here today will ensure public good comes from this. So I thank you for being here today.

Thank you, Mr. Chairman.

Chairman MILLER. I thank the gentleman.

Ms. Woolsey?

Ms. WOOLSEY. Thank you, Mr. Chairman.

And I, too, want to thank the families for coming here today to tell us about the brave miners and rescuers who perished at Crandall Canyon. And thank you for sharing your concerns about this terrible accident.

I was thinking while I was watching you and listening to you, you are looking at us and thinking, "Well, they are all nice-looking faces up here. Are they just feeling bad for us, or are they really going to do something?"

I mean, I think that is a huge question that I would have in mind if I were you, and I want to tell you that since the 2006 election, when we became the majority on this side and Chairman Miller became our chair, we started immediately in January—and I am the Chair of the Subcommittee on Workforce Protection—talking about and having hearings on mining issues. We know how important this is, and we are taking it seriously.

One of my major concerns is: How do workers and their families communicate the problems that they see up front before the problem becomes an accident? So I have put together legislation, whistleblower legislation, because I do not think it should be the risk to an individual's job if they can call to the attention of the operators and to MSHA that there is a serious problem.

So, any of you would like to tell us where you think, you know, in the scheme of things, if it had been more open, if it had been

safer to talk freely, could your loved one have prevented—if they had been heard, could we have prevented a lot of this? I mean, I heard you say it.

Ms. Black, do you want to repeat anything you were——

Ms. BLACK. I honestly believe if they would have listened to some of the other men, I think that it all could have been prevented from the very beginning.

Ms. WOOLSEY. And did they even have the ability to communicate their concerns?

Ms. BLACK. Well——

Ms. WOOLSEY. I mean, other than they can talk, yeah, sure, but was there an avenue to do this?

Ms. BLACK. Not really. I think they could express their opinion, but I do not think that it was at all being heard. Some of the men got in trouble if they did, from what I hear.

Ms. WOOLSEY. And what would the trouble be?

Ms. BLACK. Move to a different shift.

Ms. WOOLSEY. Punished?

Ms. BLACK. In a way.

Ms. WOOLSEY. Blacklisted?

Ms. BLACK. I do not know about that, but I know they could be moved to a graveyard shift that nobody wanted.

Mr. ALLRED. I was told by several people—maybe it might not have been firsthand. It could have been secondhand—that particularly at Murray operations that they were told to do their job whether they like it or not and were told that if they talked to any of their family members about what is going on at these operations that they would be reprimanded.

I was also told that he held a meeting with a large group of his employees, and he said that, "You guys are nothing to me except a brass tag," and that is what they used to check in and check out of the mine with, is a little brass tag, and that is what I was told.

Ms. WOOLSEY. Well, that is unacceptable, and we are going to make it safer for all of you to speak out.

Thank you.

Chairman MILLER. Thank you.

Ms. Kimber, did you want to add something to this? I did not know if you wanted to add something.

Ms. KIMBER. I just feel that there was a lot of warning with this mishap. On March 2, they had a reasonable bounce, and things were not looked into. They were just brushed aside, and they were told to go mining, and so I feel that there was a lot this mountain was telling these people, that this is not right and it is wrong, and nobody listened, until we sat before you today.

Chairman MILLER. Thank you.

Mr. Bishop, any questions? No questions?

Mr. BISHOP OF UTAH. Yes, Mr. Chairman.

Chairman MILLER. Oh, this Mr. Bishop.

Mr. BISHOP OF UTAH. Oh, I am sorry. I will wait.

Chairman MILLER. Mr. Yarmuth?

Mr. BISHOP OF UTAH. Mr. Chairman, thank you for allowing me.

For those of you who are, I appreciate your attendance here today coming back and especially the visuals, the pictures that you have in front, because it gives a real face to the individuals who

have given their all in this particular endeavor, and I appreciate that very much.

You have raised questions which need answers. This is one of eight different entities that are looking at something, and I am sure that this committee will not be satisfied until there are answers to the questions that have been raised, and I appreciate you for doing that.

Mr. Matheson is here, and he offered a resolution in a bipartisan way, and I appreciated the tone and the tenor of his resolution that expresses our feeling of condolences for your personal losses and what that actually means to you. I am firmly convinced that we will all one day be reunited, and as much as I understand that intellectually, deep down inside in your heart, for those of us who are left behind, it is a difficult process to wait for that time to come. But it will come in some way.

Those of you who had people who worked in the mines, they showed courage every day, and those who went to rescue were heroes in every sense of the word. I am also grateful for Mrs. Jensen to be here. I realize that your loved one that was lost was an MSHA worker who was actually part of the rescue effort, and I appreciate all of you for being here and all of you for telling a story that is extremely significant and for raising questions for which we will want some answers.

We do want to let you know that we feel the pain that you are going through and wish to offer those condolences. It may not bring anyone back, but we do want to thank you for making this a very personal and very real situation here today.

Thank you for your attention.

Thank you, Mr. Chairman.

Chairman MILLER. Mr. Yarmuth?

Mr. YARMUTH. Thank you, Mr. Chairman.

I also would like to offer my deepest sympathies to all of you. This is the third time within the first 9 months of serving in Congress, we have heard from the victims of there different mining disasters, and that seems to me to be something we want to stop immediately, one of them including some disaster from my State of Kentucky.

I just want to say one thing to you and, also, to those who may be listening, and that is that we have a lot of people coming to Congress, coal-mine operators, the mining industry, asking us for incentives and other actions that would promote the use of coal as part of our energy program, and I, as one member of Congress, say it is going to be very difficult for me to support any support for the mining industry until they prove to me and to the Congress that they value the lives of the people who get the coal out of the ground more than they value the coal.

So, again, thank you for being here. Your message is deeply compelling, and I want you to know that I, along with Chairman Miller and Ranking Member McKeon, will do everything I can to make sure that not only we do everything we can to make sure these incidents do not recur, but that we hold MSHA accountable.

I think most of us who were elected in 2006 were elected because the people realized that our system had gotten out of balance and Congress needed to reassert itself in order to hold the executive

branch accountable, and when an entity of the federal government does not do what it is supposed to do, does not implement the laws which are passed by the Congress, we need to step up and make sure they do that. So I commit to you that I will pursue that with all my energies, as I know Chairman Miller will.

Once again, thank you for appearing.

I yield back.

Chairman MILLER. Thank you.

Mr. Hare?

Mr. HARE. Thank you, Mr. Chairman.

Like my colleague, Mr. Yarmuth, I am new here. I have only been here for 9 months, but, again, I have seen three of these hearings now, and I cannot imagine the pain that you are all going through. I see the pictures, such wonderful people and their families.

You know, at one of the hearings we had—and it was repeated today—the miners were being told what they are supposed to do. One hearing we had regarding the other mine accident was where the foreman told the miner, "Get down there and get that coal or else," and I would submit that the people that did this, they should have been the one down there trying to pull that coal out if they thought it was so safe to get.

I just am beyond the point of frustrated, I am angry, and I want to tell you all that I agree with what my colleague, Mr. Andrews, said about the government letting you down. I wonder how many more of these hearings we are going to have to have before we enact legislation that puts MSHA on notice that they are supposed to be protecting the miners and their families.

There is no excuse for this. None. If that safety thing said 12 days when you need at least 30, if somebody is saying that we value your life as much as the tag that you wear when you go into that mine, you know what have we become as a nation and what have we become as an industry? I will tell you this: It is great to have the United Mine Workers. I do not know what we would do without them in terms of some of the safety things that they have been trying to do.

But here you cannot get information from the people that own the mine. They do not want to talk to you. You have people I have been hearing today that they did not have somebody that could even speak Spanish to communicate to those families for 2 days. You know, what were they supposed to do?

This is appalling treatment, that you have a loss and then they kick you while you are down. So I just want to say to all of you—and then I just have one quick question—that we may be new here, John and myself and other members, but we have a great chairman here. We are going to get to the bottom not just to this, but we will get to a day where people can go to work in a mine and do it safe.

It is hard, back-breaking work to do, and we have a responsibility to make sure that people have a chance to go to work and come home to their families. Anything short of that is really shame on us, and we will do everything we can—I promise you I will—to make sure that this does not happen again.

I would just like to know maybe from you—I know our time is limited—what would you like to say to us as members of Congress—I know. I am sorry, Mr. Chairman—to see what you have gone through, that we could change to make sure this does not happen again?

Chairman MILLER. A quick response to that?

Mr. ALLRED. Thank you. Safety, safety, safety. I mean, I cannot stress it enough.

Again, I will say I was a UMWA worker for 27 years, and you would not believe the safety concerns. Anybody, any individual, no matter who he is, what it is about, if he has a concern about it, by golly, they sit down and have a talk about it, and it is decided before people are allowed to go into that area, and the pre-shifting just blows me away, the difference of the pre-shift of the union mind and the pre-shift of a nonunion mine, and if you guys get a chance to look at the books, which I hope you do, that will tell a story in itself.

Chairman MILLER. Thank you.

Mr. Matheson?

Mr. MATHESON. Well, first, Mr. Chairman and Ranking Member McKeon, thanks for allowing me to participate in the committee hearing today. You know, there is a great national heritage about coal-mining families, and I think it is exceptionally well represented by this panel of witnesses.

I think it is wholly appropriate, Mr. Chairman, that for your first hearing with respect to the Crandall Canyon disaster that you have the families as the lead-off panel because I think as we think through all the public policy issues and do all the investigations, we need to remember this is about real people, and it is people who work hard every day and who work hard to allow a lot of us to have a great quality of life in this country, and that is something we should never lose sight of.

I have had the chance in the past to see some of these family members, and I want to thank them all for taking the time to come here to Washington today, and I think the testimony of the five family members was remarkable in how it laid out to me the vast majority of the issues that it is up to Congress, I think, to take a look at and investigate.

I think there are questions about the way communications occurred after the disaster between the families and the mine operator and MSHA. There are questions about the approval of the mine plan to begin with. There are questions about when workers had concerns about safety that they did not have an avenue and an outlet in which to express those concerns and see legitimate actions to mitigate those risks. I think that this panel of witnesses has done a remarkable job in laying out those issues.

One issue I would like to include in that respect is that I know while we have not found six miners, I do not want to give up on them. I hope that some day that the families are going to get answers to a lot of questions, but, in addition to that, the families are going to have a chance to have their loved ones in a resting place of their own choosing, and that is something I think we should keep in mind as the focus of this committee as well.

I did not really have a series of questions to ask this panel, Mr. Chairman, but I want to thank them for their genuine honesty, and I want to thank them for taking time to come here today, and I think we are all honored by their presence.

I will yield back my time.

Chairman MILLER. Thank you very much.

We are in the middle of a vote, and I am going to try to recognize Mr. Payne and Ms. Shea-Porter before we leave for that vote. We will return. Are there members who want to ask questions when we return? We will see if we can squeeze you in.

Mr. Payne?

Mr. PAYNE. Very quickly, I, too, express my condolences to the family.

A quick question: Do you think that if there was some sort of more reliable tracking device, some way that miners could have—I know you are deep down and all that, and I am not a technical person, but it seems that there ought to be some better way than doing it like they did it 100 years ago. I mean, we can put someone on the moon and on the way to other planets, and we cannot seem to locate a miner. Does anyone have any answer to that?

Mr. ALLRED. I totally agree with you, and I have heard the technology is out there and it is being used in other countries. Why can't we have it here? I have heard there is a similar two-way radio type thing back east—or out here—someplace. I am not sure where it was. Where is it? In Alabama? Excuse me. They had a two-way radios that they could communicate and it was a very deep mine. It was 2,300, 2,400 feet deep, and it was a shaft mine. So I do not understand either why we cannot get better communications and keep better track of each person that is underground.

Chairman MILLER. That is a continued effort of this committee, to push that. We tried to push it in the previous legislation and were not as successful as I thought we should be, and we will be dealing with that later this month.

Ms. Shea-Porter?

Ms. SHEA-PORTER. Thank you.

I have sat here for 9 months. You are not the first panel, I am sorry to tell you. I have looked at the faces before, and I recognize the loss, and I am very, very sorry. The role of the federal government is to protect people who work for this country every day, and I am very sorry that that was not done. It also reminds me of why we have unions, why working men and women came together to protect themselves and each other from these kinds of problems.

So I was just standing here saying I am sorry for the failures of many, and while they sound like empty words, we are here trying to make a difference for each one of you, and thank you for your courage to be here and also for your relative's courage to go down there each day and then to go down and find their brothers.

So thank you.

Chairman MILLER. Thank you.

Mr. Sarbanes?

Mr. SARBANES. Thank you, Mr. Chairman.

I want to express also my deepest condolences to you.

During the testimony, I was just thinking of all the loved ones that I look forward to seeing at the end of the day and trying to imagine what it is like to come home and not see somebody.

I just want to quickly thank you, Mr. Allred, for your testimony and particularly highlight where you said that you initially butted heads with MSHA, you did not want that interference, but that you came around because you saw the safety that it could provide you.

I just want to reaffirm to all of you that MSHA belongs to you. It is not our agency. It is your agency. And the fact that you converted to supporting what it tries to do and then in the end see instances like this where it fails to do what it is supposed to do, that is a cruel trick. That is the cruelest trick of all. And our job is to make sure that we return that agency to you.

So thank you again for your testimony.

I yield back.

Ms. CLARKE. I know I have to do this very quickly, Mr. Chairman, but you may recall that I was on medical leave when this incident actually occurred, and during that time, I had bed rest, and one of the things that I did was look very closely at this incident as it unfolded, and having sat on this committee and having had the other hearings as a freshman, I was riveted to it. I was praying every day as, you know, it came across the air waves.

I want to thank you for your courage and your tenacity in the face of such loss. I personally felt no closure and no accountability, so I want to commend the chairman for bringing us here today that we can look at each other and know that there are human beings across this nation that are there with you, and I feel empowered today by your presence that we will fight to make sure that in the future this will never happen for another miner, that we will continue to fight this battle and move it forward because each and every one of you deserves it.

We deserve it as part of our common humanity, and I just want to say to you Lynn Woolsey brought up a point that I am concerned about, and that is retaliation within the industry. Stay bold. Stay courageous. It is going to be your courage that is going to make it possible for the next generation working with the minors——

Chairman MILLER. I thank the gentlewoman. We have to go to vote.

Ms. CLARKE. Yes.

Chairman MILLER. Thank you very much.

Ms. CLARKE. Thank you.

Thank you, Mr. Chairman.

Chairman MILLER. I want to thank this panel. People were leaving, as you note, to vote, and the clock has run out on us. I am getting too old to make this sprint, but I am going to try it. But I want to thank you very, very much for your testimony. I think you see the impact. Too often, you know, we are in a national debate about energy.

Hey, Gage. How are you?

We are in a national debate about energy, and sometimes we disconnect the people that provide that, and I think it is important that you were here today to put a face not only on your family members, but the nature of this industry and the diligence that is required by those responsible for the regulation of the industry.

We will return in about, hopefully, 20 to 25 minutes, and we will begin with the second panel. So, again, thank you very much.

Gage, you have been a great witness. I should have sworn you in, though, if I knew you were going to say all of that. I should have sworn you.

But thank you for coming.

[Recess.]

Chairman MILLER. On this panel, we will hear from Mr. Wayne Holland who is currently the international staff representative for the United Steelworkers District 12 in Salt Lake City. Mr. Holland is a third-generation copper miner and represents over 1,300 hard rock copper miners. He has been involved in MSHA training, both worker and trainer of miners' representatives, and joint safety and health committees in the copper mining industry.

Mr. Bruce Watzman is the vice president of safety, health and human resources for the National Mining Association. Mr. Watzman holds a master's degree in environmental health and management and an undergraduate degree in economics and psychology.

Mr. Cecil Roberts is the president of the United Mine Workers. Mr. Roberts is a sixth-generation coal miner and is a graduate of West Virginia Technical College in 1987.

And Jon Huntsman, Jr., is the governor of Utah and was elected in 2004 and currently serves on the executive committee of the National Governors' Association, and is vice chair of the Western Governors' Association. Governor Huntsman earned his bachelor's degree at the University of Pennsylvania.

Governor, welcome to the committee, and we are going to begin with you.

STATEMENT OF HON. JON HUNTSMAN, JR., GOVERNOR, STATE OF UTAH

Governor HUNTSMAN. Mr. Chairman and members of the committee, thank you for the opportunity to appear before this committee. I want to thank Representative Matheson and Representative Bishop for representing our state well.

I am not sure there is a whole lot that I can say above and beyond that which has already been spoken by Steve, Wendy, Mike, Sheila and Cesar. They are very representative of some wonderful families who have been through a difficult set of circumstances, the likes of which most of us will never understand, a period of uncertainty, weeks of excruciating—and, I think, possibly needless uncertainty—regarding their loved ones, and, as you can tell, that pain continues not only for them, but the communities in which they reside.

Now I will tell you that coal has been an important part of Utah's economy for decades and will continue to be going into the future. As such, I think it is incumbent upon us to learn what might be done differently in the future to protect the safety and welfare of these brave coal miners.

