



# U.S. Senate Committee on Appropriations

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## **U.S. Senate Appropriations Labor, HHS, Education Subcommittee Testimony of J. Davitt McAteer**

WASHINGTON, D.C. . The U.S. Senate Appropriations Labor, Health and Human Service, Education, and Related Agencies Subcommittee on Wednesday held a hearing to assess mine safety progress one year since the deadly coal mine tragedies in West Virginia at the Sago and Alma mines. As part of that hearing, the subcommittee heard testimony from J. Davitt McAteer, Vice President of Sponsored Programs at Wheeling Jesuit University and special advisor to West Virginia Governor Joe Manchin, III on mine safety matters. Mr. McAteer's prepared testimony is below.

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Good Afternoon Mr. Chairman, Senator Robert C. Byrd, Chairman Senator Tom Harkin, Senator Arlen Specter and Members of the Subcommittee, ladies and gentlemen. My name is Davitt McAteer. I am Vice President of Sponsored Programs at Wheeling Jesuit University and special advisor to West Virginia Governor Joe Manchin, III on mine safety matters. Thank you for this opportunity to appear today.

In the past 14 months, three tragedies, Sago, Aracoma/Alma, and Kentucky Darby stunned the nation and brought the issue of miners' safety and health to millions on the front pages of the nation's newspapers and on the nightly news cast. In quick succession, first two then a third accident occurred, resulting in multiple deaths. The public was shocked that in the 21st Century, in the United States of America, we were seeing miners killed with such frequency. Especially after years of progress in reducing the numbers of men and women killed or injured in the mines.

Sadly, but less noticed, deaths continued throughout the year, one and two at a time, miners throughout the nation have fallen not in new or novel ways, but in old carbon copy type accidents, in circumstances that have been seen hundreds, if not thousands, of times over the past one hundred plus years. In 2006, the number of fatalities in the United States mines amounted to 72, the highest number since 2001.

Thus far in 2007, six miners have died working to bring coal and minerals out of the ground, this despite the fact that the Senate, along with the House of Representatives acted last year with commitment and dispatch to pass the Mine Improvement and New Emergency Response Act of 2006 (The Miner Act).

The Miner Act, with the support of many of you, notably Senator Byrd, was an effort to address some of the most egregious shortcomings in the protection of miners' safety and health.

The question that is presented to us today is - Are the nation's miners safer today than they were on January 1, 2006? In the months since the Sago disaster, much has changed and much more is in progress, but unfortunately for the average miner underground today not much has improved from the day-to-day safety and health standpoint. For some, there has been a heightened awareness of the risks as many companies have improved the frequency and quality of training on SCRSs, but there are still not enough SCRSs underground to effectively protect the miners or meet the requirements of the Miner Act.

In the area of communications there has not been a transformation away from the antiquated, decades old, hard line phone technology. Although, there is movement toward the development of both wireless and improved wired and wireless systems, miners still rely upon the phones which were in place before January 2nd, 2006. While numerous systems have been tested by MSHA and NIOSH underground, and MSHA currently has pending twenty-one applications of communication and tracking equipment, progress toward implementing new systems is moving at a slow pace. Although one encouraging fact is that two companies have recently filed for approval of systems with the state of West Virginia in anticipation of the July 31st deadline.

In the matter of rescue chambers, few if any chambers have been installed following Sago, although I am aware of the efforts of MSHA, NIOSH and WVOMHS&T to identify and evaluate rescue chambers to comply with the upcoming West Virginia state requirements. In a recent report to NIOSH, more than fifty mines, including three coal mines were identified as having chambers installed and fifteen companies were identified as marketing chambers and related equipment.

There are, in fact, a number of deadlines that are approaching, which will require compliance on a federal and state level. A report by the Wheeling Jesuit University's Mining and Industry Safety Technology and Training Innovation Center (MISTTIC+) sets out the compliance dates for various requirements. (ATTACHMENT 1)

Recently on February 19, 2007, West Virginia Governor Joe Manchin, III and I visited Consolidation Coal Company's McElroy mine with the UMWA safety director and were briefed by MSHA, NIOSH and the WVOMHS&T officials on the status of the communication technologies. As Governor Manchin stated afterwards, we are seeing some progress, but are not yet where we want and need to be.

Progress toward improved communication systems has been aided by some companies who have actively engaged in research and have invested time and effort in testing new equipment. Sadly, others have not taken up the challenge and have indeed been suggesting that change is neither necessary nor timely.

It is appropriate to commend the National Mining Associations Mine Safety Technology and Training Commission for their report published in December of 2006 which addressed the question of how the United States mining industry could improve mine safety, technology and training and establish the United States as the global leader. The panel, headed by Dr. R. Larry Grayson did an admirable job of setting out the need for change and developing a roadmap which would address the challenges in the area of safety and health equipment.

The Commission concluded that immediately, mines should use hardened pager phones or leaky feeder systems, as an interim measure, to provide emergency communication after accidents.

Further, they urged the implementation of hybrid communication systems that combine wireless communications devices and existing metallic infrastructure or leaky feeder backbone coupled with pipes, haulage track or wire lifelines. As the report stated, these systems are now available and would be a vast improvement over the current system.

Further, the report urged MSHA and NIOSH to enhance their efforts to encourage the development of wireless communications in underground mines, including efforts to assist in developing commercial alternative communications and tracking systems.

