

United States Senate

WASHINGTON, DC 20510-4802

May 28, 2010

The Honorable Barack Obama
The White House
1600 Pennsylvania Ave. N.W.
Washington, DC 20500

Dear Mr. ~~President,~~ *Mr. President,*

This week, I joined the House Education and Labor Committee and other members of West Virginia's Congressional delegation at a field hearing in Beckley, West Virginia, to discuss mine safety in the aftermath of the explosion at the Upper Big Branch mine. I was profoundly inspired, once again, by the heart-wrenching impact of this disaster on the families and the community, as well as by the witnesses' courage in coming forward to tell Congress and the nation about their personal experiences. The testimony we heard and the proposals we received reflect an overarching and immediate call to action for industry, West Virginia, and the nation.

At Monday's hearing, Secretary Solis and Assistant Secretary Main joined us in listening to the family and friends of some of our fallen miners speak about how this tragedy has forever changed their lives. Despite their grief and heartbreak, each family represented at the hearing expressed a strong resolve and determination to put measures in place to prevent tragedies like this one from happening in the future. Their input is especially important because, as I mentioned at the hearing, they are the real experts. These families live in the coalfields of West Virginia and, in many cases, have worked underground for decades. Along with West Virginia Governor Joe Manchin, they shared several proposals about how we can best improve regulatory compliance and working conditions in our nation's coal mines, and I wanted to immediately share with you their recommendations, including:

- requiring each mine to have a certified mine safety team comprised of miners;
- requiring inspectors to choose miners to accompany them on safety inspections;
- improving rock dusting standards;
- updating mine ventilation standards;
- enhancing criminal penalties for tampering with safety equipment, such as methane monitors;
- re-establishing the U.S. Bureau of Mines;
- requiring inspectors to conduct inspections during evening and weekend shifts, rather than just during day shifts;
- taking enforcement action against operators, mine guards, or other employees who attempt to subvert inspections by providing advanced notice that an inspector is on the premises;
- requiring companies that are placed on a Pattern of Violations to pay to have inspectors at the mine site when it is in operation;
- strengthening whistleblower protections;

- piercing the corporate veil to hold upper management, Directors, and CEOs accountable for the safety of miners; and
- holding state and federal inspectors accountable for the mines they inspect.

I urge your Administration to carefully consider the merit and importance of each of these suggestions, along with other actions that need to be taken, as we work together to enact legislation to protect the health and safety of our nation's miners.

The MSHA investigation of the Upper Big Branch tragedy will provide critical information about this tragedy, and may require further state and federal action, but there is a great deal of information that has already come to light. There is no reason to wait to take action to address known problems.

To that end, I believe there are several important steps that we must take immediately. First, it is necessary that we reform the Pattern of Violations process so that wrongdoers are held accountable. This can be accomplished by removing the unnecessary regulatory step of placing mines on a "potential" Pattern of Violations and by removing the requirement that only final orders be considered when determining whether a mine should be placed on a Pattern of Violations. It is unimaginable to think that no mine has ever officially been placed on a Pattern of Violations, when we have clear evidence that some operators routinely put production ahead of safety. We must also provide whatever resources are necessary to reduce the appeals backlog as soon as possible. I remain convinced that we can and must reduce the backlog within 2 years, so that the deterrent effect of mine safety penalties are not delayed for several more years into the future.

Additionally, we must find ways to further protect whistleblowers and empower miners to come forward to report safety concerns. One important solution is to charge companies and supervisors criminally when they jeopardize a miner's livelihood by firing him or her in retaliation for reporting safety issues. A complimentary approach is to provide dedicated resources for a joint Department of Justice and Department of Labor Mining Crimes Task Force to investigate and prosecute all criminal violations of our nation's mining laws. Miners should also be allowed to proactively identify and correct unsafe working conditions. As an example, employees at many automobile manufacturing plants have the ability to completely stop production on an assembly line if they spot a problem. We need to demand that the mining industry adopt similar practices.

Finally, we must hold all levels of a corporation accountable for workplace safety, starting with senior executives. Many of the safest mines that I am aware of have CEOs and Directors who place a priority on safety, recognize that their companies can be more competitive when their employees are safe, and seek the input of the miners themselves when addressing safety problems. Every mine in the country should adhere to these principles.

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Coal miners are critical to our nation's economy and Americans depend on them far more than they realize or appreciate. Nearly half of this nation's electricity comes from coal miners who go to work everyday to make sure that there is enough coal available to power our homes, schools, and businesses and to manufacturer the goods and materials on which our country depends. West Virginia coal miners should be able to go to work and dig coal confident that they are working in the safest conditions possible. Their families should not have to worry about losing their loved ones simply because they go into the mines to work and provide for their families.

Thank you in advance for your commitment to protect the safety of all workers in our country, particularly our nation's coal miners.

Sincerely,

A handwritten signature in blue ink that reads "John D. Rockefeller IV". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

John D. Rockefeller IV