Our miners know the inherent dangers associated with their line of work, but have generally been willing to accept some risk in order to be employed at the mines. Many have told me that they

would like to make mines safer, but are concerned that if the mines become overly regulated, the owners will close the doors.

Therefore, we must all at the state and federal levels strike an appropriate balance, first and foremost, between protecting health and safety of workers and the appropriate regulation of the mining industry.

The federal government has regulated mine safety in Utah since 1977, upon the creation of the Mine Safety and Health Administration. Following that federal action, the state's role was reduced by state legislative actions over the next several years. Since 1987, state involvement in miner safety has been limited to miner certification.

This most recent horrific accident at Crandall Canyon has been an extremely painful reminder that Utah must critically assess its role in ensuring mine safety going forward. To this end, I have created the Utah Mine Safety Commission, chaired by Scott Matheson, Jr., former dean of the University of Utah Law School and former United States attorney and good friend.

Other commission members include a former United States senator; the mayor of Huntington, in which the incident took place; the mayor of Price, an adjacent community; a state senator; a state representative; Dennis O'Dell, head of safety and health with the United Mine Workers; and David Litvin, who is the Utah Mine Association president.

The commission is charged with the following: Number one, to review the role of the State of Utah in mine safety generally, including, one, the safety inspection process; two, accident prevention; and three, accident response;

Number two, to review the Crandall Canyon Mine disaster and the state's role in mine safety leading up to the accident;

Number three, examine how the state can assure itself that MSHA and private mining companies are doing everything reasonably possible to ensure the safety of Utah miners, their families and their communities;

Fourth and finally, to make appropriate policy recommendations regarding how the state should promote miner safety and accident prevention going forward.

This commission is a panel of extraordinary public servants, and, in order for them to be able to serve Utahns well, they need to work closely and collaboratively with MSHA and its investigation team. It is important for them to have real-time access to information being gathered in order to implement needed changes at the state level.

To accomplish this, I call upon the U.S. Department of Labor, through MSHA, to begin providing logical points of connection with our Utah Mine Safety Commission that will allow a useful flow of information from the ongoing federal investigation. Today, such a connection does not exist, and the risk of uneven outcomes is very real.

In summary, the State of Utah is concerned that a mine collapse like that which occurred at Crandall Canyon never happen again in Utah or anywhere else and, if it should occur, that we have in place protocols, clearly defined authority, and equipment and tech-

nology that will protect and save miners' lives, as well as expedite successful recovery efforts.

Thank you so very much for having me.

[The statement of Governor Huntsman follows:]

Prepared Statement of Hon. Jon M. Huntsman, Jr., Governor, State of Utah

Mr. Chairman and Members of the Committee: Thank you for inviting me to testify this morning about a tragic event in our state's history—the collapse of the mine at Crandall Canyon—and the importance of mine safety to the citizens of our state and this great nation. It is an honor for me to be here today alongside members of these wonderful families who endured weeks of excruciating, and possibly needless, uncertainty regarding their loved ones.

On August 6, 2007, my office received word of the mine collapse. Over the next several weeks many unsuccessful attempts were made to rescue those six miners trapped inside. During one of the many heroic rescue attempts, three miners were killed and several others injured. The families of all the miners who died and were injured deserve to have a full understanding of the circumstances that led to the deaths of their loved ones.

Coal has been an important part of Utah's economy for decades and will continue to be for generations to come. As such, it is incumbent upon us to learn what might be done differently in the future to protect the safety and welfare of our brave coal miners. Our miners know the inherent danger associated with their line of work, but have generally been willing to accept some risk in order to be employed at the mines. Many have told me that they would like to make the mines safer but are concerned that if the mines become overly regulated, the owners will close the doors. The mines are the economic base of many of these communities which would be devastated by such a closure. These communities are already struggling with not only the closure of the collapsed Crandall Canyon Mine, but also the subsequent temporary closure of the Tower Mine. Therefore, we must all, at the state and federal levels, strike the right balance between protecting the health and safety of our miners and appropriate regulation of the mining industry.

The federal government has regulated mine safety in Utah since 1977, upon the creation of the Mine Safety and Health Administration. Following that federal action, the state's role was reduced by state legislative actions over the next several years. Since 1987, state involvement in miner safety has been limited to miner certification. This most recent horrific accident at Crandall Canyon has been an extremely painful reminder that Utah must critically assess its role in ensuring mine safety. To this end, I have created the Utah Mine Safety Commission, chaired by Scott Matheson, Jr., former dean of the University of Utah Law School and former United States Attorney. The Commission members include former United States' Senator Jake Garn, Huntington Mayor Hilary Gordon, Price Mayor Joe Piccolo, State Senator Mike Dmitrich, State Representative Kay McIff, Dennis O'Dell, Safety and Health Director of the United Mine Workers of America, and David Litvin, Utah Mining Association President.

The Commission is charged to:

1. Review the role of the State of Utah in the area of mine safety, including the safety inspection process, accident prevention, and accident response;
2. Review the Crandall Canyon Mine disaster and the State's role in mine safety leading up to the accident;
3. Examine how the State can assure itself that MSHA and private mining companies are doing everything reasonably possible to ensure the safety of Utah miners, their families, and their communities;
4. Make appropriate policy recommendations regarding how the state should promote mine safety and accident prevention.

This Commission is a panel of extraordinary public servants. In order for them to be able to serve Utahns well, they need to work closely and collaboratively with MSHA and its investigation team. It's important for them to have real-time access to the information being gathered in order to implement needed changes at the state level. To accomplish this, I call upon the U.S. Department of Labor, through MSHA, to begin providing logical points of connection with our UMSC that will allow a useful flow of information from the ongoing federal investigation. Today, such a connection does not exist and the risk of uneven outcomes is very real.

In summary, the State of Utah is concerned that a mine collapse like that which occurred at Crandall Canyon never happen again in Utah or anywhere else. And, if it should occur, that we have in place protocols and equipment that will protect and save miners' lives, as well as expedite successful recovery efforts.

Thank you.

Chairman MILLER. Thank you.
Mr. Holland?

STATEMENT OF WAYNE HOLLAND, INTERNATIONAL STAFF REPRESENTATIVE, UNITED STEELWORKERS

Mr. HOLLAND. Thank you, Mr. Chairman, and thank you, Congressman Matheson, for your leadership in representing the communities of Utah's coal country.

And thank you, members of the committee, for providing an opportunity to offer my perspective on the tragedy at the Crandall Canyon Mine and to offer some comments on the urgent need to implement critical improvements to our nation's mine safety and health legislative protections.

It is the hope of Utah miners, our families and our communities that Congress will act quickly and in bipartisan fashion to enact the required and vital protections that both Utah and American miners and their families deserve.

We urge Congress to act at the federal level in the same bipartisan fashion that Utah Governor Jon Huntsman has demonstrated in Utah. The governor has appointed a distinguished and respected panel of citizens from a spectrum across our political life in Utah led by Scott Matheson, his Democratic opponent in the 2004 gubernatorial election. This approach has assured credibility and confidence that the ultimate results will be in the best interests of all concerned.

However, Mr. Chairman, the need for action extends beyond our state. In every way, this is a national call for action. Today in our nation 225,000 Americans work to provide for our national needs in both underground and open pit mining facilities. In the past 21 months, 121 miners have died in the United States in mining facilities. This year alone, 24 miners have died in coal mines and 25 more have died in metal and nonmetal mines. We must act. Utah miners and American miners deserve better, and our government must act.

It must act with clear intent to demonstrate our nation's deep respect and gratitude for the hard and courageous work that our miners provide. Their families and their communities deserve no less. We can provide it. As we meet today in our nation's capital, American miners receive less on-the-job protection than miners in Canada, Germany, Australia and even Turkey. We can and we must do better.

The tragedies of August 6 and August 16 in Utah must not be forgotten. The loss of these nine courageous miners must always be remembered. Let them be honored by the miners throughout the nation today that went to work and by the next generation of miners by enacting legislation to provide the needed and vital protections they need on the job.

Mr. Chairman, under your leadership, Congress enacted the MINER Act of 2006. Your frustration with the implementation on key provisions has been clear.

On June 19 of 2006, of this last past year, you said, "Last year, we acted with urgency but too late. This year, it is our hope to

enact needed legislation before the next tragedy occurs." Sixty-five days later, that tragedy occurred in Utah. Six miners were first lost, and three more 10 days later. Mr. Chairman, again, in your own words, the MINER Act of 2006 was, "intended only as a down payment on what was needed to clean up years of neglect, backsliding and complacency."

Your leadership and efforts to expedite implementation are to be commended. The miners in Utah and across our nation stand ready to assist you. Let the legacy of the nine courageous miners in Utah be safer workplaces for all miners. Let us also assure that the courageous Utah families who shared their tragic personal stories this morning return home to continue their difficult healing processes with some comfort that their government has responded to the great loss and that the future holds brighter days.

Together, let us say never again will we wait to act, never again will we accept complacency, and, finally, never again will implementation be delayed until it is too late.

Mr. Chairman, again, I thank you, and I welcome any questions you may have.

[The statement of Mr. Holland follows:]

Prepared Statement of Wayne Holland, Utah Staff Representative, United Steelworkers of America

Thank you Mr. Chairman, Congressman Matheson, and members of the committee for inviting me here today to offer my perspective on the tragedy at Crandall Canyon Mine.

First let me say that every Utahn, and that includes myself as chair and the Democratic Party of Utah, should commend Gov. Jon Huntsman Jr. The governor's progressive bi-partisan approach is the approach I hope Congress will take. The governor's appointment of his Democratic opponent during the last election, Scott Matheson, one of Utah's most distinguished and respected citizens, to lead our state investigation has created confidence that the process will result in a constructive outcome.

The tragedy of the initial collapse that killed six miners on Aug. 6 was magnified when the mountain came down on their rescuers several days later. As someone who has been closely involved with attempts to hold mine owners accountable for worker safety for most of his adult life, I know that these events have significant and long-lasting impact on mining communities.

The nation's miners employed in both underground and open-pit mining operations total about 225,000. In the past 21 months, 121 miners have died in U.S. mining operations. This year alone, 24 miners have died in coal minees and 25 have died in metal/non-metal mines. Our government owes our nation's miners a great deal. A great deal more than the fact the Utah and American miners receive less on-the-job protection than miners in Germany, Canada, Australia, and, in some ways even, Turkey.

It's been a tough summer. The people of Carbon and Emory counties just want to get back to the business of living: working at decent paying jobs, making sure their kids are OK in school, going to church, enjoying Utah's spectacular high-mountain country. They deserve to know that as they try to get on with their lives that their government will implement effective protections and assure aggressive enforcement.

Mr. Chairman, you, your committee, and members of this and the previous Congress are to be congratulated for leadership in protecting our miners. You acted decisively in pushing through the MINER Act of 2006.

But in the immortal words of Yogi Berra, "It seems like deja vu all over again."

Mr. Chairman, when you introduced the 2007 mine safety and health bills on June 19, you said the MINER Act of 2006 was "intended only as a down payment on what was needed to clean up years of neglect and backsliding by this Administration and an industry that had become, by its own admission, overly complacent."

You said implementation had been slower than anticipated.

You said "Last year we acted with urgency but too late; this year, it is our hope to enact needed legislation before the next tragedy occurs."

Again, that was on June 19.

Sixty-five days later, at 2:48 a.m., a mountain in Wasatch Plateau came down on six miners working a seam of coal about 2,000 feet below ground. Ten days later, at 6:39 p.m., nine rescuers were buried when the mountain came down again. Six made it out alive.

Mr. Chairman, these men were heroes.

Coal miners in Utah and their families understand the dangers of being inside an unstable mountain. They know the signals the mountain sends. The most recent had occurred just four days earlier. They know about the disaster in Alabama, for instance, in which 12 miners died September 2001 trying to get to one injured miner.

They went inside anyway.

Mr. Chairman, I am not a mining engineer. I do not know for a fact that Crandall Canyon Mine was too dangerous under the mining conditions employed by the operator and very questionable mining plan.

I do not know that so-called "retreat mining" should never have been allowed.

This is what I do know:

I know that when I go back to Helper or Price, Huntington, Castle Dale or Orangeville I want to be able to walk down the street and if the widow, wife, or children of a miner comes up to me, I want to say, "never again. Those guys back in Washington are doing whatever they possibly can to make sure you won't have to go through the horror of last summer never, ever again."

I know that never again should the dedicated public servants of MSHA fear losing their jobs because they stand up to a mine owner with political connections and refuse to sacrifice worker safety.

I know that never again should any administration be allowed to appoint a Secretary of Labor without the experience and background necessary to assure that America's working families get the protections and enforcement they deserve.

Miners and their families don't want empty rhetoric.

They demand that their representatives here in Washington examine life-saving and proven technologies—including wireless communication devices, safe haven chambers, and personal tracking devices—that have been widely used by underground miners all over the world.

They demand MSHA have the enforcement authority to do its job, with miners and their families getting the uppermost consideration.

Mr. Chairman, I cannot close with words more eloquent than those you chose in June: "As we focus this year on how to address this country's energy problems, let us not forget to provide for the safety and health of the workers who provide the raw materials that power this country."

Mr. Chairman, I'd like to tell the people back in Emory and Carbon counties that Congress will not wait for any more miners to die before it acts.

Thank you. I'd be happy to answer any questions.

Chairman MILLER. Thank you.

Mr. Watzman?

STATEMENT OF BRUCE WATZMAN, VICE PRESIDENT, SAFETY, HEALTH AND HUMAN RESOURCES, NATIONAL MINING ASSOCIATION

Mr. WATZMAN. Thank you, Mr. Chairman.

We appreciate the opportunity to appear before you to discuss the efforts to improve mine safety that has occurred since passage of the MINER Act of 2006 and the challenges that remain to realize our goal to return every miner home safely after every shift.

The Crandall Canyon mine accident has affected our nation's entire mining community, and we mourn our fallen colleagues. We are determined to return to the path that existed for much of the past three decades when steady reductions in fatalities and serious injuries were achieved.

As you know, the coal industry worked with Congress and others to pass the most sweeping mine safety reforms in more than three decades. The requirements recognize that good safety practices con-

tinually evolve based upon experience, technologic development, and that every underground coal mine presents a unique challenge.

Since passage of the act, the industry has moved aggressively to identify technology that satisfies the law's requirements as quickly as possible. Our written submittal details some of the progress, but we recognize that more work needs to be done.

The recent accident spotlighted our continuing challenge to develop reliable two-way devices that could help locate and communicate with miners trapped underground. Sending in a signal through rock deep underground is far more challenging than signaling through the air and has proven to be especially challenging in the mining environment.

Despite these daunting technological challenges, the industry is not sitting idly by until a reliable system reaches functional capability under all circumstances. We continue to work with federal agencies to test and expedite the development of wireless ground-penetrating technologies. In the interim, we must have realistic expectations of what is achievable to drive industry practice.

As we continue to work with our colleagues to develop the technologies to meet the MINER Act requirements, we are beginning to turn our sights to reestablish a safety culture of prevention throughout the industry. Work with recognized experts to develop a safety management system that encourages integration of safety into the entire suite of business management practices is underway.

Our efforts are designed to formalize risk assessment and management practices, to join the science of safety with the culture of safety. This approach will provide for better identification of risks in each mine so that safety resources of operators and regulators can be allocated more efficiently and safety hazards managed more effectively.

Mr. Chairman, in light of the changes that are underway and that will continue to be made to reach our mutually shared goal, we urge the committee to defer consideration of the two pending mine safety bills. We must not rush to judgment on the need for additional legislation because doing so will unnecessarily divert the industry's attentions to fully implement the MINER Act requirements. Importantly, this view is shared by 11 prominent members of the mining engineering academic community who have warned that now is not the right time to pursue the pending bills.

The mining industry is easy to learn from our experience with implementing the MINER Act and with all who share our determination to safeguard our miners. Change is occurring for the better and will continue to do so until we reach our goal of returning each miner home safely every day.

Thank you. I would be happy to answer any questions you have.

[The statement of Mr. Watzman follows:]

Prepared Statement of Bruce Watzman, Vice President, Safety, Health and Human Resources, National Mining Association

Mr. Chairman, members of the Committee, I am Bruce Watzman, Vice President, Safety, Health and Human Resources for the National Mining Association. Thank you for providing us this opportunity to share our thoughts regarding the issues we face as we strive to meet the mandates of the Mine Improvement and New Emer-

gency Response Act (MINER) Act of 2006 and the challenges that remain as we strive to return each miner home safely to their families after each shift.

Today I want to discuss three related issues: safety technology; safety culture and the path going forward to bring about further improvements in mine safety and health. But, before turning to the specific issues before the committee let me again express our sympathy to the families of the fallen miners at the Crandall Canyon mine. We mourn their losses and are determined to return to the path that existed for much of the past three decades, when steady reductions in fatalities and serious injuries were the rule. That is why we supported strong new mine safety legislation last year, established an independent commission to provide recommendations for new safety risk-based systems and continue to partner with the National Institute for Occupational Safety and Health to develop and test new safety and communication technology.

