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DEPARTMENT OF LABOR  
MINE SAFETY AND HEALTH ADMINISTRATION  
EMERGENCY TEMPORARY STANDARD-SEALING OF ABANDONED AREAS  
JULY 17, 2007 PUBLIC HEARING  
DENVER, COLORADO

- Panel members:  
WILLIAM BAUGHMAN  
JAVIER ROMANACH  
CLETE STEPHAN  
PATRICIA W. SILVEY  
ERIK SHERER  
ROBERT STONE

1 MS. SILVEY: Can we get started, please.  
2 Good morning. My name is Patricia W. Silvey. I am  
3 the Director of the Mine Safety and Health

4 Administration's Office of Standards, Regulations,  
5 and Variances. I will be the moderator of this  
6 public hearing on MSHA's emergency temporary  
7 standard, or ETS, for sealing abandoned areas in  
8 underground coal mines.

9 On behalf of Richard E. Stickler,  
10 Assistant Secretary of Labor for MSHA, I want to  
11 welcome all of you here today.

12 The members of the MSHA panel, and I  
13 must say who were instrumental in preparing this,  
14 developing this ETS, I will introduce them at this  
15 time. To my left is Clete Stephan with MSHA's  
16 Pittsburgh Safety and Health Technology Center;  
17 Javier Romanach, and he's our lawyer on the project.  
18 William Baughman, who is with my office, the  
19 Regulatory Specialist. To my right is Erik Sherer.  
20 Erik is with Coal Mine Safety and Health, and to his  
21 right is Robert Stone, and Robert is the Economist  
22 in my office.

23 I would also like to introduce a couple  
24 of people in the audience who were very pivotal in  
25 helping to develop this project. Deborah Green, who

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1 is also our lawyer, and I mentioned last week, we  
2 got to have a little humor before we start. I  
3 mentioned to some other people who had their  
4 attorneys with them that I had my attorneys with me,  
5 so for all of the attorneys in the audience don't  
6 think anything and I said I had good attorneys too,  
7 by the way.

8 And with Deborah, sitting back there  
9 with Deborah is Dennis Wintowski, and he's with our

10 field Coal Mine Safety and Health District.

11           Before we start this hearing this  
12 morning I would like to ask all of you if you  
13 wouldn't mind, please, to join me in a moment of  
14 silence for the miners who died in the Sago and the  
15 Darby accidents and for all the miners who died  
16 during 2006 and the miners who died so far this  
17 year, 2007, so if you would join me, please, in a  
18 moment of silence.

19           Thank you. As some of you know, this is  
20 the third of four hearings on the emergency  
21 temporary standard. The first hearing was held in  
22 Morgantown on July 10th; the second hearing in  
23 Lexington on July 12th. The next hearing will be  
24 held in Birmingham, Alabama, on July 19th. In the  
25 back of the room we should have copies of the ETS

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1 and the Federal Register notice extending the  
2 comments period to August 17th.

3           The purpose of these hearings is to  
4 receive information from the public that will help  
5 us evaluate the requirements in the Emergency  
6 Temporary Standard and produce a final rule that  
7 protects miners from hazards associated with sealed  
8 abandoned areas. We will also use the data and  
9 information gained from these hearings to help us  
10 craft a rule that responds to the needs and concerns  
11 of the mining public so that the provisions can be  
12 implemented in the most safe, effective and  
13 appropriate manner.

14           We published the Emergency Temporary

15 Standard in response to the grave dangers that  
16 miners face when underground seals separating  
17 abandoned areas from active workings fail. Seal  
18 failures at the Sago mine and the Darby No. 1 mine  
19 in 2006 raised awareness of the problems with  
20 construction and design of alternative seals. MSHA  
21 investigated these and other failures of alternative  
22 seals and conducted in-mine evaluations of these  
23 seals. MSHA also reviewed the history of seals in  
24 the United States as well as other countries.

25 On February the 8th, 2007, NIOSH issued

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1 a draft report titled "Explosion Pressure Design  
2 Criteria for New Seals in U.S. Coal Mines." The  
3 report makes recommendations for seal design  
4 criteria which would reduce the risk of seal failure  
5 due to explosions in abandoned areas of underground  
6 coal mines.

7 Based on MSHA's accident investigation  
8 reports, the draft NIOSH report, MSHA's in-mine seal  
9 evaluations and review of technical literature, MSHA  
10 has tentatively determined that new standards are  
11 necessary to immediately protect miners from hazards  
12 associated with sealed areas.

13 The Emergency Temporary Standard  
14 addresses seal strength, design and installation;  
15 construction and repair, sampling and monitoring and  
16 training.

17 This ETS was issued in accordance with  
18 section 101(b) of the Federal Mine Safety and Health  
19 Act of 1977, or the Mine Act and Section 10 of the  
20 Mine Improvement and New Emergency Response (MINER)

21 Act of 2006. Under Section 101(b) of the Mine Act,  
22 the ETS is effective and superseded by a mandatory  
23 standard and, as most of you know, a mandatory  
24 standard must be published no later than nine months  
25 after publication of the ETS.

6

1 The ETS also serves as the Agency's  
2 proposed rule and commences the regular rule-making  
3 process.

4 As stated earlier, we will use the  
5 information provided by you to help us decide how  
6 best to craft the final rule. The preamble to the  
7 rule discusses the provisions of the ETS and also  
8 includes a number of specific requests for comments  
9 and information. As you address the provisions of  
10 the ETS and any of the specific requests for  
11 comments either in your comments to us today or  
12 those sent to us in Arlington, please be as specific  
13 as possible with respect to the impact on miner  
14 safety and health, mining conditions and the  
15 feasibility of implementation.

16 At this point I want to reiterate the  
17 specific requests for comments and information that  
18 we included in the preamble to the ETS.

19 In the ETS, MSHA considered a  
20 performance-based approach to the strength  
21 requirement for seals. However, MSHA includes  
22 specific pounds-per-square-inch numbers when  
23 referring to the strength of seals in the ETS as the  
24 Agency believes this represents a more appropriate  
25 approach. MSHA is interested in receiving comments

1 on the Agency's approach to the strength requirement  
2 for seals.

3 MSHA is also interested in receiving  
4 comments on the appropriateness of a three-tier  
5 approach to seal strength and the ETS and the  
6 strategy in the ETS for addressing seal strength  
7 greater than 120 psi. Under Section 75.335(a) of  
8 the ETS, new seals must be constructed and  
9 maintained to withstand a 50 psi overpressure when  
10 the atmosphere in the sealed area is monitored and  
11 is maintained inert; 120 psi overpressure if the  
12 atmosphere is not monitored and maintained inert or  
13 an overpressure greater than 120 if the atmosphere  
14 is not monitored, not maintained inert and other  
15 specified conditions are met, and those conditions  
16 include, as many of you know, pressure piling, the  
17 likelihood of a detonation and homogeneous  
18 atmosphere throughout the sealed area we include in  
19 the ETS.

20 MSHA requests comments on the  
21 appropriateness of the Agency's strategy for  
22 addressing seal strength greater than 120 psi. If  
23 commenters believe a different regulatory approach  
24 should be developed for the final rule, MSHA would  
25 like commenters to provide the details for such a

1 strategy, the rationale for such a strategy, and  
2 feasibility of using such a strategy.

3 MSHA seeks the views of the mining  
4 community regarding whether there are other

5 effective alternatives to the requirements in the  
6 ETS with respect to providing the most appropriate  
7 and protective action for miners exposed to seal  
8 hazards. Commenters should provide supporting data  
9 and specific alternatives, including information on  
10 technological and cost implications.

11 Most alternative seals constructed  
12 before July 2006 were constructed to withstand a  
13 static horizontal pressure of 20 psi. MSHA  
14 considered requiring mine operators to remove the  
15 existing seals and replace them with seals that  
16 would stand at least 50 psi overpressure. MSHA also  
17 considered whether to require mine operators to  
18 build new seals out by the existing seals or  
19 structurally reinforce them. At this time MSHA  
20 believes that replacing existing seals is  
21 impractical and in some instances may introduce  
22 additional safety hazards. MSHA seeks comments on  
23 the feasibility of including in the final rule a  
24 requirement that existing seals be removed and  
25 replaced with a high strength seal.

9

1 MSHA also considered whether to require  
2 mine operators to reinforce existing seals. The  
3 Agency is concerned with the feasibility of this  
4 option and whether such a requirement could expose  
5 miners to greater hazards. MSHA, however, will  
6 continue to explore technological advances  
7 addressing feasible and safe methods to reinforce  
8 existing seals in underground coal mines.  
9 Commenters are encouraged to submit information and

10 supporting data regarding new technologies that  
11 reinforce seal strength.