Since I appeared before this Committee last January 23, 2006, following the Sago and Aracoma Alma mine accidents much as transpired. In April of 2006, Wheeling Jesuit University hosted the first International Mining Health and Safety Symposium in Wheeling, West Virginia sponsored by Senator Byrd, MSHA, NIOSH, the United Mine Workers of America, Wheeling Jesuit University and the Wheeling Convention Bureaus and Chamber of Commerce. This meeting brought together representatives from industry and labor, technology developers, legislators, and members of academia to focus on the future of the health and safety in the coal mining industry. The symposium also attracted a large number of mining experts from all over the world. Panels addressed questions of how to bring about improvements in mine safety and rescue, underground communications, and breathing devices. With 400 U.S. and international attendees, as well as 6,000 webcast viewers, the symposium offered an extraordinary opportunity to share information and focus on new technologies that exist in the U.S. and abroad.

On April 26-27 of this year, Wheeling Jesuit will again host this event. Our focus will include a review of the progress made over the last year in such critical areas as underground mine communications, breathing devices, mine seals, mine refuge chambers and rescue worker training.

Then on May 2nd, 2006, we convened a Public Hearing on the Sago Mine Disaster and included as part of the hearing panelists representatives of the twelve

victims families and the West Virginia Legislative Committees. For three days, witnesses from the Mine Safety & Health Administration, the West Virginia Office of Miners Health Safety and Training, the International Coal Group and victim family members testified as to the cause and reasons for the disaster. The hearing was held at West Virginia Wesleyan College in Buckhannon, West Virginia. This was the first post disaster hearing to involve the families in the process.

On July 19, 2006, with the assistance of a remarkable staff, we issued the Sago Report, and on November 10, 2006, we issued the Aracoma Alma Report.

Those reports chronicle two separate and distinct problems in the mining industry in the United States. First, at Sago we found that the probable cause of the disaster was lightning. We also found that there were nine other instances of lightning or suspected lightning ignitions in other mines in the country over the past 13 years. One of our conclusions was that the mining community must deal with this issue, unfortunately that has not come to pass. (ATTACHMENT 2) In the Aracoma Alma No. 1 Mine Fire Report, we concluded that the mine was being operated with a disregard for the safety of the miners. But equally troubling, we concluded that the MSHA inspectors and West Virginia inspectors utterly failed to detect this disregard for safety and failed to detect multiple violations of the law by Massey officials and personnel. The entire federal and state safety system completely collapsed and two men died.

I have included for your review the Executive Summaries and Recommendations we made in both the Sago and Aracoma Alma Reports. (ATTACHMENT 3 and 4)

Next, I would like to draw your attention to the five charts which we have prepared in an effort to describe the current status of each six critical areas: Seals, SCSRs, Rescue Chambers, Communications, Belt Air and Lightning. (ATTACHMENT 5) These charts set out the issues we are still facing in each area and make recommendations on what should be done.

Both Senator Byrd and Senator Harkin have called for innovative approaches to make the breakthroughs which we need to protect our nations miners. This will take different forms with each of the problems areas, Rescue Chambers, Communications, SCSRs, Lightning, Seals and Belt Air.

But, what we must be driven by is the need to act. We would all be filled with remorse if today an explosion again trapped miners and we had not put in place currently available equipment to communicate with them or to enhance their chances of rescue.

We would also be derelict if we did not pursue and force new technology in areas such as wireless communications, in Seals and in Chambers. It is not a matter of deciding between existing technology currently available or waiting for improved technology which may become available at some point in the future. We must do both. We must immediately adopt technology improvements which exist today and develop

new technology which can result in greatly enhanced protection. We must adopt such a two-pronged approach doing everything we can with what is available and forcing the technology to reach the next level, anything less would be irresponsible.

Historically, the development of safety and health equipment has lagged behind production equipment innovations. In fact, the development, manufacture and introduction of safety equipment into the workplace has been separate from the development and implementation of production equipment, resulting in a two-track system.

One result of this bifurcated system is that there is no continued renewal demand for improved health and safety equipment as there is with production equipment. Innovations in production speed, coal recovery or reduced expenses will drive the market for new production equipment. Machines which produce coal cheaper and faster will sell and replace slower less efficient machines. Health and safety equipment has no such economic motivation and therefore tends to remain stagnant, i.e., SCSRs are virtually the same models that were introduced in the 1980s and mine phones have remained largely unchanged in the last three decades.

One solution to this problem might be to incorporate safety and health requirements into production equipment specifications which might serve as a way to renew the safety technology and cause innovation and advances in safety and health equipment.

For example, SCSRs could be installed or built into equipment, including long walls, continuous mining machines and phone lines could be built into the electrical cables which provide power for the long walls and continuous miners, shuttle cars, etc. Rarely are these cables out of commission and never for extended periods of time because they are critical in the production cycle. And when new production equipment is purchased, new safety features would be already incorporated. The introduction of seat belts and air bags for passenger cars could serve as a model for introducing safety and health equipment into the production equipment manufacturing cycle.

Until such time as we incorporate safety and health equipment into the production process, it will remain the step-child, lagging behind and only added to the mining cycle.

The men and women who mine our nation's energy and minerals deserve much more. During this first decade of the 21st Century we have the opportunity to change the mining business both in this country and abroad. We must not miss this opportunity. Those who have died in the mines and their families deserve no less.

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