In 1977 Congress declared in the Mine Act that "the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner." The mining industry strives to reflect this priority through performance. Indeed, the industry's commitment is reflected in thirty-five years of decreasing injuries and fatalities. And, while last year this steady progress was tragically interrupted by a series of accidents, 83 percent of our nation's operating mines worked the entire year of 2006 without a single lost-time accident. Nonetheless, recent events serve as a powerful reminder that we in the industry need to reinforce the "safety-first" culture that produced the declining number of injuries and fatalities over the past three decades.

MINER Act

Last year, NMA supported passage of the most sweeping mine safety legislation in more than 30 years. The MINER Act, as implemented through Emergency Response Plans, recognizes the need for a forward-looking risk assessment, that good safety practices continually evolve based upon experience and technological development, and that every underground coal mine presents a unique environment and what may work in one may not be effective or desirable in another.

Since passage of the MINER Act the industry has moved aggressively to identify technologies that satisfy the law's requirements as quickly as possible. While more work needs to be done, the industry has made significant investments and progress. Briefly,

- 100,000 additional self-contained self-rescuers (SCSRs) have been placed into service, with another 100,000 on back order.
- All underground coal mines have submitted emergency response plans including plans to supply breathable air and other supplies to sustain miners trapped underground. Units to meet these requirements are being ordered and installed without the normal testing that a device such as these would normally receive.
- All underground coal miners have received new training and will continue to receive quarterly training.
- Underground coal mines have implemented procedures to track miners underground.
- Existing communications systems have been hardened and redundant systems installed.
- More than thirty-five new mine rescue teams have or will be added around the country.

This progress is only the beginning of our continued commitment for reaching our desired goal to protect our nation's miners.

The recent accident at Crandall Canyon spotlighted our continuing challenge to develop reliable two-way communication devices that could help locate and communicate with miners trapped underground. At a time when most Americans are well-connected with each other through cell phones, many wonder why miners cannot communicate from underground to the surface. Intuitively, we understand why: Sending a signal through rock deep underground is far more challenging than signaling through the air.

Apart from these fundamental technical barriers to in-mine or through-the-earth signal propagation, explosions, fire and roof falls produce destructive forces that can damage or destroy system components and render the system inoperable. At present, there is simply no available single system that can withstand all potential scenarios while maintaining mine-wide communications.

Despite these daunting technological challenges, the industry is not sitting idly by until a reliable system reaches acceptable functionality under all circumstances. Today one member of NMA, Alliance Coal, has developed one of several systems that use radio frequency identification (RFID) tags and bi-directional readers to track miner's movement throughout the mine, pre-event. This is an improvement

over earlier systems and is considered state-of-the-art. Yet, it too is susceptible to damage by destructive forces that will affect its functionality. The system currently requires a connective through-the-mine fiber optic cable that is vulnerable to damage and could potentially render the system useless.

NMA member companies recently conducted tests of communication technology being developed primarily for Department of Defense use. The results indicate that improved communication systems are possible. The Kutta system, a subterranean wireless communication system having the ability to couple onto and transmit radio signals using the existing metallic infrastructure in the mines, including metal core lifelines, phone cables, tracks, etc. holds great promise. Its ability to interface with a mine UHF leaky feeder communication system has the potential to integrate an analog and digital handheld multi-frequency radio and complementary repeaters to overcome traditional barriers to enhanced wireless communication.

There are other improvements in communication that can be achieved. Our concern is not that additional communication requirements will be mandated, nor is it the cost of communication systems. Rather, it is that realistic expectations of what is technologically achievable drive whatever requirements become the industry practice. Working with researchers at the National Institute for Occupational Safety and Health (NIOSH) we continue to approach this issue through sound science and realistic timeframes for implementation.

In sum, there is no silver bullet technology yet available. True "through-the-earth" wireless technology does not yet exist. Until we overcome the technical barriers that preclude transmission of signals through the earth, the systems will require some form of underground backbone and infrastructure, which are susceptible to damage. Nevertheless, the perfect solution may still be beyond reach, we will not be deterred in the quest to find and deploy it.

Creating a culture of prevention

We have so far commented on technical improvements and these are clearly important. But perhaps the most important element in improving safety is the relentless focus on "safety culture". For successful companies safety culture exists at every level of the organization. In those companies with outstanding safety performance safety is emphasized at every shift at the mines and is an integral part of the business model.

In a recent speech to the Utah Mining Association, J. Brett Harvey, President and Chief Executive Officer of Consol Energy, Inc. stated this succinctly. Let me quote key passages from his speech:

"To achieve our goal, we will need to join the science of safety with a culture of safety.

"The science of safety is technology-driven. We use technology to help us monitor conditions, to provide early identification of problem areas, to improve communications between sites underground or between the underground and the surface, and to enhance the safety of equipment.

"By deploying technology to augment the efforts of our employees, we can minimize physical conditions in a mine as a source of accidents. We are great engineers, and we intend to engineer our mines so that the physical conditions in the mine are as predictable as those inside this room.

"The culture of safety, on the other hand, involves engaging the mind of every employee. We want to make safety their core value. You do that in many ways: with constant training regarding safe work practices, with regular discussion of safety issues—both at work and at home, and with programs that acknowledge and reward safe work practices and safety achievements."

Mr. Harvey's remarks reflect what so many in the industry have come to recognize, that safety must be a core value that "trumps production, it trumps profits, it trumps all other rules, policies or procedures." These same views were captured by the Mine Safety Technology and Training Commission (MSTTC) in its December 2006 report, Improving Mine Safety Technology and Training: Establishing U.S. Global Leadership. In the section on prevention the Commission stated that:

Prevention requires that systematic and comprehensive approaches be used to manage risks. Compliance is an important aspect of prevention, but it is more important to realize that it is only a starting point in a more comprehensive process of risk management.

A critical action to ensure success of the process for any company is the creation of a "culture of prevention" that focuses all employees on the prevention of all accidents and injuries * * * In essence the process moves the organization from a culture of reaction to a culture of prevention. Rather than responding to an accident or injury that has occurred, the company proactively addresses perceived potential problem areas before they occur.

To achieve these goals we will be working with recognized experts to develop a safety management system that encourages integration of safety into the entire suite of business management systems.

Our efforts will build upon the strong leadership demonstrated last year by the industry through the establishment of the MSTTC as an independent body of safety experts charged with examining how advanced technology and training procedures can be more readily adapted for use in our mines. The commission provided a proactive blueprint for achieving zero fatalities and zero serious injuries in U.S. underground coal mines and our actions going forward will further the adoption of the commission's blue-print.

Risk assessment and management are well-established practices that are employed in many industrial settings. Our goal is to formalize this process for use throughout the mining industry so that we can identify, eliminate and manage conditions or practices that have the greatest potential to cause injury. In so doing we hope to develop a system that recognizes the MSTTC objective to foster an approach that is "founded on the establishment of a value-based culture of prevention that focuses all employees on the prevention of all accidents and injuries."

Our objective is prevention of accidents, injuries and illnesses and reinforcing a culture of prevention. Decisions will be based upon sound science recognizing technologic limits, where they exist. By developing risk-based safety priorities we will identify and focus resources on conditions that most directly place miners in potential peril. Our goal is to foster industry-wide partnerships among coal companies and equipment and service supply providers for the research, development and commercialization of new practices and technology that will raise the performance bar industry-wide.

The Path Going Forward—A Misdirected Legislative Approach

Some believe we must do something quickly with mining legislation otherwise nothing will change. Mr. Chairman let us assure you that things are changing * * * they are changing for the better * * * and they will continue to change until we reach our mutually shared goal of ensuring that our nation's miners work in the safest possible workplace and return home safely everyday. This committee and the public must not rush to judgment on the necessity for additional legislation. Doing so will unnecessarily divert attention and resources away from the critical task of fulfilling the mandates of the MINER Act.

To be forced to respond to an additional layer of statutory requirements at this time will undermine the progress that has been made on miner training and other vital objectives of the act. It is premature to consider imposing further legislation before the full impact of the original MINER Act can be comprehensively evaluated.

We are not alone in this assessment. Prominent members of the mining engineering academic community have expressed grave reservations about distracting the mining community from the task of fulfilling the directives of the MINER Act. In a July 25 to the chairman and the ranking member of the committee, these experts warned against "dramatically disrupting the very core of the industry" with additional provisions at this time.

Accompanying our statement is a critique of a number of provisions of the pending legislation (HR 2768 and HR 2769) that we believe are unnecessary and possibly even counterproductive to our shared mission of improving mining safety.

Following are the major flaws of the mine safety bills that have been introduced as well as what is missing from the discussion.

- The addition of new regulatory requirements will create confusion and threaten continued progress on implementing the safety improvements required by the MINER Act.
- The S-MINER Act circumvents notice and comment rulemaking, thereby preventing the development of sound safety and health standards and policies.
- The S-MINER Act changes the roles and responsibilities of MSHA and NIOSH in a number of key respects. It also introduces into the safety process organizations unfamiliar with the mining industry
- The S-MINER Act will result in an administrative nightmare for MSHA and the industry.
- The S-MINER Act outlaws the use of belt air to ventilate the face at underground mines. As a result, it would severely diminish safety by prohibiting the use of a procedure critical to the safe operation of a number of underground mines.
- The additional penalty provisions included in the S-MINER Act are draconian, unnecessary and unfair.
- The S-MINER Act's one-size-fits-all approach fails to recognize that mines are unique. If enacted, this bill will result in many mines installing inappropriate or unnecessary technology.

We urge the committee to defer consideration of these measures until all parties'—labor, industry, regulators and members of Congress—can fairly and independently analyze the MINER Act's impact. We achieve more when the total mining industry comes together to solve a problem without alternatives agendas, when we harness the collective efforts of industry, labor and government representatives toward a common purpose.

Mr. Chairman, thank you for the opportunity to provide our perspective on this vital public policy matter. If you or the other members of the committee require additional information, we stand ready to provide it.

Chairman MILLER. Thank you very much.

Mr. Roberts?

STATEMENT OF CECIL ROBERTS, PRESIDENT, UNITED MINE WORKERS OF AMERICA

Mr. ROBERTS. Thank you very much, Mr. Chairman, not only for today's hearing, but your continued efforts to make the coal mines in the United States of America safer.

I thank the committee for allowing us to come here today. Unfortunately, as has been mentioned here, this is not our first opportunity to speak to you about a tragedy in the mining industry in the United States.

I am humbled being in the presence of these family members. We have had the opportunity to work with them over the past few days and, in fact, over the past month or so, and I wanted to commend the courage that they demonstrated to come here today in the face of great grief and tragedy in their families and courageously sit before you and testify. We could all learn something from this kind of courage and this kind of leadership.

I want to thank all those rescuers who risked their lives. We had three individuals give their lives trying to save someone else, and the Bible tells us there is no greater thing that can be done on this earth than to give your life or offer your life to save someone else.

I have been highly critical of MSHA, and I plan to do so again today, but I want to make it perfectly clear that I am not talking about those brave men and women who walk into those coal mines every day alongside our members and the nonunion workers in this country, and I want to commend the family of Mr. Jensen who is here with us today for their great sacrifice, and I want to make it very clear about what we are talking about. We are talking about the policymakers at the top and the culture that exists within MSHA when we talk about them.

I also want to mention that we are joined here today also by family members from Sago and Jim Walter Resources also. We come as members of the union, we come as nonunion miners, we come as family members grieving, but we all come with a single purpose, Mr. Chairman, and that is to hope and pray that we can get our government to move to make the mines safer in the United States of America so that when a coal miner walks out of that door going to work with that lunch bucket in his hand and gets in his truck or his car and leaves for work, that family has a reasonable expectation in the greatest country on earth that that miner is returning, and I do not think that is too much to ask of our government.

Mr. Chairman, I speak today not as the president of the union per se, but I have 36 years experience here. I was a coal miner my-

self for 6 years. I represented workers on the health and safety committee. I represented workers as a district representative. I represent workers now. I am very fortunate to do so at the national level. And, today, we have members of our union that have traveled here from across the eastern part of the country to be with us today because they are concerned about what is going on in the coal mines in the United States of America, and we are very thankful for them being here.

I want to speak to you today, Mr. Chairman, and just point out something that is very evident to every expert in the United States of America, and this just is not my personal opinion. I would point out that this has been shared by the Colorado School of Mines. This is shared by NIOSH. This is shared by former director of MSHA David McAteer.

There is no way that this coal operator should have submitted this mining plan. There is no way that this government should have approved this mining plan. You heard previously from the previous panel an experienced miner who said, "I could not believe it when I looked at this mining plan." The reason question for our government, the real question for this panel from my expectations would be, "Why would a coal operator believe that they could submit this plan and get it approved, and why would that plan be approved in 12 days?"

We can talk a lot here, Mr. Chairman, about what happened here, and we can have a very extensive investigation. By the way, I support your efforts in this investigation to get to the bottom of what happened here, but what we have now is a coal operator who submitted this plan and a government agency that approved this plan the only ones being involved in this investigation.

And I want to speak for these families for a moment, not just these families, but I want to speak for a second for the Sago families, and I want to speak for the Jim Walter families and the Darby families. It is just atrocious the way we treat families in these disasters. They are the last people to know anything. They are not told anything. They are not part of the investigation, and they have to read a document 2, 3, 4 years later to find out what happened to their loved ones. We can do better than that in the United States of America.

I would be happy to answer any question that this panel has, and we have submitted a very lengthy written document.

With that, I thank you for conducting this hearing, Mr. Chairman.

[The statement of Mr. Roberts follows:]

Prepared Statement of Cecil E. Roberts, President, United Mine Workers of America

Chairman Miller, Members of this Committee, as President of the largest Union that represents coal miners, I am honored that you have asked me to offer testimony regarding the August 2007 disasters at Crandall Canyon Mine in Huntington, Utah. It is with a heavy heart that I appear before you to discuss—yet again, and in far too short a span of time—the deaths of mine workers. Our hearts and prayers have been focused on the families of the six miners who were trapped in the Crandall Canyon mine, and the three who were killed trying to rescue them.

I also wish to express my deep appreciation to everyone who participated in the rescue efforts. During these most trying of times, many brave miners demonstrated extraordinary courage by contributing to the rescue efforts. Not only did all rescuers

play a valuable role throughout the rescue effort, but three of them paid the ultimate price as a result of their bravery, including an MSHA inspector. We cannot thank them enough, and we keep their families in our thoughts and prayers, too.

In the hearing room there are a number of active miners from coal mining states. They are here because they care deeply about miners' health and safety. We all appreciate the many hard-working civil servants within MSHA who work tirelessly to protect miners' health and safety. The miners join me in urging Congress to ensure that MSHA aggressively protects miners' health and safety, so that they can perform their jobs safely and return home to their families each and every day.

Most of all, I want to express my profound appreciation for the many family members from the Crandall Canyon disaster who have traveled to Washington to share with you their perspective about the Crandall Canyon disaster. Though they are still grieving, they have come to tell their stories, and to remind us that we should learn all that we can from the Crandall Canyon experience to prevent future mining deaths. I am humbled to participate in the same hearing and to be able to provide my own perspective on this needless and tragic loss of miners' lives.

Mr. Chairman, I have given considerable thought and attention to what impact the MINER Act of 2006 may have had on the lives of miners in this country. Unfortunately, the Crandall Canyon disaster demonstrated that many conditions are not much different from last year, and miners facing a mine fire or explosion or other accident still face most of the same challenges that miners at Sago, Aracoma and Darby faced over one year ago. I am sorry to say this is the current state of mine safety and health.

Just since the Sago explosion in January 2006, 71 American coal miners have died on the job. This Committee's inquiry into the Crandall Canyon Mine Disaster is terribly important to ensuring that miners' health and safety are protected, so that we do not have to confront more needless death and injury.

My most important message to you today is that the Crandall Canyon disaster began on June 3, 2007, not August 6, 2007, because June 3 is the date when the mine operator submitted to MSHA a plan to engage in retreat mining at the Crandall Canyon Mine.

Likewise, MSHA's best chance for saving the miners was on June 15, not August 6th. But when MSHA approved the Crandall Canyon mining plan on June 15, that chance was lost.

Make no mistake about it, this disaster was not an act of God, but an act of man. It was preventable.

The Risks of Pillar Mining at Crandall Canyon

All the factors that lead to the catastrophic collapse at Crandall Canyon Mine may not yet be evident, and they may never be fully known. However, what is apparent after reviewing the available information and examining the mine map, is that the conditions that lead to this tragic event were man-made. The disaster at Crandall Canyon could and should have been prevented. Contrary to what some may say, there is little doubt that this was a man-made disaster.

It is important to understand that the Crandall Canyon Mine was in the last stages of its productive life. The previous operator, Andalex Resources, had extracted most of the mine's recoverable reserves utilizing a technique known as longwall mining. After completion of the final longwall panel the only remaining reserves were the "barrier pillars" and the mine's main entry pillars. Andalex Resources deemed this remaining coal crucial to maintaining the mine's stability. In documents it filed with the Utah Division of Oil, Gas and Mining that company stated, "Although maximum recovery is a design criteria, other considerations must be looked at in the final analysis in the extraction of coal. These factors consider the insurance of protection of personnel and the environment. Solid barriers will be left to protect the main entries from the mined out panels and to guarantee stability of the main entries for the life of the mine."