12 MSHA believes that the sampling strategy  
13 in the ETS will yield results that reflect a  
14 reasonable representation of the atmosphere in the  
15 sealed area. MSHA requests comments addressing the  
16 sampling approach in this ETS. The Agency is  
17 particularly interested in comments concerning  
18 sampling, and the sampling frequency, including  
19 sampling only when a seal is outgassing. MSHA also  
20 requests comments on whether another approach is  
21 more appropriate for the final rule such as when the  
22 seal is ingassed.

23 MSHA also requests comments, information  
24 and experiences of the mining community concerning  
25 sampling sealed areas.

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1 In the ETS, mine operators must develop  
2 a sampling protocol to be included in the  
3 ventilation plan and submitted to the district  
4 manager for approval. The ETS requires the mine  
5 operator to implement the action plan specified in  
6 the sampling protocol or to withdraw all persons  
7 from the affected areas when specified  
8 concentrations are encountered. Action plans must  
9 provide protection to miners equivalent to  
10 withdrawal and address the hazards presented and  
11 actions taken when gas samples reach levels  
12 indicated in the ETS.

13 Historically, when methane levels  
14 reached 4.5 percent in active areas of mines, miners  
15 were withdrawn from the areas that were dangerous



16 due to the high concentrations of methane.

17 MSHA requests comments on this approach  
18 and whether this provides adequate protection of our  
19 mines. Commenters are encouraged to submit specific  
20 language with supporting data for MSHA to consider  
21 for development of a final rule.

22 MSHA is soliciting comments to  
23 establishing a sampling baseline. The ETS requires  
24 that mine operator specify procedures in the  
25 protocol to establish a baseline analysis of oxygen

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1 and methane concentrations at each sampling point  
2 over a 14-day sampling period. The baseline must be  
3 established after the atmosphere in the sealed area  
4 is inert or the trend reaches equilibrium. MSHA is  
5 particularly interested in comments concerning the  
6 establishment of a baseline.

7 MSHA also requests comments, information  
8 and experience with sampling, including data,  
9 analytical information, establishment of equilibrium  
10 and trends.

11 The Agency is requesting comments on the  
12 appropriateness of the requirement concerning the  
13 use of open flames or arc associated with cutting  
14 and soldering activities within 150 feet of a seal  
15 and the feasibility of this requirement.

16 The Agency suggests that commenters  
17 provide specific rationale in support of their  
18 position and any alternatives, if applicable.

19 The ETS requires each newly constructed  
20 seal to have at least two sampling pipes. One

21 sampling pipe must extend into the sealed area  
22 approximately 15 feet; the second sampling pipe must  
23 extend into the middle of the intersection with the  
24 first connecting crosscut. The ETS affords some  
25 flexibility to placement of the sampling pipe to

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1 allow more accurate sampling strategies to better  
2 protect miners. Therefore, the ETS requires that  
3 the location of sampling points be specified in the  
4 protocol provided under the ETS. The Agency  
5 requests comments regarding the appropriate number  
6 and location of sampling pipes for the final rule.

7           The ETS requires that  
8 corrosion-resistant water drainage system be  
9 installed in the seal at the lowest elevation within  
10 the set of seals, and that seals not impound water.  
11 MSHA requests comments on this requirement for water  
12 drainage systems, including effective alternatives  
13 for a final rule.

14           MSHA requests comments on the  
15 appropriateness of the ventilation plan contents.  
16 As you know, the ETS requires that certain  
17 information be included in the ventilation plan.  
18 The Agency asks whether additional information  
19 should be included.

20           When submitting information supporting  
21 your positions, please include data related to  
22 projected costs and technological feasibility.

23           The ETS requires removal of insulated  
24 cables from the area to be sealed and removal of  
25 metallic objects through or across seals. MSHA

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1 believes that removal of the insulated cables and  
2 metallic objects through or across seals is feasible  
3 and will not involve significant technical or  
4 practical problems. The Agency, however, solicits  
5 comments on these measures.

6 MSHA is also requesting comments on the  
7 scope and possible alternatives concerning site  
8 preparation, examinations, training and  
9 notifications related to the Agency regarding  
10 construction and repair of seals.

11 MSHA has prepared a Regulatory Economic  
12 Analysis for the ETS. The Regulatory Economic  
13 Analysis contains the Agency's estimated supporting  
14 cost data. MSHA requests comments on all of the  
15 estimates of costs and benefits presented in the ETS  
16 and in the REA.

17 To date, MSHA has received one comment  
18 on this emergency temporary standard. You can view  
19 comments, and I do believe you can view this one  
20 comment now on the Agency's website at [www.msha.gov](http://www.msha.gov)  
21 under the section entitled Rules and Regulations.

22 MSHA has answered a number of compliance  
23 questions from the public concerning a range of  
24 issues in the ETS. These questions and answers are  
25 posted on MSHA's Seals Single Source Page, and I

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1 believe we are in the process -- I said this last  
2 week -- you know, you find yourself saying certain  
3 things over and over, but I believe we are in the  
4 process of getting a third set of compliance

5 questions out right now. They should be out soon.

6           As many of you have who have attended  
7 these public hearings with us know, the format is as  
8 follows: Formal rules of evidence will not apply  
9 and this hearing will be conducted in an informal  
10 manner. Presentations may be limited to 20 minutes  
11 at the discretion of the moderator. The panel may  
12 ask questions of the witnesses and the witnesses may  
13 ask questions of the panel.

14           Those of you who have notified MSHA of  
15 your intent to speak or have signed up today will  
16 make your presentations first. After that, others  
17 can request to speak. If you wish to present  
18 written statements or information today, please  
19 clearly identify your material, but you may also  
20 submit comments following this public hearing. You  
21 must submit them to us by August 17th, the close of  
22 the comments period, and they may be submitted by  
23 any one of the methods identified in the ETS.

24           MSHA will post the transcripts from the  
25 public hearings on our website. Each transcript

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1 should be posted there approximately one week after  
2 the completion of the hearing. I called the office  
3 this morning and I'm told that the transcript from  
4 Morgantown is in, so it should be posted shortly.

5           And at this point, before I make my last  
6 statement, before people speak, I do want to iterate  
7 to people, and I say again, we appreciate the people  
8 here who are in attendance and who will speak, but  
9 also those who are in attendance and who may not  
10 have signed up to speak, we appreciate your interest

11 in this rule-making, but I do encourage persons, if  
12 they have information to say to us, to submit to  
13 you, to give to us, to please submit it in written  
14 form. You can send an e-mail to me and it's going  
15 to be considered as part of this rule-making record,  
16 but if you have something to say to me that you want  
17 to be considered in this rule-making, send it to us  
18 through the methods that we have identified in the  
19 ETS, and I can't stress that strong enough really.

20 We will begin now with the persons who  
21 requested to speak. Please, if you would, begin by  
22 clearly stating your name and organization and to  
23 make certain that we can get an accurate record and  
24 also if you would, spell your name for the reporter.

25 Our first speaker today will be Robert

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1 Koch with the Colorado Mining Association.

2 MR. KOCH: Good morning. I have three  
3 extra copies of what I'm going to say here.

4 Good morning. My name is Bob Koch,  
5 K-O-C-H. I'm the chief engineer at Oxbow Mining,  
6 Elk Creek Mine in Somerset, Colorado. I have been  
7 asked to speak this morning on behalf of the  
8 Colorado Mining Association.

9 The Colorado Mining Association  
10 appreciates the comments on the sealing of abandoned  
11 areas Emergency Temporary Standard issued on May 22,  
12 2007. CMA is an industry association, founded in  
13 1876, whose more than 700 members include the  
14 producers of coal and other minerals in Colorado and  
15 throughout the west. All active coal mines in

16 Colorado are members of the CMA. Colorado is also a  
17 significant underground coal producing state, with  
18 seven active underground mines.

19 The ETS, as written, does not give  
20 adequate consideration to the sealing requirements  
21 of western United States coal mines. In Colorado,  
22 mines are primarily longwall operations which,  
23 unlike most operations in the eastern United States,  
24 install seals on an almost continuous basis as the  
25 longwall retreats. This process of progressive

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1 sealing is utilized to reduce the potential for  
2 spontaneous combustion in the active gob and upon  
3 completion of the panel, to isolate that gob from  
4 subsequent active gob areas. These seals, commonly  
5 referred to as "gob isolation seals," are necessary  
6 to insure miner safety in mines that have a  
7 propensity for spontaneous combustion. There are  
8 serious issues with the ETS requirements for seal  
9 design, construction, certification, sampling, and  
10 inerting which affect most western underground coal  
11 mines.

12 None of the seals currently approved by  
13 MSHA are applicable to Colorado mines. These seals  
14 are approved for heights less than those typically  
15 mined in Colorado, or they are designed for areas  
16 that will not be subject to significant convergence.  
17 Gob isolation seals are certainly subjected to  
18 significant convergence.

