



U.S. Senate Committee on Appropriations

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For immediate release: Wednesday, February 28, 2007

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U.S. Senate Appropriations Labor, HHS, Education Subcommittee Testimony of Chris Hamilton of the West Virginia Coal Association

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 Mr. Chris Hamilton, Senior Vice President of the West Virginia Coal Association. Mr. Hamilton's prepared testimony is below.

I am pleased to appear before you today to report on the progress we have made in my home state of West Virginia over the past twelve months and to comment on the work that remains.

Initially, allow me to offer a couple of observations which serve to form the basis from which my testimony is constructed. First, as we previously reported, West Virginia recorded its safest mining year in history during calendar year 2005 which literally ended hours before the tragic Sago accident. The overall safety performance of this industry which was brought into question as a result of several tragic accidents last year was the culmination of many years whereby mine safety experienced gradual but continual improvement. Technological advancements in mine extractive techniques combined with an extraordinarily skilled and experienced workforce were primarily responsible for this achievement.

In fact, it was said at one of the many forums on mine safety held throughout this past year -- that the industry was a victim of its own success and consequently became somewhat complacent, and as such, did not devote an equal amount of attention to the post accident side of safety. That has now changed which we will examine momentarily.

Secondly, the Sago and Alma accidents will continue to serve as a reminder that our path forward and quest to become the safest mining industry in the world should never cease. I am pleased to report today that much work has been completed and the basis for additional safety safeguards and worker protections has been laid.

Thirdly, as we progressed throughout calendar year 2006 looking for ways to improve mine health and safety and to prevent recurrences of the accidents which claimed

human life, we witnessed an unprecedented level of cooperation from all involved parties and stakeholders from around the industry. Coal management, workers, legislators, government leaders, academicians and researcher came together and exhibited a tremendous desire to develop workable solutions to achieve our shared goal -- improve mine safety. These collective efforts culminated in two significant reforms of our state and federal mine safety acts. We feel it is important to note that this same level of cooperation among all stakeholders is continuing today as additional improvements are sought.

Lastly, We pledged our support last year to work with you and with state and federal governments to improve mine safety. Over the course of the last 12 months the industry has kept that commitment and has dedicated endless resources and countless man hours to the many processes and forums underway designed to improve coal mine safety. We reaffirm our pledge and commitment today as we move to implement measures enacted last year and strive to develop a greater level of preventive measures and improved mine safety.

During last year's hearing on January 23rd, it was mentioned that the state of West Virginia was on the eve of enacting landmark legislation to address many of the safety concerns identified last year. SB 247 established requirements for the following safety program components:

- " Immediate Accident Notification System
- " Wireless Communications Systems;
- " Additional SCRSs;
- " Mine Emergency Preparedness Plans;
- " Individual Tracking Devices;
- " Lifelines throughout mines; and,
- " Miner Training & Retraining Programs

SB 247 paved the way for the Federal Miner Act which contained many of the same provisions.

On the administrative front, certain seal material has been banned from use in state mines; several administrative rules have been promulgated to implement the provisions of SB 247 and the West Virginia Mine Safety Task Force and the West Virginia Mine Safety Board of Coal Mine Health and Safety have been engaged to review the entire gamut of mine emergency operations and post accident procedures.

Additionally, the West Virginia Board of Coal Mine Health and Safety has promulgated emergency rules creating two new state mine rescue teams -- one for the northern coal fields and one for the southern regions. These new teams are designed to enhance the state's ability to respond to mine rescue activities if that need would ever arise.

Most of the requirements set forth on the state level are currently being implemented consistent with state compliance schedules. For instance, plans for emergency shelters are due in April and plans for emergency communications and miner tracking devices are due in August. Greater numbers of SCSRs have been deployed over the past year and provisions for increased breathable air units are being explored.

Moreover every mine in this state has redesigned their mine rescue and general mine preparedness plans. All miners have been trained and retrained in mine emergency procedures and use of SCSRs.

I will include as part of my testimony, a copy of the Report and Recommendations of the Mine Safety Technology Task Force and the aforementioned legislation and accompanying rules and regulations.