Despite these expressed concerns of Andalex Resources, email correspondence between the engineering firm of Agapito Associates, Inc. and Mr. Lane Adair of GENWAL Resources on August 9, 2006, indicated it had completed a preliminary review of the "* * * proposed retreat mining sequence in the Main West Barriers. * * *" This correspondence occurred on the same day that Murray Energy Corp. apparently became the "controller" of the operation. On December 10, 2006, Agapito President and Director, Michael Hardy, sent a letter to Mr. Adair after visiting the Mine to "* * * review the ground conditions of the room and pillar mining in the north pillar along Main West. Mr. Hardy determined that, "There was no indication of problematic pillar yielding or roof problems that might indicate higher-than-predicted abutment loads." Beginning ten days later, on December 20, 2006, Murray Energy's subsidiary, UtahAmerican Energy, Inc. (hereafter referred to as "Murray

Energy") submitted several amendments to the roof control plan to develop entries into the north barrier, Main West and to remove pillars from those entries during retreat mining operations. MSHA, District 9 Office in Denver, CO approved each of these plans.

In early March 2007, the Crandall Canyon Mine experienced a large "mountain bump" while pillar extraction was being conducted in the north barrier. The bump was so severe that Murray Energy abandoned its plans to develop the remaining north panel (consisting of approximately 54 pillars), and sealed the area. While it is unclear if Crandall Canyon Mine management officially notified MSHA of this event, the resulting seal plan that had to be submitted to the Agency should have at least raised questions about why the operator was abandoning that large area of the mine.

Before the large "mountain bump" in early March, Murray Energy had submitted plans to develop the south barrier of Main West. On March 8, 2007, MSHA approved a request by mine management to pillar the area. Pillar extraction continued until August 6, 2007, at which time the retreat mining was almost due south of the area where the bump had caused the operator to abandon the north barrier section. At that time, a catastrophic "mountain bump" trapped the six miners in the working section. The force of the bump registered approximately 3.9 on the rector scale at the University of Utah Seismic Stations.

Considering that only the north and south barrier pillars separated the mine's main entries from vast areas of unsupported gob, and that the previous owner refused to mine these barriers for safety reasons, it is deeply distressing that Murray Energy sought to mine in this area, and submitted such plans to MSHA. Because of the extent of the previous mining there can be no doubt that the overburden was exerting extreme pressures on the remaining coal reserves. It is impossible to believe that development and pillar extraction of the barrier pillars in the Main West area of the mine, which began sometime after August 2006, would not adversely impact the conditions in the mine.

From all that we have seen, we believe that plans to perform pillar development and extraction of the barrier pillars at the Crandall Canyon Mine should never have been submitted. Further, and perhaps more importantly, MSHA is charged with protecting miners' health and safety, and should never have approved any such request. It is high time for mine operators and MSHA to realize that miners' lives, and not the mining product, are the most valuable resources of the mining industry. Only when this happens can the needless loss of life end in our nation's coal fields.

Communications Problems at Crandall Canyon

It is also unfortunate that the management team at the Crandall Canyon Mine spent so much energy trying to deflect blame in this tragedy. It is equally unfortunate that MSHA, yet again, ignored the will of Congress in its reaction to this disaster.

Section 7 of the MINER Act states that MSHA "shall serve as the primary communicator with the operator, miners' families, the press and the public." Nevertheless, in Utah MSHA surrendered its role as chief communicator. As a result, a great deal of inaccurate and misleading statements and information went over the airwaves. The effect was that millions of Americans were given incorrect and misleading information right from the start of this disaster, and MSHA allowed it to happen. Here are some examples:

1) From the very beginning, Murray Energy's Owner and Chief Operating Officer, Robert Murray, asserted that "an act of God" in the form of a natural earthquake caused this catastrophe. He suggested that the "seismic activity" at the mine was uncontrollable and unrelated to his company's activity. However, from tapes made of calls to the local Sheriff's office that same morning, it is apparent that from the time it occurred, University of Utah seismologists believed the activity was the result of coal mining.

2) Time and time again Mr. Murray emphatically stated that he knew exactly where the trapped miners were. Yet eight weeks and many boreholes later he still has not been able to locate the miners.

3) Mr. Murray also strenuously objected to reports that miners were performing a final method of mining referred to by the media as "retreat mining." Again, he was not giving true information: from the approved mining plan it is evident that this mine was in the process of "pulling pillars," which is a particular type of retreat mining. Not only was this operation performing "pillar mining" or "pillar extraction," but in communications involving this mine, principals characterized this mining process as "retreat mining."

4) Mr. Murray claimed that the mine was perfectly safe when he invited non-essential personnel from the media and families to tour the underground rescue work.

However, not only did they experience a "bump" while they were underground, but it was in the same vicinity where nine rescuers were injured and killed just days later.

5) Mr. Murray stated that he had not had any major accidents at any of his mines prior to this. The truth is that four miners have been killed at Mr. Murray's mines. Any time a miner is killed, that constitutes a major accident.

6) Mr. Murray continually said that the UMWA was trying to organize the Crandall Canyon mine, and that somehow was to suggest nothing we had to say about this incident could be trusted. While we strongly believe that all miners should have the benefits of a union contract—not the least of which is the enhanced safety language written into our contracts—we were not engaged in an organizing campaign at that mine at the time of the incident there, nor had there been any organizing activity at that mine for years.

7) Mr. Murray also claimed that the UMWA was responsible for the stories about the company intending to reopen a part of the mine to production, when in fact it was his own Murray Energy Vice President who made those statements to reporters.

These are but some examples of the inaccurate and misleading statements Mr. Murray made that met with no contradiction from MSHA—statements that were seen by many as having an "official" stamp of approval since in most cases they were made with MSHA officials looking on, making no attempt to correct him.

What was so astounding about the press conferences at Crandall Canyon is that the conduct of Mr. Murray, and MSHA's indulgence of him, were directly contrary to Section 7 of the MINER Act, which Congress expressly added to prevent the kind of misinformation debacle that occurred at the Sago mine. There, the families were first told their loved ones were alive and were leaving the mine, whereas the reality was that only one of the thirteen survived; it was hours before the misinformation was corrected.

Regardless of whether Mr. Murray may have wanted to convene and conduct press conferences, there was no reason, requirement or benefit to the miners, their families or the public for MSHA to participate in the events he, as the private operator, staged. As the federal Agency affirmatively charged with communicating with the families and press, MSHA should have exercised its power and conducted independent press conferences to provide objective reports of developments at the disaster site. Instead MSHA representatives yielded their authority; at best they stood in the shadows as the coal operator spun his story, at worst they cowered out of view refusing to correct the half truths and misstatements. Further, it has been widely reported that Mr. Murray's attitude was abrasive and demeaning to these grieving individuals. MSHA's responsibility to serve as the liaison should have protected the families from him.

Families Facing a Mine Disaster Deserve Better

In the MINER Act, Congress took action to ensure that families facing mining disasters would be treated with the dignity they deserve and would be kept abreast of the most accurate information available. This did not happen for the families of the trapped miners at Crandall Canyon. Like the Sago families in January of 2006, they were held almost as captives, awaiting any bits of information (or misinformation) delivered by the coal operator.

How is it possible that MSHA could get it so wrong in Utah? How could it ignore the mandates of Congress, which requires the Agency to take charge of such accidents and serve as the liaison with the families and press? By allowing this mine owner to take center stage, MSHA ignored the directives of the MINER Act. In so doing, it failed the families at Crandall Canyon. They deserved—and still deserve—much better. If the leadership of MSHA is not willing or able to limit the activity of a single mine operator in the face of express authority to take such control, how can we expect them to effectively lead the Agency that is charged with regulating an entire industry?

On behalf of their loved ones, the families of those trapped at Crandall Canyon asked the UMWA to serve as their miners' representative. This would ensure that their designated representative would be able to participate in the accident investigation. However, MSHA has rejected their request, claiming that it would have to first verify that the miners themselves made the designations. Obviously, a trapped miner cannot provide that assurance. Their next of kin attempted to fill the void to ensure that the trapped miners had a representative looking out for their interests.

By denying the family members a right to designate a miners' representative for their trapped miners, MSHA has essentially said that when miners are trapped in a mine, they forfeit their right to designate a Section 103(f) representative; their

Mine Act rights are thereby nullified through no fault of their own. In denying the families the right to make such a designation for their trapped miners, MSHA has prevented those most affected by the tragedy from having a voice at the table during the investigation. This is offensive and must be corrected.

MSHA's spokesperson criticized the UMWA for attempting to serve as the trapped miners' designated representative, claiming that we "are trying to use a law enforcement investigation for its own purposes." We confirm that the UMWA does have its own purpose in mind. The reason is simple: we want honest and complete information about everything that happened—from before the latest mining plan got prepared, submitted and approved. We want to make sure no more miners' lives are lost. The UMWA is the ONLY organization in this country that is dedicated to advocating for miners' health and safety. We are proud of advancements that have been made at our urging, and we don't plan to stop anytime soon.

So yes, the UMWA does have a purpose of our own here: to fight for and improve mine safety in America. We invite MSHA to join us in that endeavor, instead of casting veiled aspersions on our efforts on behalf of coal miners and their families.

To the extent that MSHA feels current law may not allow it to recognize the UMWA as a miners' representative absent proof that the miners themselves have made the designations—something the trapped miners obviously cannot satisfy—we urge Congress to change the law. Family members of those trapped or killed in a mine accident should have the right to designate a trusted representative to participate in the accident investigation.

MSHA has also indicated that regardless of whether the UMWA would be recognized as the miners' Section 103(f) representative, the Agency is limiting attendance at witness interviews to just MSHA and representatives of the State of Utah. Not only is the Agency excluding the UMWA, but MSHA is refusing to share access to interviews and documents with the Utah Mine Safety Commission until after MSHA completes its investigation, which will likely be many months from now. MSHA is also denying access to the press.

This is markedly different from how MSHA conducted investigations at Jim Walters and Sago. For both of those investigations the Union had access to information during the investigation and was able to issue its own reports; the UMWA reports varied somewhat from MSHA's investigative reports, and offered an independent perspective.

While MSHA claims that providing such access might "compromise the integrity of the investigation and potentially jeopardize MSHA's ability to enforce the law," we are skeptical of the asserted bases for restricting access. In considering MSHA's rationale for denying access during its investigation at Crandall Canyon, is important for you to know that MSHA has never claimed that access to other interested parties during either the Jim Walters or Sago investigations in any way compromised the Agency's ability to engage in its law enforcement efforts.

We have asked Secretary Chao to reverse the position MSHA has taken both in response to our effort to serve as the trapped miners' designated representative, and to attend the witness interviews. A copy of my letter is attached; we have not yet received the Secretary's response.

Further, and as we have written to you, the UMWA feels that it is imperative that there be an independent investigation of this tragedy. A copy of this letter is attached. Otherwise, MSHA and the operator will simply be investigating what they themselves did. Curiously, Secretary Chao claims to have appointed an independent team, but those she appointed assuredly are not independent. Rather her team is being lead by two retired MSHA inspectors. Thus, MSHA and the operator are once again investigating what they themselves (i.e. their colleagues) did. That is not the best way to ask the hard questions or to get the full truth. Our goal must be to learn from what went wrong at Crandall Canyon so that no more families will suffer such needless loss of life.

Has the MINER Act changed the post-accident situation?

Miners working today do not have many of the health and safety benefits that Congress demanded through the MINER Act in 2006. The additional oxygen devices you insisted be available to underground miners are still on back order, effective wireless communication or tracking devices have not been installed, and MSHA has approved Emergency Response Plans (ERPs) that do not require operators to provide the safety and health protections Congress expected.

For example, in most instances tracking of miners is still being done today the same way it was done before the Sago disaster: operators rely on their dispatcher, and only know in which "zone" a miner is assigned to work. As we all know from Crandall Canyon, despite assurances that the operator knew "exactly" where the trapped miners could be found, without reliable tracking devices, rescue efforts are

delayed and mis-directed. Until trapped miners can be located, rescuing or recovering them is virtually impossible.

While the MINER Act allowed advanced wireless communication and tracking devices to be phased in within 3 years, they should be required as soon as they become available. However, rather than demanding that operators quickly utilize improved equipment and technology as soon as it becomes available, MSHA is allowing operators to wait out the clock until the 3-year deadline comes to a close.

You probably recall the stories last year of the Polish miner pulled from wreckage after he was located through use of a tracking device, and that of the Canadian miners trapped underground but safely retrieved from the safety chamber to which they had retreated. The Crandall Canyon miners did not have these advantages. However, if other countries' miners can survive and escape these disasters, then so should American miners. We need change, and we need it now.

As Crandall Canyon has revealed, miners caught underground have little better chance of survival than did the miners at Sago, Aracoma and Darby in 2006—or even those who perished in the disaster at Farmington in 1968. Although we have advanced the calendar some 40 years since the Farmington disaster, in many instances miners are caught in a time warp, still trying to adapt the health and safety technology of the 1960's into today's mining environment. For example, Congress directed MSHA to consider safety chambers in the 1969 Mine Act, but they still remain largely absent from our mines. Moreover, the regulation MSHA implemented requires operators to provide supplies to build a barrier after an accident occurs. This was required before the MINER Act, though since the MINER Act operators now must provide breathable air and other requirements to sustain life. However, having supplies available for construction of a safe haven after an accident will often be too late: the post-accident atmosphere can be toxic and so smoky that miners cannot even see their own hands, and they may well be disoriented, making it impossible for miners to then construct a safe haven.

After the three high-profile disasters last year that claimed 19 lives, Congress passed the MINER Act. That historic legislation was the first miners' safety and health legislation in 30 years. It placed new requirements on mine owners and operators to improve miners' safety. Some, like directional lifelines, additional self-contained self-rescuers (SCSRs) and Emergency Response Plans (ERPs) were required immediately. Others, including advanced wireless communication and tracking devices were to be phased in over 3 years as they become available. We said then and still believe that the MINER Act represented a good "first step," but so much more is required.

As the MINER Act is being implemented, MSHA has been too tolerant of operator delay. While directional lifelines require no new technology, and could be immediately placed into use to guide miners out of a mine during an emergency, MSHA is allowing some operators to set their own time frames for meeting this requirement. As for the miners' need to have supplemental oxygen, though the MINER Act required operators to store additional supplies for miners' use if trapped, MSHA's regulation permits the supplies to be stored in a location that is too remote. Based on the existing regulation, if the Crandall Canyon miners survived the initial event, they would not have been able to access what oxygen should have been stored because it would have been too far away, on the other side of the collapsed area of the mine. Moreover, though the MINER Act required operators to submit their ERPs by August 2006, the Crandall Canyon ERP was only approved in June, 2007 and the supplemental oxygen need only to have been in place 60 days later * * * after the miners were trapped on August 6. Why the operator was given 60 days to provide the oxygen is puzzling, as the oxygen canisters should be readily available and there was no good reason for the delay.

We wish to note that some operators have gone beyond the minimum requirements to protect miners, but many more meet only MSHA's minimum standards. MSHA could and should be pushing operators to utilize the best available technology to better communicate with and track miners. We believe that was what Congress expected when it enacted the MINER Act last year. Crandall Canyon graphically demonstrates the consequences of operators' and MSHA's intervening complacency.

Cultural Problems at the Top of MSHA

The problems within MSHA begin at its highest levels. Indeed, there has developed at MSHA a culture of cooperation rather than enforcement. When then-Assistant Secretary of Labor for MSHA, David Lauriski, initiated a new "compliance assistance" plan, he sanctioned a different way of pursuing the Agency's mission. That new program chilled enforcement efforts at the mine level and allowed operators to essentially negotiate workplace health and safety matters.

The notion that MSHA should foster compliance assistance when its first priority is supposed to be miners' health and safety is preposterous. In MSHA's internal reviews of the three major disasters in 2006 it found plan reviews to be an area where better oversight is required. This lack of oversight and accountability played out to dire consequences at Crandall Canyon: the mine plan that was submitted should never have been submitted; and MSHA should not have approved it.

The UMWA argued strenuously against MSHA's policy of compliance assistance ever since its inception. The Agency's highest officials have dismissed our objections to the culture of cooperation. It is no consolation to sit before this Committee and remind you of our continuing assertion that MSHA's effectiveness is compromised. The disasters at Sago, Aracoma, Darby—and then Crandall Canyon—represent the consequences of Agency misdirection and inaction.

Lessons learned from decade after decade of miners' injuries, illnesses and deaths teach that strict enforcement is needed to protect miners' health and safety. These facts were reinforced by MSHA's own internal reviews of the tragedies at Sago, Aracoma and Darby. In each instance, the Agency discovered significant problems of non-accountability and lack of oversight.