19 Some mines in Colorado are electing to  
20 install 50 psi seals and monitor the gob. Others  
21 are choosing to install 120 psi seals and eliminate

22 the need to sample the gob. In either case, with  
23 current longwall advance rates gob isolation seals  
24 are often installed every three days or less. Seal  
25 designs must consider the need to constructing seals

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1 in a timely manner to avoid longwall production  
2 delays. At times, delays in longwall advance have  
3 caused significant roof control issues.

4 Complicated seal designs which take excessive time  
5 to install are infeasible for gob isolation seal  
6 applications. For example, the currently MSHA  
7 approved seals containing steel reinforcement cannot  
8 be built timely, will expose miners needlessly to  
9 side abutment loading as the longwall retreats, and  
10 will subject the longwall face to increasing ground  
11 pressures as the face waits for seal construction to  
12 be completed.

13 Pumped seals properly engineered are  
14 acceptable to the Colorado mines. However, it must  
15 be stressed that a proper engineering design does  
16 not include excessive thickness. Seal  
17 manufacturers report that MSHA's Technical Support  
18 group and NIOSH have taken an excessive conservative  
19 approach in multiple design parameters. For  
20 example, Mi nova TekSeals are under consideration  
21 with a safety factor compounded with conservative  
22 material shear strength, conservative compressive  
23 strength, and ignoring the benefit of convergence on  
24 the plug seal. Combine these design factors to a  
25 seal strength that has been conservatively increased

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1 to insure its resilience to an explosion, and the  
2 result is a seal strength that far exceeds its  
3 intended purpose, an over-design which yields a seal  
4 thickness that is impractical for gob isolation  
5 seals. MSHA must approve seals that meet the 50 psi  
6 or 120 psi requirements without over-design that  
7 renders the seal impractical for gob isolation  
8 applications.

9                   Section 75.227(a)(2) as written requires  
10 removal of metallic objects which includes roof and  
11 rib support materials at a seal location. Many  
12 Colorado mines with higher seam thickness have well  
13 established practices or roof control plans that  
14 require primary roof and rib support in the form of  
15 wire screen and bolts to adequately protect miners  
16 from the dangers of roof and/or rib sloughage.  
17 Removal of any of this protection not only exposes  
18 miners to potentially adverse ground conditions, but  
19 will likely reduce the integrity of the roof and  
20 ribs at the perimeter of the seal. The potential  
21 for serious injury is far greater in removing this  
22 support than the remote chance of an electrical  
23 current entering the gob through this grounded  
24 material.

25                   In fact, there has already been at least

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1 one accident at a Colorado mine involving the  
2 removal of wire mesh at a seal location. Further,  
3 the exclusion of sampling tubes, water traps, and  
4 metal form ties from this requirement is  
5 inconsistent in that the regulation does allow



6 certain electrical conductors to penetrate the seal.  
7 The rule does not address de-gas, inerting, or  
8 pre-sealing ventilation pipes that may be needed to  
9 effectively control the gob atmosphere.

10 It should also be noted that the report  
11 of investigation on the Sago mine explosion stated  
12 that bolts and mesh were well grounded at regular  
13 intervals to the roof of the sealed area, and,  
14 therefore, would not support a large voltage  
15 potential.

16 Section 75.337(a)(2) should be  
17 re-written to prohibit only those metallic items not  
18 required for ground support, installation of seals,  
19 and monitoring and/or control of the atmosphere  
20 behind the seals.

21 The requirement of Section 75.335(d) to  
22 install at least two sampling pipes in each seal is  
23 excessive and impractical. First, since sampling is  
24 not required at every seal in a set of seals, there  
25 is no logical reason to require tubes in all seals.

21

1 Second, gob isolation seals are installed in  
2 crosscuts immediately behind the longwall face. It  
3 is therefore impossible to meet the requirement to  
4 extend one tube into the center of the first  
5 connecting crosscut in by the seal as that  
6 intersection will no longer exist once the longwall  
7 mines pass the crosscut where the seal must be  
8 installed. Installing sampling tubes near the  
9 intersection is not practical as crosscut conditions  
10 often quickly deteriorate on the gob side of the

11 seal. Clearly, this requirement does not consider  
12 gob isolation sealing applications in western mines  
13 and Section 75.335(d) should be re-written to  
14 eliminate sampling tubes from gob isolation seals.

15 I want to digress here just a minute and  
16 speak on above behalf of the Elk mine. There's a  
17 Section 75.364(b)(4) which requires examination of  
18 all seals along the returns and that causes an issue  
19 in coal mines that have abutment pressures out in  
20 front of the tailgate in that we are asked to  
21 inspect those seals clear up to the face. We are  
22 not required to inspect anything behind the face,  
23 but to the face they must be inspected and  
24 oftentimes those seal conditions in the area  
25 approaching those seals, when you get the abutment

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1 pressure in the tailgate makes examination of those  
2 seals that are perhaps maybe going to be passed that  
3 day anyway very difficult to examine, if not  
4 impractical and unsafe to examine. We will include  
5 written comments later on this particular point, but  
6 we believe it is an issue that ought to be addressed  
7 and can be addressed as part of this ETS to handle  
8 examination of seals within that source, the  
9 abutment pressure on the tailgate.

10 Okay. Back to my CMA comments.

11 Requiring a professional engineer to  
12 conduct or have oversight of seal installation is  
13 impractical in most mines, especially mines  
14 utilizing gob isolation seals. A professional  
15 engineer would need to be at the construction of  
16 every seal to insure that all parameters are mete

17 before certifying the seal. Colorado mines  
18 utilizing progressive sealing may install over 100  
19 seals annually, with the seals being installed on  
20 every shift. The number of seals and the timing of  
21 seal installation make this requirement impractical.  
22 In addition, many mines, especially smaller  
23 operations, do not have a professional engineer on  
24 staff. Further, the certification of the seal  
25 construction by a certified person supervising the

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1 construction, the countersigning of seal  
2 installation and repair inspections by the mine  
3 foreman, and the certification by a senior mine  
4 management official make a professional engineering  
5 certification redundant and unnecessary. Section  
6 75.336(b)(2) should be eliminated.

7 Section 75.335(b)(1) requires daily  
8 examinations and, if necessary, an alternative plan  
9 when seals ingas on a regular basis. However, seals  
10 can be ingassing without being a concern when the  
11 pressure differential across the seal is small, the  
12 seal is in good condition, the leakage is minimal,  
13 and the gob remains inert. Slight leakage, assumed  
14 only by the measured pressure differential, may not  
15 be sufficient to affect the inert nature of the gob  
16 behind the seal. In these cases, neither increased  
17 sampling or examinations, nor an alternative plan,  
18 are necessary. Section 75.335(b)(1) should be  
19 amended in the third sentence to begin, quote, if a  
20 seal is ingassing during the weekly examination, and  
21 the sample collected shows a change in the inertness

22 of the gob atmosphere, end quote.

23           The concentrations for an inert  
24 atmosphere as defined in Section 75.335(b)(3)  
25 include a safety factor to allow for inaccuracies in

24

1 certain detection equipment. While this may be  
2 appropriate for hand-held devices, it is unnecessary  
3 for gas chromatograph sampling. The regulation  
4 should provide for a tighter range when gas  
5 chromatograph samples are taken. The atmosphere  
6 should be considered inert when the oxygen  
7 concentration is less than 12%; the methane  
8 concentration is less than 5%; or the methane  
9 concentration is greater than 15%. Given that  
10 methane concentrations of up to 4.5% have been  
11 allowed in bleeders without the need for an action  
12 plan, there is no need to require an action plan for  
13 concentrations as low as 3%.

14           Section 75.336(b)(3)(iii)(B) requires  
15 the operator to provide information for approval in  
16 the ventilation plan for safety precautions taken  
17 prior to seals achieving full design strength.  
18 NIOSH has recommended miners be withdrawn from the  
19 affected area until seals reach design strength and  
20 the gas mixture in the sealed areas reaches an inert  
21 status. MSHA concurs with this in its June 11, 2007  
22 issuance of Seal ETS Compliance Assistance Questions  
23 and Answers by requiring withdrawal from the  
24 affected area. Accordingly, even if nitrogen is  
25 injected to accelerate getting the sealed atmosphere

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1 to inert status, there remains the issue of cure  
2 time on concrete, mortar, and/or lightweight cement.  
3 At least twice each year in most Colorado mines when  
4 longwall panels are sealed, a suspension of  
5 production for up to 28 days may be inevitable with  
6 this constraint. Considering the volume of longwall  
7 coal produced in Colorado and across the United  
8 States where progressive sealing is utilized, the  
9 halting of production mine-wide for multiple moves  
10 annually will have a substantial negative impact on  
11 our nation's energy supply. Additionally, the  
12 economic burden placed on mine operations while  
13 mines are idled for extended periods will negatively  
14 affect the economic well-being of employees,  
15 suppliers, and entire communities.