The state's and industry's attention is now turned toward accident prevention and the need to ensure that the tragic accidents experienced last year do not occur in the future.

Towards this end, The West Virginia Office of Miners Health, Safety & Training and the West Virginia Board of Coal Mine Health & Safety continues their joint review of the root causes of Sago. Protections against lightning events and the overall integrity of sealed areas of underground mines are a prime focus.

Additionally, the second major reform legislation in as many years is now moving through the West Virginia Legislature. SB 68 has been approved by the state Senate and awaits House action this week.

SB 68 addresses five (5) major areas of the state's mine safety act:

- 1 establishes a pattern of violations;
- 2 addresses the design, construction, remediation and examination of mine seals;
- 3 sets forth special safeguards for the use of belt air;
- 4 codifies the Mine Safety & Technology Task Force; and,
- 5 provides for a continued for underground mine foreman fire-boss.

Our organization and our mine safety professionals have been working with West Virginia's Governor Joe Manchin and his staff, the West Virginia Office of Miners Health, Safety & Training and the UMW over the past month or so to develop the issues contained in SB 68. Once again, there is an exceptional level of cooperation among state, UMW and coal operating personnel here in West Virginia working on mine safety.

Most of the focus last year was directed at mine emergency preparedness and mine rescue . the post+accident phase. The attention of state and federal regulators and the industry is now being channeled towards prevention.

SB 68 includes:

-- a new administrative sanction that gives the Director of Mines the authority to close a mine if the conditions are such that would warrant such action. An imminent danger violation kicks-in the pattern and potential closure of a mine. The current change requires a mine to have a history of repeated S&S violations caused by unwarrantable failure which demonstrates a disregard for miner health or safety.

-- The section on belt air allows existing mines to continue to use belt air provided the director inspects the mine's ventilation system and ventilation equipment and finds the mine meeting the requirements of 30CFR 75.350 (b). New mines will have to petition the director to use belt air to ventilate working sections and the ultimate resolution of this issue is tied to the outcome of the recommendations of the national technical study panel convened under the US DOL pursuant to the MINER Act;

-- The section addressing seals requires protocols for the inspection and examination of all seals and sealed areas to be developed by the Board of Coal Mine Health & Safety. Requires remediation of all Omega seals and establishes a daily exam if not replaced. Certified engineers to sign off on new seal design if they meet the criteria established by the director and requiring the results of seal examinations to be recorded in a book prescribed by the director were retained and the initial fourteen day examination period of seals was eliminated;

-- New continuing education for underground mine foreman fire boss. These include: a/ 8 hrs of continuing education hours; b/ the content of the continuing education program to include a review of all changes in state mining laws and mine safety regulations and other subjects as determined by the Board of Miner Training, Education and Certification; c/ empowering the Board of Miner Training, Education and Certification to approve alternative training programs designed by coal mine operators; d/ providing for indefinite suspension until such individual completes a refresher program; requiring OMHST to make continuing education programs available in regions of the state based on demand for individuals possessing mine foreman-fire boss certifications who are not serving in a mine foreman-fire boss capacity; f/ providing a procedure for out of state mine foreman-fire boss or an individual with a suspended certificate to gain active status by completing a retraining program developed by the Board; and,

-- The Mine safety and Technology Task Force has been codified in state law. The nine member Task Force is charged with exploring new mine safety technologies and related apparatuses and making recommendations on their use in coal mines.

With all the new safety requirements currently being implemented it is imperative, perhaps now more than ever before, that greater cooperation with state agencies and safety leadership be demonstrated by MSHA. Many of the new state requirements have a federal counterpart or companion rule and we are presently confronted with two separate enforcement expectations and compliance schedules with several new

provisions. If we are not careful a state like West Virginia, which has led the safety path forward, could be penalized for its insightful safety leadership.

We would ask that our testimony presented to this committee last year on January 23, 2006 be incorporated in the record for today's proceeding. We believe it is a relevant part of our comments today. It accurately reflects the sentiments shared by our industry at the time and also contains useful statistical information and data surrounding the importance of our industry to state and national economies.

Thank you.

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