There is a culture at the highest levels of the Agency that not only ignores the needs of miners, but the input and expertise of longtime MSHA field employees and specialists. MSHA's inspectors and specialists have years of practical experience, they work in the same conditions as do miners they seek to protect, they know the laws and regulations, and they strive to perform their jobs. Indeed, at Crandall Canyon one of it's finest gave his life while trying valiantly to rescue the six trapped miners.

To successfully protect miners' health and safety, inspectors must receive uniform direction and support from their superiors. If we are to achieve the health and safety improvements anticipated by the Mine Act and the MINER Act, there must first be a cultural change within the Mine Safety and Health Administration. I submit to you that the reality of this situation is stark. If we fail to force a cultural change at MSHA it will continue to decline and eventually implode. We cannot allow that to happen.

This Congress possesses the power to make vital changes to restore the direction of MSHA and ultimately offer miners the health and safety protections they deserve. Congress must require MSHA to focus first and foremost on the health and safety of miners. We urge this Congress to move swiftly to require immediate action on the mandates contained in the MINER Act and to be prepared to demand through appropriate legislative initiatives the next level of protections.

Problems of MSHA's Missed Inspections

It has recently come to light that MSHA has failed to complete many of the required regular inspections of underground coal mines. Under the law, MSHA is required to inspect underground coal mines four times each year. It is not doing so. We do not know the extent of MSHA's failure to meet its inspection schedule, though we can tell you that the failure is significant. Regular inspections are essential. Many operators do not adhere to basic safety and health requirements and if they think MSHA will not come to inspect and cite them, the deficiencies will both multiply and endure longer.

Also, miners are often reluctant to raise their bona fide safety and health concerns—whether to mine management or to MSHA. This is because they fear retaliation. Coal mining jobs are good jobs and in many mining communities they are by far the best (if not only) jobs to be had. Unfortunately, the anti-retaliation provisions of the Mine Act simply do not offer them sufficient protection, and miners do not trust them.

After most of the press left the Crandall Canyon, owner Bob Murray sent threatening letters to at least some of those who criticized him while the disaster was playing out. We understand that he has sent such letters to press and private citizens, as well as politicians. He threatens each with retaliation if the criticisms are not retracted.

The UMWA has its own experience defending against such claims of Mr. Murray. He sued the UMWA's Secretary Treasurer for comments made during a labor dispute we had with some of his Eastern operations. Though the UMWA successfully defended those suits, which were dismissed by the courts, his threats could serve to silence some would-be critics, and we suspect that is his chief goal. His threats are inconsistent with this country's notion of free speech, though they illustrate the kind of challenges a rank and file miner might worry about before daring to speak out.

When miners fear that speaking out will cost them their livelihood, they remain silent, even when they have bona fide concerns about mine health and safety. No-

body should be asked to sacrifice his health or safety by going to work. It is the role of the government to protect miners' safety and health. The Mine Act states that plainly. Nevertheless, when miners are afraid to speak out, the government is not doing its job of providing them with adequate protection.

Control of a Mine Post-Accident

Since 1977 MSHA has had the right to control all activity at the mine when disasters occur. By issuing a Section 103(j) Order, MSHA can secure this control. Yet, with but one exception at Scotia, MSHA chooses instead to utilize its authority under Section 103(k) which permits the operator greater latitude in directing a rescue operation.

Under a (k) order, the operator prepares plans and submits them to MSHA, which must approve each component before it can then be implemented. That is the procedure that must have transpired when, just days before the rescuers were killed and injured, the operator proposed and MSHA approved a plan that permitted non-essential personnel (that is, press and family members) to travel underground with Mr. Murray to observe the rescue.

We understand the curiosity of some within the media and the dire concern of family members, however the conditions at the mine were so unstable that some workers engaged in the rescue effort requested work away from the mining operation. There is no reasonable explanation for allowing non-essential personnel to be subjected to such dangerous conditions. They easily could have confused and hindered the rescue had the "bump" they did experience been larger in scale. While we thank God that there was only a minor mountain bump while these individuals were underground, we also recognize the situation could have become much more disastrous. They could have suffered the same tragic result that rescuers experienced when the large bump caused a cave-in, claiming the lives of three rescuers and injuring six others. Mr. Murray should not have submitted a plan to take guest travelers into the mine, and MSHA certainly should have known better than to permit it. That incident represented an extraordinary amount of poor judgment by both key parties to this rescue and recovery effort.

MSHA should have brought to the site at a much earlier date experts who could address the unique geological conditions to help develop a safe procedure for rescuing the trapped miners. We recommend that there be designated a variety of mine emergency response experts who could be immediately called upon to service mining emergencies like those at Crandall Canyon, Sago, Aracoma, and Quecreek Even now, we call upon Congress to consult with a variety of geological, engineering, and other experts, public and private, to determine if the trapped miners can be safely recovered. The families deserve to have their loved ones back if that can be accomplished without sacrificing any more lives.

We also seek an independent investigative body to analyze the rescue process to report on how that procedure could have been improved. At the end of the day, the most important thing we can take away from such a tragic experience is to learn from the mistakes so they will not be repeated. Only an independent investigation can hope to uncover the needed truths.

Since the MINER Act was passed last year, we have heard operators complain about how much money they have to spend to comply with it. However, let me suggest that it is better to invest up front. Mining disasters are very costly—first and foremost in lost lives and the destruction of families. But accidents also consume huge amounts of time and energy on the part of the particular operator, not to mention federal and state governments, too: first the rescue and recovery efforts are expensive, and then the investigation takes another substantial commitment of capital. Wouldn't we all be so much better served if these resources would be dedicated to protecting miners from the problems in the first place? I am certain that was your intent when you enacted the MINER Act. Unfortunately, this goal has not yet been adequately realized.

Conclusion

How many times must we demand that MSHA's practices change only to be ignored? How many more times will mine owners and MSHA thumb their nose at your mandates? Something must be done to change the status quo. Leaders must be held accountable for their actions and inactions. Just as mine operators cannot self-regulate, MSHA cannot function without being subject to the routine scrutiny of Congress and appropriate sanctions when necessary.

The miners of this nation can no longer be asked to sacrifice their safety when their employers are focused on monetary profit with little regard to their employees' well being. It is time to place effective measures in place so that a miner may engage in his primary job of mining, without jeopardizing his life.

I thank you for this opportunity to share our on-going concerns about the state of miners' health and safety in this country. I urge you to do all that you can to ensure that the investigation of the Crandall Canyon disaster is full and independent and that the families of all those devastated by the Crandall Canyon disaster get all the answers they want and deserve.

[Additional submission by Mr. Roberts follows:]

United Mine Workers of America

CECIL E. ROBERTS
INTERNATIONAL PRESIDENT

TELEPHONE
(703) 208-7220
FAX (703) 208-7132

UNITED MINE WORKERS' HEADQUARTERS
8315 LEE HIGHWAY
Fairfax, VA
22031-2215

September 20, 2007

Elaine L. Chao, Secretary of Labor
U.S. Department of Labor
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

RE: Crandall Canyon 103(f) Representation

Dear Secretary Chao:

This is a request for you to reconsider MSHA's position concerning the UMWA's claim to be a valid Section 103(f) miners' representative for the Crandall Canyon operation.

Congress enacted Section 103(f) of the Mine Act to guarantee miners the right to participate in mine investigations, including those relating to mine accidents, in order to enhance miners' safety and health. Yet, when the United Mine Workers of America filed notices with both MSHA's Price, Utah field office and the Crandall Canyon mine on August 24, 2007, to advise MSHA and the operator that two or more miners of the Crandall Canyon operation seek to have the UMWA and its representatives serve as their Section 103(f) designated representative, MSHA refused to recognize the designations. The designations were made without limitation and specifically include the post-accident investigation.

MSHA not only refused to recognize the UMWA as the miners' representative, but it has since advised the Union that the Agency "has decided to limit attendance at witness interviews to MSHA and the State of Utah." These decisions are ill-advised and outrageous; we ask you to reverse both.

Those designating the UMWA initially requested confidentiality. Nevertheless, the UMWA also filed with its notice a "copy of the document evidencing the designation of the representative of miners" (as referenced in 30 CFR 40.3 (a)(3)). Copies of the notice and document evidencing designation are attached.

When MSHA representatives determined that the miners designating the UMWA were those trapped underground and that the designations were executed and proffered *on behalf of* each trapped miner by the family members awaiting their rescue or recovery, MSHA refused to recognize the UMWA. It did so on the grounds that only the miners themselves could make the designations. MSHA representatives indicated they must be able to verify the validity of a designation by meeting with the miners. However, the trapped miners were clearly still "miners" within the meaning of the Mine Act. As such they retained the right to exercise their 103(f) rights. At such a critical time, and because the trapped miners could not physically deliver their Section 103(f) designations directly, their next of kin attempted to fill the void to ensure that the trapped miners had a representative looking out for their interests. Nevertheless, MSHA's position means that so long as they remained trapped in the coal mine, miners forfeit their right to designate a Section 103(f) representative; their Mine Act rights have been nullified through no fault of their own.

It is outrageous that when miners are trapped *because of* a mining disaster, the government fails them yet again. The coal operator (and perhaps MSHA through its approval and oversight) created the very conditions that lead to this disaster. For MSHA to side with the Company in denying the miners their right to designate a miners' representative defies logic and offends the public conscience. It adds insult to injury and will not survive public scrutiny.

The trapped miners should never have been denied their rights to Section 103(f) representation, and we urge you to reconsider and reverse the Agency's decisions in this regard.

Sincerely,

Cecil E. Roberts

Enclosures

cc: Daniel J. Kane, International Secretary-Treasurer, UMWA
Richard Stickler, Assistant Secretary, MSHA
Congressman George Miller
Senator Edward M. Kennedy
Senator Robert C. Byrd
Senator Tom Harkin
Senator Arlen Specter
Senator Orrin G. Hatch
Senator Bob Bennett
Congressman Jim Matheson
Congressman Howard P. McKeon

1) **DESIGNATION OF 103(F) REPRESENTATIVES**
UNITED MINE WORKERS OF AMERICA
c/o Region 4
6525 West 44th Avenue
Wheat Ridge, CO 80033

Including each of the following UMWA International Representatives:

a) Dennis O'Dell
8315 Lee Highway
Fairfax, VA 22031
(703) 208-7120

b) Bob Butero
UMWA, Region 4
6525 West 44th Avenue
Wheat Ridge, CO 80033
(303) 425-7110

c) Mike Dalpiaz
UMWA District 22
525 East 100th South
Price, UT 84501
(435) 637-2037

d) Roy Fernandez
UMWA District 22
525 East 100th South
Price, UT 84501
(435) 637-2037

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2) Crandall Canyon Mine; MSHA ID #4201715

3) The persons named above are representatives of miners for all purposes of the Mine Act.

4) Please send all correspondence to:
Bob Butero
UMWA. Region 4
6525 West 44th Avenue
Wheat Ridge, CO 80033

I SEEK CONFIDENTIALITY

Filing Information for Designated 103(f) Representatives of Miners
Pursuant to the Federal Mine Safety & Health Act of 1977
August 24, 2007

1) Designated Representative is the organization:
United Mine Workers of America
8315 Lee Highway, Fairfax, VA 22031
Phone: (703) 208-7200
specifically including the following UMWA representatives:

a) Dennis O'Dell, Administrator of Occupational Health and Safety
United Mine Workers of America
8315 Lee Highway, Fairfax, VA 22031
Phone: (703) 208-7200

b) Bob Butero, Director, UMWA Region 4
6525 West 44th Avenue
Wheat Ridge, CO 80033
Phone: 303-425-7110

c) Mike Dalpiaz, UMWA International District 22 Vice President
525 East 100th South
Price, UT 84501
Phone: 435-637-2037

d) Roy Fernandez
525 East 100th South
Price, UT 84501
Phone: 435-637-2037

Please send any correspondence to:
Bob Butero, Director, UMWA Region 4
6525 West 44th Avenue
Wheat Ridge, CO 80033
Phone: 303-425-7110

RECEIVED
AUG 24 2007
U.S. MINE SAFETY & HEALTH
PRICE, UTAH

2) Crandall Canyon Mine; MSHA ID # 42-01715.
3) A copy of the document designating these representatives is attached.
4) The persons named above are 103(f) representatives of miners for all purposes of the Act.
5) Any other individual designated by the United Mine Workers of America shall serve as 103(f) representatives in the absence of those persons listed above; names and addresses of alternatives to be provided if/when assigned.

I hereby certify that a copy of all information filed herein is being delivered to the mine operator listed above concurrently with the filing of this statement with MSHA. I also certify that the above-listed representatives of miners in fact represent two or more miners at the above-listed operation for purposes of the Mine Act. I further certify that all information filed is true and correct.

Robert Butero
Signature

United Mine Workers of America

CECIL E. ROBERTS
INTERNATIONAL PRESIDENT

TELEPHONE
(703) 208-7220
FAX (703) 208-7152

UNITED MINE WORKERS' HEADQUARTERS
8315 LEE HIGHWAY
Fairfax, VA
22031-2215

August 21, 2007

The Hon. Harry Reid, Senate Majority Leader
The Hon. Nancy Pelosi, Speaker of the U. S. House of Representatives
United States Congress
Washington, DC

Dear Senator Reid and Representative Pelosi:

I write to urge Congress to appoint an independent bi-partisan committee of coal mine safety experts to investigate the Crandall Canyon disaster. The public needs a reliable way to obtain meaningful information and insights about this horrific tragedy: both the initial trapping of six miners and the subsequent rescue efforts, which resulted in three deaths last week. I do not believe the American public and our nations' coal miners will be well-served by another instance of MSHA investigating itself in this disaster.

Just last year this nation was witness to three dramatic multi-fatal accidents beginning with the Sago mine explosion on January 2, 2006, followed less than three weeks later by a mine fire at Aracoma, and then an explosion at the Darby mine. Together these three disasters took 19 lives, and devastated entire communities. Since the beginning of last year, 64 coal miners have been killed on the job. That's an average of three each month.

In a demonstration of bi-partisan support for the nation's coal miners, Congress enacted the MINER Act which President Bush signed into law on June 15, 2006. The MINER Act served as an important first step for improving miners' health and safety. However, it was the first piece of miners' safety and health legislation in nearly 30 years, and did not address all the shortcomings in the laws that are needed to protect miners. One of the many things that bill did *not* accomplish was to change the way mining accidents are investigated.

The problem with the status quo is that the Mine Safety and Health Administration ("MSHA") investigates mine accidents. However, *time and again* MSHA's performance has been found to have had a role in sanctioning the very conduct that developed into subsequent disasters. For example, MSHA must approve mining plans, ventilation plans and roof control plans, not to mention to ensure through enforcement procedures that each operator adheres to all the plans once the respective MSHA District approves them. Yet, after the disasters of 2006, MSHA's Internal Review determined that:

> [At] Aracoma... the majority of contributory violations were obvious and should have been identified by MSHA inspectors prior to the fatal fire that killed two miners. The team determined that inspection personnel failed to exercise their authority in a manner that demonstrated an appreciation for the importance of strict enforcement of the Mine Act and failed to conduct inspections in a manner that reliably detected violations.
>
> Inspection personnel also demonstrated a lack of technical know-how necessary to effectively evaluate and address complex safety and health conditions, and failed to

comply with MSHA policies and procedures that, if followed, would have significantly improved the scope, quality and effectiveness of mine inspections. The lack of effective management oversight and controls also contributed to enforcement deficiencies at Aracoma. MSHA has referred its findings at Aracoma to the Labor Department's Office of Inspector General for further investigation of employee misconduct.

The Sago internal review found that ...failure by personnel to follow inspection procedures, coupled with inadequate managerial oversight, resulted in a number of enforcement deficiencies. Among the areas cited as needing improvement was the district's mine emergency response capabilities.

The Darby internal review found that district personnel did not effectively utilize the mine operator's history of repeat violations to elevate the level of enforcement. Failure to follow inspection procedures, along with inadequate managerial oversight, resulted in many of the deficiencies identified in the report.

From MSHA press statement 07-975-NAT, dated June 28, 2007.

Three different MSHA District offices, but all three substantially failed in their primary responsibility of protecting the miners. What makes this MSHA statement especially frustrating is that the Agency came to the *same* kind of conclusions following an explosion that took 13 miners' lives at the Jim Walters Mine #5 in Alabama back in 2001. There is an integral problem at the very heart of the Agency where there seems to have developed a culture of accepting the status quo and not rocking the boat.

MSHA has had many opportunities to correct what is wrong; yet it still has not arrested its well-documented problems. We need an outside group of experts to analyze what happened at the Crandall Canyon mine in Utah, not only on August 6, 2007 and during the subsequent rescue efforts, but also the events that set the stage for the August 6 disaster. We also would welcome the recommendations such independent experts could make about how the Agency should change to better keep all miners safer.

The status quo simply isn't working to protect miners. Miners at Crandall Canyon and their families deserve better. In the same bi-partisan fashion that Congress demonstrated on the heels of the three coal mining disasters last year, we urge you to appoint an independent committee of experts to investigate what went wrong for the Crandall Canyon workers.