16                 This approach by MSHA treats a non-inert  
17 atmosphere and uncured seals as an imminent danger  
18 by requiring the withdrawal of miners. For an  
19 actual imminent danger to exist, in addition to an  
20 explosive mixture of methane there must be an  
21 ignition source present with a reasonable  
22 expectation of the ignition source creating an  
23 explosion. Sealed areas contain no likely ignition  
24 sources, thus an imminent danger is not present and  
25 miners should not be required to withdraw. Also, if

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1 an inert mixture is present, uncured seals do not  
2 present an imminent danger as there is no explosion  
3 potential. Therefore, MSHA should not require  
4 withdrawal of miners during the inerting and curing  
5 processes.

6                   The prohibition of welding, cutting, and  
7 soldering with an arc or flame within 150 feet of a  
8 seal as stated in Section 75.335(c) is unreasonable  
9 and should be eliminated. With progressive sealing,  
10 the longwall face and associated equipment is  
11 frequently within 150 feet of the adjacent gob  
12 isolation seals. Repairs to this equipment  
13 sometimes requires the uses of welding or cutting.  
14 The existing statutory provisions of Section  
15 75.1106, along with the requirements of PPL P06-V-1  
16 provide adequate protection for miners conducting  
17 welding and cutting on the longwall face. In  
18 addition, the significant quantity of air  
19 ventilating a longwall face is sufficient to prevent  
20 any tailgate gob isolation seal leakage from ever  
21 reaching the welding or cutting operations on the  
22 face.

23                   In the preamble to the ETS, comments  
24 were solicited regarding replacement of existing  
25 seals. Replacing existing seals is often

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1 impractical due to access constraints. It can also  
2 be extremely unsafe with miners exposed to inert gob  
3 air mixing with fresh air, roof control problems  
4 brought on by increases in abutment pressures in the  
5 seal areas, and substantial hand-carrying of seal  
6 construction materials to remote locations. Unless  
7 a seal is in disrepair, replacing of seals should be  
8 discouraged.

9                   In closing, the ETS as written attempts  
10 to standardize the installation of seals throughout  
11 the industry. An unintended consequence is that it

12 removes all flexibility of MSHA district managers to  
13 deal with local mines on a case-by-case basis and  
14 using the district's knowledge of the mining  
15 operations to best handle mine conditions and  
16 operating systems to authorize the most effective  
17 sealing program.

18 Thank you for the opportunity to speak  
19 on behalf of the Colorado Mining Association and its  
20 member mining operations. CMA will be preparing  
21 additional written comments and will submit them  
22 prior to the August 17, 2007 deadline.

23 MS. SILVEY: Thank you. First of all,  
24 I'm struck by your comments at the end and for  
25 everybody here, I give you credit. You called it an

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1 unintended consequence and we appreciate your  
2 labeling it like that, but you said you thought the  
3 ETS was an attempt to standardize the installation.

4 Now, I would say to that, and I said  
5 this earlier, the ETS as is presently constructed is  
6 written to have seal approval. The process is a  
7 two-step process and the first process is approval  
8 by the design application by our office of tech  
9 support and the operator can send in a design for  
10 application of 50 psi, 150 psi, or if the case ever  
11 came up and had to be greater -- I'm sorry -- 120,  
12 excuse me -- if the case ever came up greater than  
13 120 psi seal. But the second step would be to take  
14 a specific design application and to install it in  
15 the mine and there the operator would indeed work  
16 with the district manager in the installation

17 process, and that process would be, the particular  
18 seal installation would be dependent on particular  
19 mining conditions, so I think we do indeed know that  
20 the district manager is going to have to play a role  
21 in this seal implementation, but to get back to  
22 your -- to get back to the first part of your  
23 comment about the gob isolation seals, and I know  
24 that you are all dealing when the PIB was in effect  
25 last year, so you all are dealing with this issue

29

1 right now and you said that some of the things that,  
2 or some of the problems that you all have is in  
3 terms of the designs have to be constructed in a  
4 timely manner. Some of the delays that you -- are  
5 you encountering delays right now? In your mind  
6 now, you are using -- you said some operators are  
7 choosing 50 psi, some are choosing 120. Have you  
8 had any problems in getting those approved, the  
9 designs approved?

10 MR. KOCH: The seals that are in use  
11 right now are not approved on the list as shown, the  
12 approved seals that are approved by MSHA now, but  
13 the problem is we are waiting on manufacturer's  
14 development approval of the seals of the type we are  
15 installing.

16 MS. SILVEY: So the type --

17 MR. KOCH: The problem is, the ETS came  
18 out, okay, and it required action right now, but the  
19 mines were in operation and needed to be able to  
20 install seals as they went. They had to continue  
21 installing. We installed thicker seals but we have  
22 been installing those and awaiting the process of



23 the manufacturer getting approval on the seal so  
24 that we can get that thing approved.

25 MS. SILVEY: So the seals that you are

30

1 installing are awaiting approval now?

2 MR. KOCH: Yes.

3 MS. SILVEY: Okay.

4 MR. KOCH: I'm only speaking on behalf  
5 of the miners.

6 MS. SILVEY: On that issue you are  
7 speaking on.

8 MR. KOCH: On that issue, yes.

9 MS. SILVEY: This comment made here on  
10 the second page and the first full paragraph, for  
11 example, the currently MSHA approved seals  
12 containing steel reinforcement cannot be built  
13 timely, will expose miners needlessly to side  
14 abutment loading as the longwall retreats and will  
15 subject the longwall face to increase in ground  
16 pressures.

17 Now, these are the seal designs that I  
18 guess we have on our website which contain steel  
19 reinforcement.

20 MR. KOCH: Yeah. The idea of going in  
21 behind the longwall face into a crosscut and drilling  
22 into the roof and floor to install the bars that are  
23 included in these seals, the time it would take to do  
24 that, the exposure of people, once that is passed you  
25 have some waiting going on. You want to get in and get

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1 the seal built and get out of there. The time it would  
2 take to do that, the seal cannot be built until the  
3 longwall passes. You need that ventilation path on the  
4 longwall face. Once that passes, it is when you would  
5 build that. The time it would take to construct that  
6 seal may force us to sit and wait by the time you get  
7 all the rebar and get it formed up and built and the  
8 longwall would sit there and the longwall can load up  
9 when it is sitting there idle.

10 MS. SILVEY: So what you have now does  
11 not contain steel reenforcement?

12 MR. SHERER: One question. Isn't it  
13 possible to do most of that preparation before the  
14 longwall gets there, even during the development  
15 phase of the longwall panel such as drilling the  
16 holes, putting in some rebar that can be stubbed  
17 off?

18 MR. KOCH: I think the problem you have  
19 with that is you -- a couple things. In that  
20 crosscut, if you would install rebar in the fall,  
21 that's an active accessway under the longwall face  
22 and it would create stumbling hazards. Also, if you  
23 just pre-drill it, there's ground movement that  
24 takes place that would potentially shift where you  
25 certainly, you get floor movement. It tends to

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1 occur in a lot of our mines, and any kind of  
2 movement on the roof may make it impossible to get  
3 into the holes once they are drilled ahead of time.

4 MR. SHERER: The floor stubbing and  
5 such, don't you have such height that you can put in  
6 a small protected device such as cable across that

7 we tend to use in the surface mines?

8 MR. KOCH: I can't rule that out.

9 MS. SILVEY: Okay. And this is not new  
10 to us, so that everybody knows, hearing about some  
11 of the issues that the western mines have out here  
12 and with the gob isolation seals, but in terms of  
13 any of your conclusions in here, when you said that  
14 you talk about impact on miner safety and health,  
15 I've got a few more specific comments.

16 You talk about the impracticality, any  
17 issues related to impractical aspects as they relate  
18 to the mines, I would ask you to be as specific as  
19 you can. I think you said you might follow up with  
20 written comments, but be as specific as you can in  
21 the written comments. That will be useful to us as  
22 we go forward in developing the final rule.

23 With respect to the sampling pipes, you  
24 said that, your recommendation I should say, is that  
25 we should eliminate the sampling, you said tubes. I

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1 guess pipes from the gob isolation seals, so with  
2 respect to sampling pipes, are you -- what are you  
3 doing now?

4 MR. KOCH: Mines are putting sampling  
5 tubes in. They are putting in two tubes, one that  
6 goes in the 15 and the other goes over close to the  
7 intersection, but we know those will be fruitless in  
8 very short time.

9 MS. SILVEY: I want to clarify. With  
10 respect to your recommendation, are you recommending  
11 that we eliminate from gob isolation seals both

12 pipes or one?

13 MR. KOCH: I will be honest with that.  
14 We had discussions within our association and  
15 different companies have variations on that. At the  
16 very least we believe the one that goes in gob  
17 should be eliminated. Oxbow Mines believes that the  
18 gob isolation seals do not need to have any sampling  
19 pipes in them and in our mind in particular we get  
20 an accurate representation at the front end and back  
21 end of the panel that we have sealed. We go inert  
22 very quickly. It's usually -- methane is not one of  
23 those things bordering on 15 or 20 percent. It's  
24 usually going up to the 50, 60, 70, 80, and the  
25 oxygen goes down to one or two percent. In those

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1 particular cases you are not going to see any  
2 fluctuations along, in that panel. We just don't  
3 see it, and our mine has done a sampling for years  
4 on a monthly basis, so we know what we've got in  
5 those panels.

6 MS. SILVEY: Okay. On your comment  
7 concerning elimination of the requirement for  
8 professional engineers to conduct off-site of the  
9 seal installation, you said that you recommend that  
10 that provision be eliminated.

11 MR. KOCH: Yes, ma'am.

12 MS. SILVEY: You did say that it was  
13 redundant and unnecessary, so is your reason that it  
14 be eliminated mainly that it is redundant and  
15 unnecessary, or is it that it's impractical?

16 MR. KOCH: Both.

17 MS. SILVEY: Okay. With respect to --

18 when you are recommending something to be  
19 eliminated, and I say this for everybody, if you are  
20 saying that it's impractical, then I want you to be  
21 real specific with me. Include as specific a  
22 rationale as possible with respect to both of those,  
23 but particularly the impracticality of doing it, if  
24 you could be as specific as possible.

25 MR. KOCH: The key there is, you know,

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1 with normal sealing of panel say when you are mining  
2 a zone out, you are going to seal it off. That's a  
3 quick process to go in and put three or four seals  
4 across a panel and then decide you are going to seal  
5 it up. Then it becomes a specific project and an  
6 engineer could have oversight on that, but with  
7 these gob isolation seals they are going in every  
8 day. They might be put in on the day shift, the  
9 swing shift. They may be pumped on graveyard shift.  
10 To have an engineer that has to be out there, and no  
11 professional engineer is going to sign off without  
12 going out to see that it's done right, he is not  
13 going to do it, and to require that person to be  
14 there any one of three shifts that day, including  
15 weekends, it's just very impractical and not  
16 feasible to work with, and that's the point we're  
17 trying to make.

18 MS. SILVEY: On page four of your  
19 comments, the first paragraph you talk about the  
20 economic burden placed on mine operations while  
21 mines are idled for extended periods of time and  
22 that they would negatively affect the economic

23 well-being, and just for the -- and you link that to  
24 the time that it takes for, you said that sometimes  
25 you might have to suspend production for up to

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1 28 days. I would ask, if possible, that if you  
2 would, when you talk about the economic burden, if  
3 you would provide specific cost data, if you could.

4 MR. KOCH: We --

5 MS. SILVEY: Do what you can. With  
6 conclusions, you have to follow up conclusions with  
7 specific information.

8 MR. KOCH: Yes, ma'am.

9 MS. SILVEY: With respect to the next  
10 paragraph you say MSHA should not require withdrawal  
11 of miners during the early and curing processes. If  
12 at all possible, would you include what you would  
13 recommend as an alternative, or if you know it right  
14 now, but if you don't, if you could include it in  
15 your comments.

16 MR. KOCH: We could address that.

17 MS. SILVEY: Okay. And that's really,  
18 you know, I appreciate your comments. That's all I  
19 have.

20 MR. SHERER: I have a couple.

21 First of all, I want to thank you for  
22 your comments. You said something that was a bit of  
23 concern to me. You spoke about the problem with  
24 abutment pressures on the seals for the weekly exam  
25 under 364.

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1 MR. KOCH: Yes.

2 MR. SHERER: What concerns me, is that  
3 not also adjacent to your tailgate escapeway?

4 MR. KOCH: Yes, but the tailgate  
5 escapeway is supported with cans or other  
6 supplemental support out in front of the abutment as  
7 the phase advances. It is already in that  
8 particular entry, but it's getting over a couple  
9 breaks over those seals that the pressures can  
10 deteriorate. Say in that particular case your  
11 tailgate is number three. Seals are between No. 1  
12 and No. 2 entry. You are putting in supplemental  
13 support in that tailgate to insure safe route  
14 travelway for those people off the base, but  
15 occasionally those conditions deteriorate over and  
16 from the face when you have a combination of side  
17 abutment pressures from the previously mined panel  
18 and the front that are developing, it is in that  
19 area where those abutment pressures exist that it's  
20 very difficult at times and troublesome to get  
21 somebody over there to try to get up to that seal.

22 MR. SHERER: Could you not add  
23 supplemental support to the seal area?

24 MR. KOCH: The seal itself, but not  
25 every crosscut.

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1 MR. SHERER: Thank you. Another thing  
2 you spoke about was the sample issue and one thing  
3 that was very interesting, you spoke about how your  
4 sealed area seemed to be fairly homogeneous. You  
5 obviously have not seen much variation between the  
6 different seal locations as far as the methane

7 content or the oxygen content. Is that true?

8 MR. KOCH: We seal each panel  
9 individually and each one has its own atmosphere and  
10 they can have a little difference to them and  
11 depending which mains they are up against and how  
12 we're pulling the gas from them.

13 MR. SHERER: I got the impression, or  
14 you were talking about between each seal you didn't  
15 see much difference. Is that true?

16 MR. KOCH: Well, up to this point and in  
17 each set of seals there's only one, any seal that we  
18 have done in the past you are only projecting one  
19 tube in each set of seals.

20 MR. SHERER: Thank you.

21 You mentioned several things about  
22 imminent dangers and withdrawals. Do you construct  
23 these gob isolation seals primarily for spontaneous  
24 combustion control?

25 MR. KOCH: The primary purpose of isolating

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1 each panel individually is to eliminate the oxygen from  
2 getting to that gob and creating spontaneous combustion  
3 issues. The seals are constructed -- until you get to  
4 the end of the panel, then they become seals.

5 MR. SHERER: Isn't spontaneous  
6 combustion a potential emission source?

7 MR. KOCH: Only in the proper  
8 atmosphere.

9 MR. SHERER: Okay. Thank you.

10 Another issue that you discussed was the  
11 withdrawal of miners during the curing period for  
12 the seals. Have you examined accelerators for the



13 concrete and such?

14 MR. KOCH: We have inquired to our  
15 pumpable seal people. I believe they may be working  
16 in that regard to try and do something. I have not  
17 heard of anything at this point that's available.

18 MR. SHERER: Thank you.

19 MR. STEPHAN: I have a question for you.  
20 You discussed the range or MSHA tightening the range  
21 where they would require atmospheres. You mentioned  
22 methane in the five to 15 percent range and oxygen  
23 above the 12 percent. My question goes to how many  
24 of those underground mines actually have a gas  
25 chromatograph on site, and if it is not on site, how

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1 many of them have access to one otherwise?

2 MR. KOCH: I can't speak on behalf of  
3 the other mines. We have one. The mine across the  
4 street has their own laboratory on site. I cannot  
5 speak for the other mines in Colorado.

6 MR. STEPHAN: So if other mines did not  
7 have a gas chromatograph on-site, your comments,  
8 they still may be applicable?

9 MR. KOCH: I would say that the law may  
10 want to reflect both cases. My personal viewpoint,  
11 if you address the gasability of a gas chromatograph  
12 to allow a tightening of that range.

13 MR. STEPHAN: Thank you.

14 MS. SILVEY: Thank you, Mr. Koch. And,  
15 again, we appreciate your participation.

16 MR. KOCH: Thank you.

17 Our next speaker will be Chris Barbee

18 with Miners IUOE Local 953, New Mexico.

19 MR. BARBEE: Thank you to the panel for  
20 having this discussion forum available to us.  
21 Unfortunately, I have only been able to rescue one  
22 copy of this printout and as soon as I am done I  
23 will provide you with a copy.

24 Chris Barbee, B-A-R-B-E-E. I am a  
25 miners representative from the IUOE Local 953, which

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1 is the International Union of Operating Engineers in  
2 the state of New Mexico, representing miners  
3 employed at the San Juan South mine in Waterflow,  
4 New Mexico. I have a few brief comments and a few  
5 written comments that I will just submit with the  
6 other comments as several of the minor technical  
7 points, if you could call them that, were submitted  
8 under the investigations done by NIOSH and those are  
9 obviously already a part of this investigation and  
10 what-have-you, but I will include them for your  
11 reference as well.