Respectfully,

Cecil E. Roberts

Cecil E. Roberts

cc: Elaine L. Chao, Secretary of Labor
Richard Stickler, Assistant Secretary of Labor for Mine Safety and Health
Jon Huntsman, Governor of Utah
Senator Mitch McConnell, Senate Minority Leader
Senator Edward Kennedy, Senate HELP Committee
Senator Michael Enzi, Senate HELP Committee
Senator Orrin Hatch
Senator Robert Bennett
Representative John Boehner, House Minority Leader
Representative George Miller, House Committee on Education & Labor
Representative Howard "Buck" McKeon, House Committee on Education & Labor
Representative Jim Matheson

Chairman MILLER. Thank you very much, and thank you to all of you for your time.

Governor, I want to again thank you for the cooperation that members of this committee or the staff of this committee received right after this incident in helping our staff people get connected to the community out there.

I also thank you for your action in setting up the Mine Safety Commission, the state safety commission, and I think that we share an agenda with you. I would like to be able to figure out how we can share that information because I think the question you are asking about what is the role of the State of Utah—this, as you pointed out, is a major industry within the state, major employer

within the state—What is that role?—and I think as your commission proceeds, I would hope they would feel free to share with us, when you think it is appropriate, concerns that they may have as to how we fit that role in.

I think that now having gone through a number of these incidents, tragically, they are the same, but they are not the same, and for different reasons and in different situations and with different personnel back and forth. I think we need to understand how the state gets connected into this process on behalf of their citizens.

We have had missteps, we have had accidents, we have had just failure to communicate, the wrong communications, but that is happened almost at every one of these incidents. So that is a pattern that we have to look at. We have had previous conversations with the Governor of West Virginia on these items; because these are your citizens, and you have to have some ability to inform them in real time with accurate information, and we see that too often the families are whipsawed back and forth because of multiple spokespeople or information or rumors, and it is a tough time, it is a tough situation. People's lives are right there at risk.

But I am glad that your commission is looking at that and also the question of what is the appropriate role for the state in promoting mine safety and accident prevention. Again, we are working with an arrangement that was created a long time ago, and I think we are certainly open to the review of that process and, again, how do we interface with the states that have this responsibility that perhaps do not have all the authority they would like to have and, again, you will have to make that determination in terms of safety and prevention.

There has been a lot of suggestion here today of the difference between union and nonunion mines, and we have heard that again. But I think the real question is: What are the in-place margins of safety that are there for miners, whether it is union or nonunion, and how has that role been effectively carried out by the federal authorities and how can the state help in that and be part of that process? I think it is very legitimate for both of our inquiries going forward.

You are, obviously, engaged, as you point out, with the commission with a review of your own state's role before and after the accident. I just think that this is very encouraging, and I think the voice of the state will be helpful. I really appreciate the speed with which you moved on that effort.

Cecil, I want to thank you for making note of the fact we have had a lot of interaction with MSHA; and sometimes you are quick to condemn people across the board, but we have had a lot of assistance, a lot of information, a lot of help from various line people in MSHA, either because of their experience at a particular mine before the accident, after the accident, and their participation in rescue efforts.

So I would not want to leave here with people believing that this is good versus evil, this is black versus white. That is really not the way it works. I have a great deal of frustration with the lack of diligence at the top of MSHA on this whole problem of mine safety, but many of the questions that you have raised, as you know, are questions that we are raising in our investigation that is being

conducted on a bipartisan basis here with Mr. McKeon and his staff.

Let me stop there for a moment and then see if Mr. McKeon has questions or statements, and then I would like to come back with a question after other members.

Mr. MCKEON. Thank you, Mr. Chairman.

Welcome, Governor.

My mom and dad were born in Utah, and I have family in Utah. So it is kind of like my second home. Good to see you here. We have not had a chance to meet before.

You know, when I was a new congressman, we had the earthquake in Northridge which was in my district and it was devastating. We had 19 people killed, most of them in an apartment house in my district. I got there just as they were removing the last body, and James Lee Witt, who, at the time, was head of FEMA, gathered—the governor was there. We had the state counterpart of FEMA and local leadership. We all gathered in a room, and I remember the tone was set there how we would all work together to work through on this tragedy and try to rebuild.

I would like to ask, during the aftermath of the accident at Crandall Canyon, can you describe the coordination, as you saw it, from Utah and the federal government? How did that work? Was there good coordination? Was it productive? Did you see things that could be improved upon?

Governor HUNTSMAN. I would like to think, Congressman, that we were as well organized as any state could be for this kind of tragedy. We were on site the day that it happened. We had an emergency cabinet meeting. We rallied everything from public safety to workforce services, human services, health department, public safety to be on standby to play any appropriate role that would help to facilitate the effort.

Frustrating to me and others was the lack of any clear coordination or defined guidelines that MSHA was running by, and I say that using a military analogy, perhaps inappropriate, but when you have an incident like that, you expect MSHA to be parachuting out of the C-130 to take over the situation with some sense of direction and authority and clearly defined lines of decision-making. It did not appear to be that way.

And so while we were organized and on standby—and I think we played a very helpful role—the central aspect of the response led by MSHA—not to say that Richard Stickler is not anything but a fine human being. He is a fine human being and a real professional, but there was a lack of defined authority and coordination with which I think we would have been a lot more effective as a state in perhaps playing an even better role in providing the support that was needed.

We did everything we were asked to do. I think we went above and beyond the call of duty, even better than the state or the communities, many of whom are represented here, that jumped in and played significant roles. Everything was firing as part of the support system, with the exception of the clearly defined lines of authority by which MSHA should have been operating, in my mind.

So that, as you can see, would be one of my recommendations, respectfully and humbly, to you, that heaven forbid anything like

this happen again, but if it does, that there be some very clear lines of demarcation within which MSHA operates that then clearly defines what the private sector should do and say and be responsible for, and then logically what we as a state and the surrounding communities can do.

It was almost complete, but for the one federal piece that sadly was lacking.

Mr. MCKEON. Thank you for that recommendation. I think that is what I am looking for, is recommendations that we can use in going forward to make sure this, as you said, if there is another incident, at least we do not bungle the rescue effort and the communication with the families.

I do not know if you have had a chance to look at it. You commented in your testimony that you are concerned about overregulating. I worry about that every day that I am here, not on this particular incident, but the federal government period. We are working on No Child Left Behind and some other things, and I worry that we many times go too far in overregulation.

Are there any provisions that you might know of in the S-MINER Act, or anything else in particular that you have viewed, that would severely restrict the western mining industry?

Governor HUNTSMAN. Not to my knowledge. I think we need to operate under the assumption that first and foremost we put the well-being and safety of human beings, and if we can operate around that premise, I think we are going to be okay.

An area in which I thought there was some deficiency was available technology, and, clearly, the experts had not operated in any kind of deep mine setting before. We are looking at 1,500, 2,000 feet below ground. Now, if you are expert at West Virginia or Pennsylvania mines where deep is 500 feet, and you are prepared for that, when you hit deep at 2,000 feet in Utah, you are completely unprepared.

So whatever we are talking about and whatever kinds of technology we are envisioning, it would be very helpful if all of you would take into account the kinds of unique geography that exist in the western part of the United States that ought to be part of whatever technology development that you envision as well.

Mr. MCKEON. That is one of the concerns I mentioned. When we pass legislation here in Washington that deals with West Virginia, Utah, there are differences, and trying to be restrictive in federal policy sometimes causes you some real problems.

So thank you.

I do have other questions if we are doing another round.

Chairman MILLER. Thank you.

Ms. Woolsey?

Ms. WOOLSEY. Thank you, Mr. Chairman.

I want to follow up on Mr. McKeon's line of questioning on available technology, and Mr. Payne started it with the last panel.

Mr. Holland, you mentioned the proven safety techniques that are used in mines around the world that are not used in the United States.

Mr. Roberts pointed out not only was a Polish miner recently rescued by the use of a tracking device, but that Canadian miners were saved because they had retreated to safety chambers.

Any one of you. I would like all of you to answer this from your perspective.

And, Mr. Watzman, I would like you to answer this around why hasn't NMA insisted, not asked, not suggested, certainly not fought against, our using, having regulations for the best available technology in the world? Why do we not have that in the United States of America? Why aren't we insisting on it? I just would like your opinions on it.

Start with Mr. Roberts, if he would.

Mr. ROBERTS. I think what we do in this country is say if it is not perfect and it does not work 100 percent of the time, we are not putting it in the mine, and the tracking device I was alluding to in my written testimony did, indeed, save a Polish miner's life last year. In the middle of one of the Senate hearings, that happened, and I mentioned it in the Senate hearing. Here in the United States, if that same miner had found himself covered up in a U.S. coal mine, he would have perished because we would not have found him.

Now the Polish government has seen fit or the Polish mining industry has seen fit to say, "Let's put these tracking devices on our miners, even though they may not work 100 percent of the time." If they work 75 percent of the time, perhaps that is something we should consider. Last year's law gave us 3 years to get some of this technology in the mines. That does not prevent us from putting this in the mines now. The State of West Virginia, for example, has moved forward more rapidly than the other 49 states, and they should be commended for that.

Ms. WOOLSEY. Mr. Watzman?

Mr. WATZMAN. Thank you.

We did not object nor do we object to the introduction of new technology. We supported the MINER Act last year and continue to. In fact, one of our member companies, Alliance Coal, has developed a tracking technology using RFID tags that they are using in their mines and other companies are using similar technology.

What we have to recognize is those are predicated upon a backbone, an infrastructure underground, and there is the possibility and the likelihood, depending upon the severity of the event, that that backbone can become damaged during the event, and then the system becomes useless for its purpose.

But that is not to say that the industry is not moving in that direction because I can tell you it is. There are underground coal mines throughout the industry that are installing underground tracking technology today.

Ms. WOOLSEY. And that is good.

Mr. WATZMAN. Yes.

Ms. WOOLSEY. But you are on record wanting every underground mine to have those tracking devices?

Mr. WATZMAN. We supported the MINER Act which requires that, yes.

Ms. WOOLSEY. Mr. Holland?

Mr. HOLLAND. Let me respond by clearly saying that of the 2,500 workers I represent in the State of Utah in one of the many hats that I wear, a third of them are covered by MSHA regulations in open pit mines and the concentration of ores. The facilities, the cop-

per mines, are approximately an hour and a half from the central part of the state where the coal country is at, with similar geology.

The copper mine is the largest open pit mine in the world, considering in the next 7 years a massive underground effort, so our union and our workers, our miners' reps, have been getting used to the ideas, getting more training. We have had underground miners who are certified in that open pit mine for quite some time, but we are looking at technologies, particularly in Canada and Germany, where I think the legislation has been gearing towards this even last year.

It is the delays that are a concern, and the reasons for that, I think, are obvious. I do not need to make a political comment about that. But we need it. We need it sped up, I think, greatly.

Ms. WOOLSEY. Okay. Thank you.

Chairman MILLER. Thank you.

Mr. Kline?

Mr. KLINE. Thank you, Mr. Chairman.

Governor, gentlemen, thanks for being here today.

I want to thank you, Mr. Roberts, for pointing out that one of the rescuers, Mr. Jensen, was from MSHA, and the anger and frustration that we heard from many of the witnesses in the first panel is certainly understandable, but is not, I am sure, directed at everybody from MSHA because, clearly, there are people who in a very devoted and brave way stepped up to help those trapped miners.

We are in the business here of trying to make public policy that is good public policy that can be enforced and that it does what it is supposed to do. It is not enough for us just to pass a law and then everything is okay. It has to be a law that works, and I think that we all recognize that. But sometimes in our frustration, it is hard to get past this desire to just pass a law and everything will be okay.

So, if I could, I want to get at a couple of points, and I will go to you first, Mr. Watzman. We had an MSHA witness in an earlier hearing that expressed some concerns about the legislation that we are looking at now. We have a MINER Act, and now we are looking at an S-MINER Act, and I think the concern, as I understand it, was that the S-MINER Act would actually weaken some of the safety laws earlier. Do you share that concern, or did I mishear that?

Mr. WATZMAN. No, I think you are correct. I think they did identify some provisions that they believed might weaken existing MSHA policy, and if memory serves me correct, I recall that they were referring to the existing requirement for notification within 15 minutes of certain events that might occur at a mine, and the S-MINER Act, I believe, would change those events that would have to be reported in that 15 minutes.

Mr. KLINE. Okay. Thank you. I want to pick up where some of my colleagues were earlier, and that is notification, communication with the families. I mean, it is clear that the communication was not adequate for the families who were waiting for news of their loved ones. You had people on the ground immediately, MSHA had people on the ground virtually immediately, the company, of

course, had people there, and yet the families did not know what was going on.

Is there something that we could put, should put in legislation that would address that, that would fix that? And I will ask any of you. Governor, why don't I start with you because your people were there. It is not a criticism of you. It is just, clearly, there was a shortfall. Either the state or MSHA or somebody was not getting the word out. So let me start with you.

Governor HUNTSMAN. I would go back to a comment I made earlier about clear and distinct lines of authority for MSHA. There is nothing like someone appearing on site you has the authority of the federal government who can speak with facts and with knowledge and with something backing them up as opposed to a private entity. It just inspires greater confidence.

I saw it firsthand as this was playing out, and when that is not the case, there is going to be a lot of concern about the source of the information, the spin that perhaps is being put on the facts, and so I would say in this case, to be very clear going forward, that in a similar situation that there is, in fact, a designated spokesperson who speaks for the agency, the body that is overseeing the industry, MSHA in this case. If that had happened consistently—and I hope I represent the sentiment of many of the families represented with me—I think the atmospherics would have been much different.

Mr. KLINE. Okay. Does anybody else have any comment on that issue? Mr. Roberts?

Mr. ROBERTS. Yes. In our written testimony, Congressman, we point out seven incidences here where Mr. Murray passed out erroneous information, but let me speak to the heart of this. Last year in the MINER Act, Section 7 of the MINER Act was clear that MSHA is to be the chief spokes entity, for lack of a better way of saying that, on site, talking to the press and dealing with the families.

So you have to have two things here. You have to have laws that tell us what to do, and you also have to have somebody to enforce the law that is running the agency that is charged with what Congress tells it to do. So I would submit to you that there was a failure here to comply with the will of Congress from last year.

Mr. KLINE. Well, I see my time has run out. Here is a case where we already have it in law, and we had an agency, a bureaucracy that did not perform well. But the legislation was already there in the MINER Act. Is that right?

Mr. ROBERTS. I think the legislation last year was clear. We looked at what happened at Sago when those families were told that all their loved ones were alive, and they celebrated for 3 hours to be told later, "Well, no, sorry, that is not quite correct," and Congress said this cannot happen again.

So now we are making it very clear to this industry and all the miners and all of their families in the country that MSHA is to be the one to communicate with the families and MSHA is the one to communicate with the press and there to pass out correct information, and there was a complete utter failure here, and there is no other way to sugar coat it.

Mr. KLINE. Thank you.

Mr. Chairman, I yield back.

Chairman MILLER. I thank the gentleman.

I would just say that, obviously, this is central to the wellbeing of the families and the communities, and I think what the governor and Mr. Roberts have pointed out, and I think that the timeline that we will develop here, shows that there was almost 2 weeks while MSHA was wrestling to get control of the communications, which is just unacceptable, because there were so many interventions going on by Mr. Murray and others with statements of fact that turned out not to be facts and the rest of this.

So, yes, it is in the law, and it was specifically put there responding to a pervious accident, as Mr. Roberts has pointed out, at the insistence of those families who thought maybe the next group of families would be entitled to clear and more accurate communications, and it just did not play out that way, and we have to figure out how that happens. I think, again, the governor's commission offers an opportunity.

You know, if at some point MSHA is not up to it—I think you are right—you need some independent authority on site that can deal with this, and we are going to have to sort out what the possibilities might be for that.

Mr. Hare?

Mr. HARE. Thank you, Mr. Chairman.

Just some things that trouble me, Mr. Watzman, from the prior panel's testimony, again, referring to what my colleague, Mr. Andrews, is talking about, this 12-day period before the plan was approved, and then we asked one of the people and they said it should have been a minimum of 30. We had one of the people testify that bumps were reported by miners prior to this tragedy.

I have heard it at all three of the hearings, unfortunately, we have had on this issue about intimidation, including you might get moved to a different shift, you might not be employed there again, you might have a difficult time getting a job working in a mine again.

I just want to take exception with a couple of things in your testimony and then maybe ask you and Mr. Roberts to elaborate a little bit.

You said, "The S-MINER Act would permit a miner's representative or a representative of the injured party's family to request a public hearing, a special investigation. Processes of this type tend to go beyond an objective investigation of the facts. They create an opportunity for grandstanding by parties whose interests go beyond mine, health and safety."

It would seem to me that if the family wants somebody to represent them in a tragedy, I would be interested to know what you mean by the grandstanding portion of that.

Also, you said in the testimony you submitted that "The S-MINER Act would also require underground coal mines to adopt administrative procedures to evacuate miners without the loss of pay if a lightning storm approached the mine," and then it goes on to talk about this type of approach failed to recognize that all the underground mines do not have the same risk factors.