12 The point on the Emergency Temporary  
13 Standard on sealing of abandoned areas for  
14 underground coal mines. I and another couple of  
15 representatives of miners that are with me here  
16 today are representing miners on behalf of the  
17 International Union of Operating Engineers, Local  
18 953 in the San Juan underground mine in Waterflow,  
19 New Mexico. The Agency's attention to the safety  
20 needs of America's coal miners in respect to the  
21 effectiveness of seals used to isolate abandoned  
22 areas of coal mines is both welcomed and timely.  
23 Clearly, the events in the recent past that have

24 promulgated the legislation that will soon affect  
25 all coal mine operators and coal miners, are in need

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1 of remedy.

2 I have previously sent comments on the  
3 results of their NIOSH work in this area and have  
4 received their comments in return. I have included  
5 my previous comments on this report with the  
6 submittal presented to you today. My comments today  
7 will be to encourage the Agency and operators to  
8 continue the dialog about safety and to promote the  
9 development of technologies that will increase the  
10 safety of miners and not burden the Agency,  
11 operators, or the miners unduly.

12 My comments include the following:

13 1. As may seem self-evident, the key to  
14 accident prevention is just that, prevention. The  
15 creation of regimes of protection to give resistance  
16 to forces generated in the event of an explosion in  
17 a sealed area of a coal mine would be greatly  
18 welcomed by those witnessing such an event, if it  
19 were to occur. Unfortunately, this methodology only  
20 gives resistance to the explosion. Prevention of  
21 such an explosion would seem to be the wiser  
22 pursuit. In examination of mine explosion disasters  
23 in the recent past, it would seem that knowledge of  
24 the dangerous concentrations of an explosive mixture  
25 coupled with a definite response plan to such

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1 concentrations as well as an active program of gob

2 gas management could have lessened the effects noted  
3 so well in the national press.

4 An active program of monitoring, gob gas  
5 management, and a related action plan should be  
6 included in all mine ventilation plans. Examples  
7 of this process exist both in the United States coal  
8 industry as well as internationally. Experience  
9 gained from those operators who monitor and manage  
10 gob gasses, both domestic and abroad, should be  
11 examined thoroughly for incorporation into  
12 ventilation plans in the United States. Not all  
13 U.S. mines would be in need of the highest levels of  
14 management, but lessons could be learned.

15 Point 2. An effective action plan for  
16 response to explosive mixtures, the indicator gasses  
17 associated with heating events in gob coal, or a  
18 fire would be tremendously effective in the  
19 prevention of a mine explosion disaster.  
20 Utilization of an action plan depends, however, on  
21 one single factor more than any other: Timeliness.  
22 Timely information about the state of a gob gas  
23 mixture is obviously not easy to obtain. Technology  
24 has offered systems that can provide this data on a  
25 far more timely basis than the statutory bag sample

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1 can provide. One manufacturer offers their system  
2 under what is commonly called a tube bundle system.  
3 The technology exists in all its component forms for  
4 other uses in other industries. A greater level of  
5 acceptance on the part of MSHA for use of such  
6 systems could greatly increase the safety of miners  
7 through an action plan geared to respond to the

8 specific needs of each mine and their unique gas  
9 production characteristics.

10                   Although not a true real time AMS system,  
11 it is far more timely than bag samples. Such  
12 systems should be thoroughly examined for acceptance  
13 as a second level AMS system that a mine operator  
14 could use to maintain proper and safe atmospheres  
15 for their workers as required by law.

16                   Point No. 3. As a necessity can be the  
17 mother of invention, the full implementation of the  
18 requirements of this ETS and other aspects of the  
19 Miner Act, it would seem that ideas could generate  
20 synergies that would greatly increase the safety and  
21 productivity of America's coal mining industry. An  
22 effective forum of the presentation and examination  
23 of new technologies should be promoted. Such a  
24 forum would include input from manufacturers, mine  
25 operators, MSHA, and the coal miners themselves.

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1 These are all the key stakeholders in the coal mine  
2 safety process and all of their inputs should be  
3 given examination in a timely fashion in an equal  
4 setting.

5                   Thank you for your time and attention to  
6 this issue.

7                   MS. SILVEY: Thank you. I only have one  
8 comment, Mr. Barbee, and that is when you were  
9 talking about having timely information, and that is  
10 very critical, you mentioned, and I'm not -- I don't  
11 know that you mentioned the name of it, a gas  
12 analysis system. I think you called it a two bag

13 system, not quite an AMS system but MSHA could --  
14 you want to see greater acceptance of this on the  
15 part of MSHA. Can I ask you what that system is,  
16 the name of the system?

17 MR. BARBEE: The system that I was  
18 referencing by name is a generic descriptive term.  
19 I don't think that's the actual name that the  
20 manufacturer uses. It's more of a functional  
21 description. It was the Tube Bundle System and the  
22 bag portion was in reference to what historically is  
23 required for bag samples. A brief overview of this  
24 particular system is basically a vacuum pump that  
25 sits in a remote location, a tube that is bundled

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1 together with other tubes that leads to, for  
2 instance, a sample tube or sample pipe that goes  
3 into a sealed area. You turn the vacuum pump on.  
4 It draws atmospheric gas from the sealed area and  
5 presents it to a gas chromatograph. It basically  
6 does the same thing as a bag sample regimen except  
7 it does it on a more timely basis, which gives you  
8 greater opportunity to respond to anything out of  
9 order, that you find out of the ordinary.

10 That particular system was referenced in  
11 an attempt to show merely one example of  
12 technologies that are there that with increased  
13 safety and particularly the timely response to  
14 situations that may come up, and not to endorse or  
15 deny that particular system. That's one example of  
16 things that can be of a great deal of benefit over  
17 and above what is currently statutorily required.

18 MS. SILVEY: Okay. Thank you. Okay.

19 Thank you, Mr. Barbee.

20 MR. BARBEE: Thank you very much.

21 MS. SILVEY: Our next speaker is  
22 Jim Cooper with Oxbow Mining Company.

23 MR. COOPER: Jim Cooper, C-O-O-P-E-R,  
24 and I work for Oxbow Mining LLC located in Somerset,  
25 Colorado.

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1 Our mine was started in 2002. It is  
2 about six million tons a year. A couple of the  
3 questions that Mr. Sherer -- is that correct -- a  
4 couple of the questions you asked a few minutes ago  
5 was pretty interesting.

6 As far as we doing the floor, the floor  
7 is not the same. We operate usually at least 50 or  
8 a hundred plus feet of cover. I guess if I drilled  
9 the roof in the floor and tried to match rebar holes  
10 later, I don't think I would have any match  
11 whatsoever.

12 Another question, and I don't think I  
13 can add much to the comments that have already been  
14 made today, but I would just sort of like to touch  
15 on the point.

16 Another question that you asked is  
17 significant in our mind and I think it's pretty  
18 standard in the west and you talked about inspecting  
19 the gobs close to the face. That was something that  
20 Bob brought up. Our plan and MSHA's approved plan  
21 is to require that supports at 800 feet out in front  
22 of the face on the tailgate to keep people from  
23 working close to a longwall face. I think it's

24 fairly significant as far as approaching the seals  
25 within 800 feet of the face if you are not to be

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1 working to put roof supports in. And the seal, you  
2 know, I think you probably understood from what Bob  
3 was saying. The seals that we are talking about are  
4 between one and two entry and one no longer exists.

5           As I said, I appreciate the opportunity  
6 and I really participated in the -- our company did  
7 in the CMA's presentation and I don't think there's  
8 much more that I can add and, certainly, I'm not at  
9 a level today as the MSHA engineers who have already  
10 been working on the seals. We have had a lot of  
11 concerns about the construction of the seals and the  
12 conservative approach that was being taken. We  
13 talked a few minutes ago with Bob about if you  
14 waited 28 days to cure a seal, what would that  
15 impact be on the mine. I don't think the mine would  
16 exist. We build seals every 30 day in our mine. We  
17 advance 52 feet a day on the average and our  
18 crosscuts are 200 feet or every third or fourth day,  
19 three and a third day we are building a seal, and if  
20 you were to evacuate the mine for seal time, for age  
21 time or curing time every 28 days, you just wouldn't  
22 be operating is what it amounts to. You would be  
23 leaving ventilated open gob areas and at least I saw  
24 one representative from district nine here. I do  
25 believe that the miners, mine owners and MSHA in

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1 this district are all of the same opinion, that we  
2 don't want to leave that open and particularly the



3 North Fork Valley mines where our mine is located.  
4 History as to the Somerset town claims to be a  
5 mining town since 1896 I think is the sign that you  
6 enter the town and the story is told that not a  
7 single one of those mines that have ever existed in  
8 that valley has existed without a mine fire.

9 I have been at Oxbow seven years. We  
10 have had ours. The very first panel they pulled  
11 with a brand new longwall, that was prior to me. It  
12 is a common thing that we deal with out here.