It may be, but the point is shouldn't we always—it seems to me—be in the mindset to err on the side of the people who are

down in that mine? Shouldn't it be first and foremost the position of the industry to clear that mine out at the very hint of a possibility of a problem where we would have a loss of life or injury and without loss of pay, I might add. You know, I find this to be a little disingenuous of the industry because safety has to be first and foremost. These people have to have a place to go to work every day and come home safely, and that is what we are looking for.

And then my last question to you would be—you said you wanted to defer and not have a rush to judgment on these bills that we are talking about—how long from your perspective do you think this committee or should Congress wait before we decide to implement and before we decide to do anything? And I guess my question is: Are we willing to roll the dice. Is this industry willing to roll the dice on coming back here with more families while we debate this thing? I mean, I think we should be moving on this thing yesterday.

Mr. WATZMAN. Congressman, I do not know where to begin to respond. I think I have to respond by first saying this industry does put the safety of its people first and foremost, and I think that is demonstrated by the fact that there are approximately 14,000 mines in this country. Eighty-three percent of those worked last year without a single lost time injury. I think that shows that this industry by and large does put the safety and health of its people first. They are our first responsibility, barring anything else.

In terms of how long should we wait, we believe that we should wait until the MINER Act is fully implemented and until we overcome the technologic challenges that we have and then all of us sit down collectively and see where the gaps are. That is the approach that we would encourage Congress to take at this time.

Mr. HARE. Mr. Roberts, would you concur with that? I am assuming you have a different opinion on that. I am hoping you do.

Mr. ROBERTS. Oh, there is no question about that.

Let me point something out to the panel, if I might. This is not the first congress that has dealt with this issue of safety chambers. This is not the first congress that is dealt with this issue of communications. In 1968, after the Farmington disaster, Congress directed the agency—it was not MSHA then, but the predecessor to MSHA—"We want you to explore ways to get safety chambers into the coal mines in the United States. We also want you to come up with tracking devices," because there were 78 miners in that mine, and they could not locate them. It took 10 years to get most of those miners out of that mine.

And today, we are sitting here saying, "Well, maybe we ought to be requiring tracking devices in the United States coal mines because it is a good idea to be able to figure out where these miners are in the case of a tragedy." We are also talking about safety chambers. Well, Congress directed this back in 1969, and it still has not happened. So to suggest today that we are moving too quickly, I do not think that is the case.

Mr. HARE. Thank you.

I yield back.

Chairman MILLER. Thank you.

Mr. Bishop?

Mr. BISHOP OF UTAH. I wish to thank all four of you also for being here again.

For both the union and the association, there were some questions that were raised by the original panel, some very specific ones, and I would hope that rather than trying to do them now, if both the association and the union would be willing to try and answer in writing some questions that are put for you in writing, I think there are some specific answers that are doing that. We will try and make it so it is not redundant with the other seven organizations that are doing an investigation on this particular incident as well.

I really wish to apologize to my two friends from Utah who happen to be here. I have another appointment to go to, but, also, I would be remiss if I did not welcome you here.

Governor, we appreciate what you are doing with the state as well as the council that you have formed. I am appreciative of Ranking Member McKeon and his letter to try and make sure that the information that is needed by that panel is accessible to that panel. We will do what we can to do that.

I especially want to welcome Mr. Holland for being here. You have many hats that you talked about. In addition to the United Steelworkers Association, you are also the chairman of the State Democratic Party in Utah, and I just wanted to wish you a great deal of success in your position with the United Steelworkers. [Laughter.]

And if you would stop right there, I would be happy about it, too. No, but I appreciate you being here. This is a significant issue for all of us, and I appreciate the testimony that is being heard, and, hopefully, we will be able to continue this communication as time goes on with some specific answers to some of the specific questions that were raised earlier today.

I yield back, Mr. Chairman.

Chairman MILLER. Thank you.

Ms. Shea-Porter?

Ms. SHEA-PORTER. Thank you, Mr. Chairman.

I would like to thank all of you for being here.

The last time or the time before, I cannot even remember now, I talked about reports that will sit on shelves and that nothing will really change just because we investigated and did a report.

Something has to change right from the beginning before the accident. I heard one of the witnesses talk about how her husband said the mountain was talking to them before this happened, and there were signs that there was going to be trouble coming in this mountain. Why wasn't anything done then?

I understand that a lot of times, especially in those nonunion mines, people are afraid to speak up because there will be retribution, but we all understand that. So what do we do to make sure that miners, whether they are in a union or not in a union, can speak up?

For example, Governor Huntsman, is there an office inside your agency that allows people to call anonymously and report? And is there some way that every miner before he goes into the mines knows, "Here is the number. You can call anonymously and be safe."

I want to see some very specific actions taken. What about MSHA? Is there a telephone number? Are they trained? Does somebody come to the mines quarterly or monthly and remind everybody "We understand the politics in this mine is tough. We know that you risk losing your job if you speak up, but we are going to provide some protection and anonymity, and then we will follow up. So if you lose your job in 6 months or a year, we will be standing alongside of you and make sure that the people who punished you for speaking up pay the price."

Otherwise, all we have is reports on a shelf, and then we have families with pictures again. So I would like to start with you first, Governor. Is there some way for miners or their families to be able to reach out before the accident, and do you offer protection for them, whistleblower protection?

Governor HUNTSMAN. Well, whatever exists will be fortified as a result of what has happened. You bring up a very good point. I was approached randomly by people wanting to talk about things that existed in months gone by during an acquisition or takeover by a group, and I think that has been a problem historically, and what we are trying to remedy through the Mine Safety Commission—and no doubt this will be a key recommendation, a key finding, that we fortify this capability—is we are giving people in both Huntington and Price in open meetings a chance to speak out on all of these things that they have held in for fear that if they speak openly, there will be retribution, which is wrong. I think that has been a very cathartic thing for our communities.

We are going to look very, very closely, no doubt. I do not want to pre-guess what the commission is going to weigh in with, but the ability for people to speak out—whatever we are doing obviously is not enough if people, first of all, do not know that any such office exists—and we have a very small Office of Oil & Mining that has done this since 1977—this is a key question, and we are going to review it, we are going to look at it, but beyond that, I think in a company context or even with an association within the state, the mining association, there ought to be the ability for people to speak out about issues about which they feel a concern.

That has not been the atmosphere, apparently, and that needs to be improved.

Ms. SHEA-PORTER. And I would say even a card, if they can go home and put it on the refrigerator, so they do not even have to stand at a wall because just standing at a wall looking for a phone number is enough for other miners to know or management to know that they are looking for that number.

So you not only have to make it available to them at work, but you also have to put it in a card that they take home when they are hired and make it mandatory that they get their card when they are hired, so they do not have to ask for it.

But this seems to be the crux of the problem, that we look afterwards and we look back, and we know each time that there were some signs, but people had to feed their families next week. So you also have to have some legislation to protect them if they do speak up, and I think, you know, this has been a big problem throughout this.

I also wanted to ask Mr. Roberts a question. There were some comments here about worrying about overregulation. Do you worry about overregulation?

Mr. ROBERTS. Of course, I do not run the coal mines, but, no, I do not worry about overregulation. I think if you go back and read the history of mining—by the way, I would happen to agree that the vast majority of operators in this country try to do the right thing to my friend's here on the right surprise, but laws are written to protect those miners who might be working for an employer who does not do that.

Taking Mr. Watzman's statistics, there is 17 percent of the mines out there that did have accidents, and, unfortunately, we find ourselves right here. If you read the history of coal mining in this country, it was not until 1969—1969, that we passed any laws here at the federal government level to protect coal miners with enforcement mechanisms, and I must say my friends in the industry came here and said, "You are going to put us all out of business. That is what you are doing."

Well, they did not go out of business, but the truth of the matter is, in the 25 years before the passage of the act, 12,000 coal miners died in the nation's mines, and 25 years after the passage of that, less than 3,000. Nine thousand coal miners are alive today because Congress acted. That is my theory.

Ms. SHEA-PORTER. I think that speaks a lot about regulation.

Thank you. And I yield back.

Chairman MILLER. Mr. Holt?

Mr. HOLT. Thank you. Thank you, Mr. Chairman.

And let me begin by joining the others in expressing the heartfelt sympathy for the families, the survivors of the miners who died.

I know some might ask, "Well, what is the interest of New Jersey? Why is a New Jerseyan sitting here listening to all this about mining? There is no mining in New Jersey."

Well, I mean, there are several reasons. Certainly, all Americans' hearts go out to the families who are the victims. All working people in New Jersey feel a solidarity with these people who are in what has come to be known as the most dangerous profession in America but need not be the most dangerous profession in America.

But there is also a personal reason. I was born and reared in Lewis County, West Virginia. My father was an elected official known to some as the best friend a miner ever had, and so I take this personally, and I realize there is a lot we need to do with regulations and procedures.

But one of the things that I wanted to ask about that concerns me is whether we are doing everything we can to provide the best equipment and the best technology. I have been talking with technology companies in my district in New Jersey that work on Army communications where in battlefield situations you cannot afford to have interrupted communications, and one company, Kutta Consulting, others are working on uninterruptible communications.

You know, what just tears the hearts of Americans is when we think of miners stranded, trapped unable to communicate. That is technologically addressable. We can fix that. Are we doing everything we can? Take the area of communication or any of the other

areas of technology. Are we doing everything we can to get that technology approved or required and into the mines?

Let me first ask Mr. Roberts and then Mr. Watzman.

Mr. ROBERTS. I think in some ways it speaks to the previous question that was asked. We, in our testimony, indicate that we do not think that the industry nor MSHA is moving rapidly enough to put the most advanced technology that exists today into the mines. The MINER Act gave the industry and MSHA 3 years to see that that happened, but there is nothing that would prevent technology being placed in the mines now. We have given testimony previously on the Senate side to this issue.

Mr. WATZMAN. Congressman, I think we are doing all we can right now, and I thank all of you for your help in providing more funds to the National Institute for Occupational Safety and Health and the vital role they play.

You referenced Kutta Consulting. Their technology was tested within the last 2 to 3 weeks at two underground coal mines. There is hope for that technology. It has not reached the stage of commercial application yet. They are a small company. It will take them time to continue their tests. It will take time then for the technology to be approved for use underground.

Electronic components that go underground go through a rigorous approval within MSHA through their approval and certification center. They have to be deemed intrinsically safe. What that means is that the device itself does not present a hazard underground. That is a tedious process. It is a costly process. It is a time-consuming process.

One of the things that we think needs to be done today is while there has been much focus on MSHA in providing more funding for inspectors, similarly, we think that there should be more funding to staff up their approval and certification center. The very same people that were working there previously now have the extra responsibility of dealing with all this emergency technology without any more manpower. So that is one area where we could help dramatically to move things through the process more quickly.

But the research is advancing, not nearly as quickly as any of us would like it to advance, but that work is ongoing each and every day.

Mr. HOLT. Governor?

Governor HUNTSMAN. Obviously, this is a question that comes down to cost, but I witnessed a very interesting dichotomy as this was playing out. While we had some fine human beings trapped in the mountain, at the same time, there was a space shuttle circling the earth, and I could not help but think up there is a space shuttle representing the world's best technology.

They actually had an astronaut outside floating in space, space walking, repairing the space shuttle even while it was circling the earth, and I would look at the mountain, and I would think how is it that there could be such a dichotomy between the technology up there and what is being used here.

Now what can New Jersey do? New Jersey has some of the best brain power in the world. We have some great universities and great minds, and to think that, you know, we could begin to pool—I do not know—as an association, Mr. Watzman, or, you know,

through some other vehicle the best thinking and the best technology so that we can do underground what we are able to do in space so readily would be a wonderful thing for the most innovative, advanced and entrepreneurial country that the world has ever known.

Mr. HOLT. Thank you.

Chairman MILLER. Thank you.

Mr. McKeon?

Mr. MCKEON. Thank you, Mr. Chairman.

Mr. Roberts, you had a little discussion with Mr. Kline about statements that were given, probably some statements that were misstatements, and gave family members false hope. What would you suggest that MSHA do to control a private citizen's access?

I watched a lot of this on television, and there was a ton of media there, and what would you do to deny a private citizen—you know, Mr. Murray had a lot of people he could go talk to, and it was hard for MSHA to try to control that. What would you suggest?

Mr. ROBERTS. There are a couple of things I would suggest. One is the type personality an individual might possess. I happen to believe I could have controlled Mr. Murray, but that is a different story. I have dealt with him for about 30 years.

I want to point out that under the law, there are two different orders that MSHA can issue. One is what they did issue, is a K order, that requires the operator to submit plans and actions to the government for approval. There is a second order they can issue, and it is called a J order. That J order gives complete, total control to the United States government in these situations. They could have, if they elected to do that, pretty much fired Mr. Murray on the spot, if that is what they elected to do. They did not. But that was within their power to do that. They chose not to.

I think one of the things that would have extremely helpful in the beginning of this is if Mr. Stickler had called a press conference fairly quickly and said, "I want everyone to understand something here, that any information that comes from any source other than me or my designated representative is information you should not be printing."

Now if they elected to print it after that, they would have been on notice. Quite frankly, I believe it was a week to a week and a half before they understood—they being the media—that Mr. Stickler was in charge of this entire operation.

The second thing that should have clearly happened—and I do not want to speak for the families, but I think they spoke very well for themselves—he was very abusive to them. He should have been removed by Mr. Stickler the very first time that happened. The families that are grieving and that are struggling and in pain and hurting should never be put through something like that, and, clearly, he should—he being Mr. Stickler—have exercised his authority to get this under control.

Mr. MCKEON. That is good advice for the future.

You commented that we are not the first Congress to address this, that there was a law passed, and I think you said 1968. We passed a law last year, the MINER Act, the first mine safety legislation in 28 years, and it does take the federal government a while

to move. You know, I think we would all like to see change, but that is kind of the way things happen.

You know, the Pentagon was built during 1 year in World War II, and I have told people that if we had the same situation now, given the way our country has developed bureaucracy and ways to slow things down, that if we were to try to build the Pentagon right known in the same situation, first of all, we probably would not be able to build it. There would probably be some endangered species that would stop it.

But if we did work our way through the court process and finally started to build it, we would probably be finished with the Korean War before we would get the Pentagon built, and that is one problem that we have with the bureaucracy we have and everything that tries to slow down any way of trying to get through government morass to get anything done.

When we have the hearing on the S-MINER Act—I did not use my time earlier—the NMA was not able to participate as a witness during that hearing. I would have preferred that they did. MSHA, however, did get the chance to testify. They said that there were several areas of the legislation that would actually weaken mine safety laws.

Mr. Watzman, do you share MSHA's concerns on that? Can you highlight some of the more serious concerns about the legislation?

Mr. WATZMAN. I would say, as I did earlier, Congressman, MSHA identified specifically—and I recall them pointing to—the current requirement in MSHA's policy which was then embedded in the MINER Act last year requiring 15-minute notification of certain events. The S-MINER Act would change those criteria and, in fact, I think it was their position and the view of others outside of the agency that, in fact, it would have at the time arguably lessened or allowed for an extended response period beyond that which currently exists under existing policy.

Mr. MCKEON. Well, I certainly hope that we learn from this tragedy, those who gave their lives and the families that have been left behind and the tragedy that they have had to deal with, and we should use it to make things better going forward in the future. We should be careful as we move forward that we do not make things worse, that we make things better, and, hopefully, we can do it in a way like we did on the MINER bill last year where we had industry, we had labor, we had interested parties working together on it. That is the way it should work.

We should do it in a bipartisan way really instead of trying to make political points really so that we can avoid having the kind of hearing we have had today where we have to, you know, put these families through this kind of thing, and we can prevent these kind of disasters in the future. That is what we all want to have happen out of this kind of thing. That is the only good thing that can come out of it.

Chairman MILLER. Thank you.

I want to thank you all for your participation.

Let me just say to those who fear that we might go forward with the new law and that I would make it weaker, let me dispel from those thoughts. There is nothing in my history that would suggest that that would the case. So, if I can remove that quickly, you can

endorse the act, but I do not think that will be the complaint against the act.

But let me just say this. Some people were quite taken back when I said that mining was going to be a priority of this committee when I became the Chair of this committee. I meant it then, and I mean it now. And we are not going to go as slow as the slowest ship because, you know what, it is just as predictable as the sun comes up that we are going to sit in this committee room with another group of families, and we are going to do everything we possibly can to mitigate that from happening.

With all due respect, Mr. Watzman, I bet a lot of families would take a 75 percent chance that the communication system works as opposed to no communication system at all, and it is the price of coal that is driving people back into some of these questionable mines, and it is the price of coal that is going to pay for the margin of safety. It is just that simple.

You know, a lot of industries have to buy first-generation technology, and a lot of industries do not have the reliability that they want, but they have to proceed with it. In this case, when we continue to talk about human life, we have to deal with it in that fashion; and, you know, if I was dealing with an agency that had a much better record in terms of taking care of the safety of the miners, if I was dealing with an agency that had a much better record with compliance, I guess I could understand some of the argument.