13 But to go on, I do believe that the  
14 rule-making process that we have gone through since  
15 '06 has left both miners and MSHA at least in our  
16 district a little confused. Right off the bat we  
17 had no seals, and I understand you could do solid  
18 block seals. That's not something we could do. We  
19 attempted to do that and, number one, they don't  
20 stay in. They weren't there for four days and the  
21 convergence seals we have and your question to Bob,  
22 I think I had the graph in my briefcase, but I  
23 couldn't find it, but where we are on seals, I do  
24 not believe that there is an approved seal in our  
25 district. That's what -- I don't believe that. I

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1 have checked with all the miners. Every one of them  
2 and some people had some temporary response so they  
3 could continue, yes. We submitted in October at  
4 least, it might have been September. Like I said, I  
5 don't have that that in my briefcase. We had our  
6 first response in June of '07. We certainly didn't  
7 watch it. We have been doing seals --

8 MS. SILVEY: I hear you.

9 MR. COOPER: We had one Omega block  
10 seal. We replaced it immediately. We had -- we  
11 took our other seals along the main line that  
12 isolate individual panels in the mine. We started  
13 building the Mitchell Barick (phonetic) seal in  
14 front of our seal and our seal is the one that's for  
15 the safety of our people and it is the one that we  
16 trust. The Mitchell Barick was for our inspector so  
17 that they didn't have to get into knee graphs is what  
18 it amounted to, and so we did that throughout the  
19 mine. Today we have 109 active seals, so the seal  
20 issue is extremely major to us and I tell you that I  
21 can't add to the comments that were already made but  
22 I'm here to stress the importance is what it amounts  
23 to.

24 So for the -- for a long time both the  
25 miners, coal miners and MSHA inspectors in our

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1 district in my opinion is in a real bind because  
2 they couldn't do anything for us because they didn't  
3 have any standards to go by and, you know, it put  
4 friction where in my opinion friction didn't need to  
5 be, because I think that it takes every one of us to  
6 run a safe line.

7 I heard the comment earlier is that the  
8 action plan needs to be, and I won't exactly quote  
9 the right words, but equivalent to evacuation. I  
10 don't think that such a thing as equivalent plan to  
11 evacuation exists, and in the 1970s when we were all  
12 getting, still getting used to the '69 rules, I  
13 think the favorite cartoon that I saw in mines was

14 the safe mine is a closed mine that nobody enters  
15 the portals of and neither the miners or MSHA has a  
16 job and, again, that's a poor joke and it's things  
17 that we live with in our past that we are trying to  
18 live down today and trying to put more emphasis on  
19 it.

20                   Monitoring the sampling. I think that's  
21 very complicated. I do believe that most of the  
22 mines, the deep operating mines in the state of  
23 Colorado does have their own chromatograph. I know  
24 we are in -- our three mines are within six miles  
25 from end to end of each other. All three of us have

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1 chromatographs. I think the big question that I  
2 have heard a lot of people talking about is not how  
3 we are good as sampling monitors but how is MSHA  
4 going to sample a monitor, and that's very critical  
5 that we need to know to even set our systems up. We  
6 are a continuous monitoring program and we have it  
7 not because it is required but because we initiated  
8 it ourselves and it's because that first 26 million  
9 dollar longwall, this was back in '97, when the  
10 thing caught on fire and the mine was closed for a  
11 year, the people at that mine said never again do we  
12 want to go into that situation, so the system is in.  
13 It was in place when I got there and I have heard  
14 people comment that it is the most complete that  
15 they have run into in several places.

16                   Atmosphere. I think MSHA and miners  
17 have been consistently in agreement with that since  
18 I have been in the mine since 1970. It's over 15,

19 it's under 5, and it's less than 12 percent and  
20 that's been an accepted thing by MSHA since I have  
21 been in the industry and that has been since the  
22 early seventies.

23 Prohibited welding and cutting and  
24 soldering, you can't do without those functions on  
25 an operating longwall and I do believe that's a real

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1 critical thing. I have read very briefly the MSHA  
2 investigation on Darby and I don't believe that with  
3 the welding and cutting was a problem. The problem  
4 was that the people that were in didn't follow the  
5 regulations and the rules that were already in  
6 place. That's what miners have to do. We operate  
7 in a -- a young HR guy who said this a couple weeks  
8 ago and it is one of the first times in all the  
9 years that I have been in mines that I have heard  
10 that we operate in a hazardous atmosphere and if we  
11 don't pay particular attention to it and do it  
12 right, then it becomes an unsafe atmosphere, and I  
13 do believe in this.

14 You asked that coal miners do,  
15 underground coal miners do exactly that. Some of  
16 the concerns as far as -- not too many of us, and I  
17 don't think any of the engineers at our mine are  
18 true structural design engineers and we were talking  
19 earlier about structurally designing the seals. I  
20 doubt if we could tell any of your people how to in  
21 particular design that seal, but we do believe that  
22 it is overly conservative.

23 Now, then, a structural design engineer,  
24 a professional engineer who is tested and has his

25 certification, his job is to design. Again, it is

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1 the miners and training that is the job, the  
2 installation job, the construction job. We go  
3 through the steps and get to a senior mine manager,  
4 certifying the seal design. I don't quite -- I  
5 think we have to define what the word certifies  
6 mean. If he's countersigning, then he can do that.  
7 Can he certify that seal? I don't think so. I  
8 wonder if we are looking for scapegoats or people to  
9 point fingers at. I think the mining committee has  
10 already done that to both MSHA and operators and I'm  
11 talking about the senate committee that was very  
12 important for them to enact a so-called Miner's  
13 No. 1 Act and to do it on the anniversary of the  
14 Miner's No. 1 Act. Some of the comments that have  
15 been in publications that I have read that they may  
16 both be coal miners and about MSHA is very confusing  
17 to me, very disturbing, and it doesn't get the job  
18 done for the safety of the miners, and that's a very  
19 important thing. It doesn't have anything to do  
20 with really I don't believe the emergency standards  
21 that you are talking about here.

22 In closing, I would like to say that I  
23 think this nation, and I don't think the majority of  
24 people in the nation believe this, but I think the  
25 majority of coal miners believe this, is that what

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1 we do about the product we produce is extremely  
2 important to this nation and going forward we will

3 produce more than 50 percent of the energy that's  
4 produced in the nation. It's very important to our  
5 standard of living that we have gotten comfortable  
6 with and I think it also adds to the national  
7 security that we're -- that we're faced with every  
8 day, and I think the majority of coal mining people  
9 understand that. I don't think the majority of the  
10 population in the U.S. understands that.

11 MS. SILVEY: Thank you for your comments  
12 and we will have some specific comments in prior to  
13 August 17th. Thank you for this. Thank you,  
14 Mr. Cooper, and I want to underscore, as I said, you  
15 will have specific comments in to us before  
16 August 17th.

17 MR. COOPER: Yes, ma'am.

18 MS. SILVEY: I have just a couple of  
19 further comments to what you said and so you told me  
20 you don't think that you all have, that there's an  
21 approved seal in your district. I will tell you one  
22 thing. I do promise that when we go back we are  
23 going to check on the status of the seals, whatever,  
24 seal applications that we have in I guess I should  
25 say seal requests that we have in from district

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1 nine.

2 MR. COOPER: Ma'am, just a short four  
3 weeks ago I think it was that this -- this is  
4 mid-July and time flies, but I was here in Denver  
5 meeting with MSHA and I had a chart and I surveyed  
6 all the underground mines operating in the west and  
7 some of them have temporary supply approvals, as I  
8 have said. They are stated as temporary. Ours was

9 one of the ones that were submitted I think it was  
10 last October 4th and we had no answer. I think our  
11 district, after finding that out, got us one and the  
12 answer was no is what the answer was.

13 MS. SILVEY: I understand. And you  
14 asked appropriately, you said one of the equally  
15 critical questions is -- you might not have said it  
16 like that, but how is MSHA going to sample a mine,  
17 and that is critical and I said this last week and  
18 so, you know, if somebody were here from last week  
19 they could prove me wrong today because we are in  
20 the process of developing a procedure instruction  
21 that would deal with MSHA samplings and I thought  
22 that it would be out by now and I don't think it is  
23 out today, but I think it should be out soon. I  
24 don't think it is out, but it should be out soon, so  
25 when we go back I will also, and I promise that to

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1 everybody here, I will check on the status of that  
2 that deals with MSHA samplings so that people are  
3 put on notice exactly how MSHA plans to sample  
4 seals.

5 MR. COOPER: That would be very  
6 important to us if we had it, you know, to make  
7 proper comments by the 17th. That way we know what  
8 we need to step up to. Plus, the previous speakers  
9 that had commented about the new system, I think  
10 that the good that's coming out of a lot of things  
11 that has happened in the last two years is that  
12 people are scratching their heads today and trying  
13 to figure out what is out there and what is needed.