But there are huge gaps here from what this Congress has asked to be done and what has been done and, generally, it is because we only react in the cases of a crisis. We all come together in our sorrow. We all come together in our sadness. We make pronouncements, we pass a law, and we go away, and we wait for the next tragic accident.

And if it just happens to one or two miners at a time, there is not much acknowledgement of that. But if it happens to six or eight or 10 or 12 miners, there is acknowledgement of that.

So I just want to reiterate that this committee is dedicated to getting this right, and we are willing to work with any party at any time. I think we have, you know, a refreshing possibility with the governor's commission to continue to that discussion and these kinds of advancements, and I look forward to that. But we are going to proceed because we are going to increase the margin of safety for these workers, much of which tragically is already required under existing law, but has not been properly dealt with.

So thank you very much for your insights and your testimony, and I certainly want to thank the families for their time and the effort to come and to join us here in the nation's capital so that all of my colleagues could understand what the real ramifications and the impact is of these tragic accidents. So thank you again to all of you for your participation.

Governor, Mr. Holland, Mr. Watzman and Mr. Roberts, we look forward to continuing to work with you as we advance this legislation and continue to work on oversight of this agency and its responsibilities.

Thank you very much.

Yes. If people want to submit comments or statements, we will keep the record open for a 2-week period of time for people to feel free to do that.

With that, the committee will stand adjourned.

[The submission of H.Res. 631 by Mr. Miller follows:]

H. Res. 631

In the House of Representatives, U. S., September 5, 2007.

WHEREAS on August 6, 2007, six miners, Kerry Allred, Don Erickson, Juan Carlos Payan, Brandon Phillips, Manuel Sanchez, and Jose Luis Hernandez, were trapped 1,800 feet below ground in the Crandall Canyon mine in Utah;

WHEREAS Federal, State, and local rescue crews worked relentlessly in an attempt to locate and rescue the trapped miners;

WHEREAS three rescuers, Gary Jensen, Brandon Kimber, and Dale "Bird" Black lost their lives during the rescue attempt;

WHEREAS the loss of the miners has had a tremendous effect on the local community;

WHEREAS the emergency efforts coordinated by the Emery County Sheriff's Department have been exemplary;

WHEREAS Utah is one of the largest coal producing States in the Nation, producing over 21 million tons of coal in 2005;

WHEREAS coal continues to be the economic engine for many communities;

WHEREAS during the last century over 100,000 coal miners have been killed in mining accidents in the Nation's coal mines;

WHEREAS the Nation is greatly indebted to coal miners for the difficult and dangerous work they perform to provide the fuel needed to operate the Nation's industries and to provide energy to homes and businesses; and

WHEREAS many residents of Emery County and Carbon County, Utah, and the surrounding areas, came together to support the miners' families and the community has been steadfast in its efforts to help the families of the missing and deceased: Now, therefore, be it

Resolved, That the House of Representatives——

(1) recognizes Kerry Allred, Don Erickson, Juan Carlos Payan, Brandon Phillips, Manuel Sanchez, Jose Luis Hernandez, Gary Jensen, Brandon Kimber, and Dale "Bird" Black for their sacrifice in the Crandall Canyon, Utah coal mine;

(2) extends the deepest condolences of the Nation to the families of these men;

(3) recognizes the many volunteers who participated in the rescue efforts and provided support for the miners' families during the rescue operations; and

(4) honors the long national heritage of coal mining families and supports the tradition for the future.

[Letter from Governor Huntsman submitted by Mr. McKeon follows:]

STATE OF UTAH

JON M. HUNTSMAN, JR.
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GARY R. HERBERT
LIEUTENANT GOVERNOR

December 3, 2007

The Honorable George Miller, Chair
The Honorable Howard P. McKeon, Ranking Member
Committee on Education and Labor
U. S. House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Miller and Representative McKeon:

Thank you for the recent opportunity to appear before your committee and provide my thoughts regarding the tragic events surrounding the Crandall Canyon Mine disaster that occurred in August here in Utah.

During the committee hearing on October 3 and immediately following my testimony, Senator McKeon asked me whether there were any provisions of the proposed Supplemental MINER Act (S-MINER Act), H.R. 2768, that would affect the western states mining industry. Although I indicated at that time that I did not have immediate knowledge of negative impacts, I have recently learned that the provisions of the S-MINER Act may have significant effects on the western mining industry.

As a primary example, H.R. 2768 would prohibit the use of belt air to ventilate the face of underground mines [reference proposed bill text at Section 4(d)(2)]. Although the intent of the bill is to limit conveyor belt risks, there are adequate existing requirements in federal regulations to address conveyor belt hazards without establishing a total prohibition against belt air. Such a prohibition would require the construction of additional underground entries for both material conveyance and ventilation that could create associated risks for structural integrity – particularly in the underground mines of the western U.S.

There are other issues of significant concern to Utah's underground mining industry that are contained in the proposed S-MINER Act legislation. In your future consideration of the draft legislation, I encourage you and your committee to receive additional comments from mining industry representatives to identify and properly address these concerns. The State of Utah stands ready to assist you in this effort. Please contact Director John Baza, Utah Division of Oil, Gas and Mining for additional information regarding this matter.

Sincerely,

Jon M. Huntsman, Jr.
Governor

cc: David Litvin, Utah Mining Association

[A joint statement by relatives of the mining victims follows:]

Joint Statement of the Families of the Miners Lost in the Crandall Canyon Mine Disaster

The families of those men lost in the Crandall Canyon Mine Disaster want to thank Chairman George Miller and the Committee on Education and Labor for having these important hearings and inviting the families back to have a voice in this process. The families also extend their heartfelt gratitude to the United Mine Workers of America who assisted in bringing the families from Utah to Washington, D.C. for these important hearings, despite the unfortunate fact that the Crandall Canyon Mine was not unionized. The members of these families include three widows, four fatherless children, four siblings who lost brothers, and three in-laws to lost miners. One of the greatest pains and frustrations to the families is they have felt that they

do not have a voice in what has occurred since the tragedy. They thank this Committee for giving them a voice.

While the pain of losing their loved ones remains ever present, the families have traveled to Washington, D.C. because now is the time to make change. It is the families' hope and purpose that through these proceedings, change can occur that will prevent such tragedies from ever happening again to other mining families. The United States Government needs to assure that the Mine Safety and Health Administration ("MSHA") is truly enforcing safety in the mining industry and regulating the industry, and not turning a blind-eye to dangerous mining practices. The mining industry likewise needs to place the safety of its miners above dangerous practices that increase profits at the peril of the miners and their families. MSHA needs to return to being an independent eye above the industry.

It is likewise the families' desire that they, and others so unfortunate as them, are treated with respect by mine owners and MSHA. Rescue and retrieval plans need to include family input and verification and independent entities to assure that human lives are placed above profit. Involvement of the United Mine Workers Association is an important part of this process.

The families again extend their heartfelt gratitude to this committee for moving for change. It is their hope that such change will occur that will prevent such tragedies from ever occurring in the future. MSHA and the mining industry must be responsible in the first instance, and then accountable when tragedies occur. While the loved ones of these mining families remain entombed in the Crandall Canyon Mine outside of Huntington, Utah, it is the families' desire that no one ever has to suffer what they have suffered the last two months and will continue to suffer throughout their lives.

[Signed:]

KRISTIN KIMBER.
MARGIE BYRGE.
NELDA ERICKSON.
AMANDA ROMERO.
STEVE ALLRED.
MICHAEL MARASCO.
CODY ALLRED.
SHEILA S. PHILLIPS.
CASSIE PHILLIPS.
CESAR SANCHEZ.
MARTA SANCHEZ.
AYDALIZ SANCHEZ.

[The prepared statement of Cody Allred follows:]

Prepared Statement of Cody Allred, Son of Kerry Allred

I want to thank Chairman Miller for the opportunity to provide this written statement, and the United Mine Workers Association for making it possible to attend and observe.

Though my six and one half years of experience in a local Price, Utah coal mine may not possibly compare to the knowledge of MSHA and/or the Murray Companies, my goal in submitting this statement is to urge you to ask "was it proper to consider mining this way, let alone have any men in that section of the mine?"

I also want to comment on the rescue operations done by Mr. Murray and MSHA. I have heard the question, "what could have been done differently?" My answer is that Robert Murray promised us that "cost was not an issue." Well, prove it to us! Make a 36 inch hole into the mine. This option was never attempted. There are other options out there that are not being considered to retrieve my father's body.

How is it that the Mr. Murray would promise us that he would "get the men out no matter what"? Retrieval operations have stopped. Mr. Murray has gone home. I know several men, me included, who are willing to continue working to get the men out.

Better technology needs to be developed so that in the future the men can be located promptly. The failure to rescue and now retrieve my father has had a devastating impact on my family and I. I know that for certain from personal experience.

[The prepared statement Nelda Erickson and Amanda Romero follows:]

Prepared Statement of Nelda Erickson and Amanda Romero, Wife and Daughter of Don Erickson

First off, we wish to thank Chairman Miller for the opportunity to be here to observe the Committee. We also want to thank the United Mine Workers Association and all those responsible for helping us come here.

There are many things we would like to see changed. One would be for this tragedy to never happen again. More study needs to go into why there is seismic activity occurring in underground mining areas. There needs to be developed a system of threat levels depending on mining and seismic activity.

The mine industry and MSHA are lacking newer improved communications underground and are lacking in pre-made plans in case of emergencies. MSHA could be more prepared in emergency situations.

One big concern we have is how can MSHA inspect themselves during this investigation. The families need a voice in the investigations also.

The manner in which Mr. Murray treated all family members was disrespectful and disgraceful. No other family members should ever be treated as badly as we were by Mr. Murray.

This tragedy has affected our entire family dramatically. We no longer can trust mine owners or MSHA. Our everyday lives and financial situations have been significantly impacted. We miss our husband and father.

[The prepared statement of Kristin Kimber follows:]

Prepared Statement of Kristin Kimber, Mother of the Children of Brandon Kimber

I want to thank Chairman Miller for granting me the opportunity to attend these hearings and provide this written statement. I would also like to thank the United Mine Workers Association for making it possible to be here.

I always felt the mining industry was safe due to the checks and balances of MSHA and the owners of the mines to ensure the safety and well-being of all their employees and other workers in the mine. This belief has been ripped apart by the tragedy that killed Brandon and upon learning of Mr. Murray's mining practices and MSHA's rubber-stamping the practices.

My big question is how can Mr. Murray and MSHA investigate themselves, when nine men are dead under their watch? Mr. Murray and MSHA are to blame yet they are not letting the families participate in the investigation. Obviously, oversight is needed by Congress, the United Mine Workers Association and others.

It is my prayer that this never happens again and that noone else will ever have to lose their daddy like my children lost theirs. Thank you.

[The prepared statement of Jose Luis Payan follows:]

Prepared Statement of Jose Luis Payan, Brother of Juan Carlos Payan

I want to thank Chairman Miller for the opportunity to talk about my brother, Juan Carlos Payan ("Carlos"), who died in the Crandall Canyon Mine Collapse. I also want to thank the United Mine Workers Association for generously bringing me here to observe these hearings.

Carlos died while working as a miner. He mined to help his siblings pay for school and to help his parents get ahead. Though single, he was a family man to his brothers, sisters, nieces and nephews. The wages he earned went to the family members he adored and loved. He loved his nieces and nephews and was the life of the party when they got together. He worried about those around him that they were happy and taken care of.

Carlos loved his mother country of Mexico. He also loved his adopted country, the USA.

I also worked in the Crandall Canyon Mine. While we are not mining engineers and could no way predict the tragedy that would come, the mine was making us nervous. The bump in March of this year was very scary. It required us to clean the mine floor from the coal that exploded from the sides and roof of the mine. The bump also damaged the conveyor and some equipment. Many left the mine. We trusted the mine owners that they would not mine in dangerous conditions. Our trust was misplaced.

We had no union to turn to to express our fears and for protection from making them known.

MSHA needs to be investigated to determine whether it was independent and proper in approving the mining of the barriers and in the rescue operations.

I arrived four hours after the collapse to begin my shift. I was told then that there had been a collapse. My heart sunk as I knew my brother had worked that shift. Then I saw his supervisor and my heart jumped as I believed he had gotten out. I ran to the supervisor and asked about Carlos. He admitted then that the supervisors had all left the mine for a meeting a few hours before the collapse. I was devastated and began to try to join in the rescue. I was prevented from doing such. That was the closest I have physically been to Carlos since that time. Unfortunately, he remains in a mountain, his method of death unknown. It is our hope that we can reach Carlos some day and take him to his homeland of Mexico for burial. In the mean time, my mother cries herself to sleep, as do my sisters. My father is left without a child and I am left without a brother, a brother I loved.

[The prepared statement of Casandra Phillips follows:]

Prepared Statement of Casandra Phillips, Sister of Brandon Phillips

I want to thank Chairman Miller for the opportunity to submit this statement, and the United Mine Workers Association for all their help in this difficult time.

Brandon Phillips was my brother. We did a lot together. He has a son, my nephew Gage Phillips. He is now five and is without his father. I do not want this to happen to anyone else's kids.

In the meetings with MSHA and Mr. Murray after the collapse, I got a feeling they were not telling us the truth. I wondered if they were really drilling all those holes. Without any family representative or United Mine Workers Association representative verifying it, how could we know whether they were really drilling those holes? In every meeting they would tell us the same thing. The story never changed.

I would like mine owners, operators and MSHA to do a better job of checking the mines to make sure they are really safe.

I would like to thank all the miners and the rescue teams for all their help.

[The prepared statement of Aydaliz Sanchez follows:]

Prepared Statement of Aydaliz Sanchez, Daughter of Manual Sanchez

August 6, 2007 was the day I lost my dad, Manual A. Sanchez. I could not believe what was happening. I had a call from my mother-in-law, Careleen Peacock, at about 9:30 a.m. asking me if my Dad was home. She told me that the mine had caved in. I looked out the window and his truck was not there. I called my mom and she did not know his status. She called the mine and they would not tell her anything but to just go to Huntington.

My husband and I were the last ones to talk to him. He came to my house and knocked on the door. We sat outside and talked. Then he said, "well, I have to go * * * gotta work," and left. I still remember that day and will always keep it with me.

I hate the fact that he will not see my daughter and nephew grow up. I hate the fact that he will not be able to walk my sisters, Ariana and Apoliana, down the aisle when they get married. I hate the fact that he will not be able to see my brother Arturo Sanchez graduate from college. He won't be able to grow old with my mom.

We will miss him on Thanksgiving, which is often around his birthday on November 26 th. I will miss him on Christmas when he would always come home with the most ugly tree. I will miss that!

I miss him coming down the street in his truck and his loud music, which showed me that it was him that was coming. I will miss asking him to help me with something and he would say, "do it yourself and that is how you will learn and I will watch you." That is how I learned to change the oil in a car and pull a trailer with my truck.

I have so many mixed emotions—I am mad, sad and angry. I miss him so much, his cooking and his laugh. I miss him giving me grief for marrying a "white guy." But I loved him anyway. I will miss him so much. I wish I had a grave to go to, to pay my respects. I am afraid that will never happen.

We put all our trust in Mr. Murray. That is what makes me most angry. I put my trust in Mr. Murray. He said that he would get them out dead or alive. What happened to that promise? My Dad deserves a grave and not to be left inside that mine like an animal. My Dad died working for Mr. Murray. Mr. Murray owes my dad. I want him to get him out and the other five—Mr. Allred, Mr. Erickson, Mr.

Payan, Mr. Hernandez and Mr. Phillips. These men died making Mr. Murray money. Mr. Murray needs to get them out and give us all closure.

I want to thank Chairman Miller for the invitation to give this written testimony, and the United Mine Workers Association for all it has done for us.

[The prepared statement of Marta Sanchez follows:]

Prepared Statement of Marta Sanchez, Wife of Manual Sanchez

I want to thank Chairman Miller for the opportunity to come to Washington and observe these proceedings. I also want to thank the United Mine Workers Association for its generous help to make it possible.

August 6th is when a mining tragedy changed my life and the lives of our children. We could not believe that this was happening. We thought it was a nightmare but tragically it is not. Even now I continue thinking that we lost a father, a husband who was our entire life for 23 years. I cannot believe this. I am impotently angry that my children do not have a worthy grave for their daddy. I feel frustrated that I still have not been told by Mr. Murray or MSHA whether one day having a proper grave will be possible.

My children and I cannot resign ourselves to how it is possible that he went to work one day and now we will never see him again. This has affected me and my children greatly.

I did not want to go to the family briefings by MSHA and the companies because things only got worse. They never gave us any hope for anything. The pain I feel not knowing whether my husband died instantly or whether he suffered greatly inside that mine makes me feel even more frustrated because I feel like I will never be able to rid myself of these thoughts.

It is my hope that MSHA will do more in the future so tragedies like this do not happen to other families because this terrible event has affected us physically, mentally and emotionally.

[Whereupon, at 1:35 p.m., the subcommittee was adjourned.]