14                   We laugh in our location about the  
15 communication issue. I mean, day one in the mines  
16 for me communication was a problem, and we are  
17 talking about wireless communication and I see ads  
18 in the publications that say we have a wireless  
19 communication we have just tested in the mines of  
20 West Virginia. It is not a wireless communications.  
21 It still has buyers. Those signals don't turn  
22 corners, but the laughable part is you won't have a  
23 wireless communication at our location. We have no  
24 cell phone service, so you can leave your cell phone  
25 at home. We don't use them because they don't work,

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1 so if we don't even have cell phone service, it's  
2 sort of for our miners, about 300 employees, it's  
3 sort of a kick to get them going on it. Well, how  
4 are we going to do this when we can't even get cell  
5 phone service up here?

6                   Those are things -- we tripled our  
7 communication system and run it back to the office  
8 and that way it has a full circle. If it's broke  
9 some place, it's still open some place else. We do  
10 have the so-called wireless system underground, but  
11 that has wires every 1500 feet to the transmitters,  
12 but that is some of the things that is coming out  
13 that is extremely good for all of us.

14                   MS. SILVEY: Thank you.

15                   MR. COOPER: Thank you.

16                   MR. SHERER: Actually, I have a couple  
17 comments. First of all, I want to thank you for  
18 your comments, Mr. Cooper. They were quite  
19 informative. You spoke about the 28 day waiting



20 period between each seal. You said you construct a  
21 seal about every three or four days. I don't think  
22 those would be considered seals.

23 MR. COOPER: Until we seal off the end.

24 MR. SHERER: The 28 days would just  
25 apply to maybe the last few seals. Is that true?

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1 MR. COOPER: Yes, and at the end of that  
2 thing, only one in the series of what we have done,  
3 I think we wound up doing 13 seals in three days, so  
4 it is a lot of seals, but as I say, we have 109  
5 active seals right now, active seals right now is  
6 109, and I do believe that there's so much  
7 difference in the east and west. I have worked in  
8 Alabama. I worked in Kentucky and West Virginia,  
9 and I worked in Pennsylvania and I have worked out  
10 here and there's a big difference in how seals are  
11 used, what they mean. And, you know, you can talk  
12 about pre-doing certain work before you get there  
13 and if you are doing six seals in a year or 24 seals  
14 in a year that may be one way of looking at things.  
15 If you are doing seals every three and a half to  
16 four days, that's a whole different way of looking  
17 at things and also I think that in design of seals,  
18 I said I can't compete with that design engineer,  
19 but he also may need to spend a little time in the  
20 atmosphere and environment that coal miners has to  
21 do that construction in. From a design and putting  
22 something together, by the guy that has to do it  
23 with his hands, those two things have to match. We  
24 can talk about all the training we want to but when

25 we get to that end, if the design is not applicable

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1 to the atmosphere, then, you know, it's just not  
2 going to work.

3 One thing I would say is that I heard  
4 you say that MSHA initially designed -- decided that  
5 replacing seals was not the right way to go. I do  
6 believe that that's a site-specific decision and  
7 that hopefully we as coal miners and operators will  
8 decide that particular seal needs to be replaced a  
9 long time before anybody from MSHA would tell us to  
10 replace it.

11 You also mentioned, and I did not cover  
12 it and I had it on the list, that you talked about  
13 removing steel and conductive material in seals.  
14 That is something that we are extremely opposed to  
15 and I understand where it comes from, but we use  
16 both a real strong wire mesh for roof and rib  
17 support. We use pans as well as bolts and cable  
18 bolts and so on and we are going to, our employees  
19 are going to have a major problem if that's part of  
20 the requirement.

21 Again, I would say we average 1700. We  
22 don't particularly agree with the statement that  
23 we're exposed to lightning with those particular  
24 safety issues at that point and we believe that  
25 removing that is extremely more hazardous to our

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1 people and each of our miners than the lightning  
2 potential would be. I think in all the explosions  
3 that I have heard MSHA speak of, there was only two

4 that we maybe think that was the case, that it was,  
5 that lightning was a source.

6 MR. SHERER: Actually, over half have  
7 been attributed to lightning.

8 MR. COOPER: Over half of the 12 since  
9 '82?

10 MR. SHERER: Yes. I think I counted  
11 them up.

12 MR. COOPER: I apologize. Your numbers  
13 are more accurate than mine, I suppose.

14 MR. SHERER: A couple more comments,  
15 Mr. Cooper.

16 I would suggest that you speak with the  
17 people at the Orange Bally (phonetic) mine that your  
18 company may be associated with. There was a bore  
19 hole, electrical bore hole into that mine that did  
20 suffer a lightning strike back in the early '90s.  
21 It was about 1500 feet deep, as best I can remember.  
22 The comments you made were very pertinent and I  
23 certainly appreciate your candid responses to those.

24 MR. COOPER: I would tell you that I  
25 believe that bore holes are a lot different from the

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1 roof support that we're talking about on seals  
2 underground, but it does relate and I understand  
3 from my statement about the lightning associated  
4 one, but, again, I tend to apply that to leaving  
5 electrical cable in a gob or our roof support is  
6 breaching the seal and not to the bore  
7 installations, and I have heard the same thing  
8 happens on gas wells that I remember.

9 MR. SHERER: One last comment. Have you  
10 any experience with the fiberglass mesh? I think  
11 there's products out there, for some of the roof and  
12 rib support.

13 MR. COOPER: We use a fiberglass mesh  
14 material, and I'm not sure fiberglass is right, but  
15 it is a fabric. We use that, but we have not used  
16 it as standard support through the mines, not. I  
17 don't have experience with that.

18 MR. SHERER: That's one thing that we  
19 have been discussing as possibly using certain  
20 things where you know you are going to build seals.  
21 Maybe you can use that type of product just in that  
22 local area.

23 MR. COOPER: That's a new one too.  
24 Thank you.

25 MS. SILVEY: I want to clarify

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1 something. Mr. Cooper talked about my earlier  
2 comment about what I said about existing seals and I  
3 think, and I won't look down at exactly what I said,  
4 but in the ETS and the preamble I said we consider  
5 replacing existing seals, replacing all seals or  
6 just wholesale asking that all seals be reinforced  
7 and we rejected that idea because as a wholesale  
8 matter we felt like in some instances to require  
9 that would create additional safety hazards.

10 Now, that does not rule out the fact  
11 that in particular instances like this goes to your  
12 comment saying it should be left to the individual  
13 mines, if the defective seals are encountered, if a  
14 mine operator encounters a defective seal, then the

15 rule clearly requires that they be repaired and  
16 reinforced as necessary or replaced with a high  
17 strength seal, so that is the makeup of the rule.  
18 We just didn't on an all-out basis require that all  
19 seals be replaced.

20 MR. COOPER: My statement may not have  
21 been very clear, and I was trying to applaud the  
22 fact that you did just exactly that and I believe  
23 that if an operator or an MSHA person finds a  
24 defective seal, then the damaged seal will need to  
25 be replaced and it would have to meet the standards.

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1 MS. SILVEY: Right. Let me just ask  
2 one -- bear with me, you all.

3 Okay. Thank you very much, Mr. Cooper.

4 At this point can we take a five-minute  
5 break, please? If nobody wants to take a break, I  
6 can go on.

7 (Thereupon, a brief recess was taken.)

8 MS. SILVEY: Can we get started? Before  
9 we get started, I would like to make a request of  
10 anybody who is speaking from here on, and that is if  
11 you do have written material, if you would read your  
12 written material somewhat, maybe slower than you  
13 normally do, just to make sure we have an accurate  
14 record, and I know I tend to talk fast myself so I'm  
15 probably the first guilty person, but if you would  
16 talk a little slower if you have written material.

17 At this point we will hear from our next  
18 speaker, Ralph Sanich, Interwest Mining Company.

19 MR. SANICH: Good morning. My name is

20 Ralph Sanich, S-A-N-I-C-H, and I'm here today on  
21 behalf of Interwest Mining and its subsidiaries and  
22 I have the following comments:

23                   Interwest Mining Company and its  
24 subsidiaries offer the following comments to the  
25 Mine Safety and Health Administration regarding

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1 Emergency Temporary Standards for sealing of  
2 abandoned areas published May 22, 2007.

3                   MSHA requests comments from the mining  
4 community on the appropriateness of the strategy of  
5 this ETS for addressing seal strength greater than  
6 120 psi.

7                   Interwest Mining Company suggests that  
8 MSHA allow mining companies to investigate future  
9 technologies and alternative methodologies such as  
10 weak-walls, the installation of baffles, et cetera,  
11 to provide blast wave mitigation prior to explosions  
12 encountering the seals.

13                   MSHA specifically solicits comments on  
14 the Agency's approach to the strength requirements  
15 for seals.

16                   Interwest Mining Company would suggest  
17 that rather than increasing seal design  
18 requirements, MSHA should allow mines to conduct a  
19 risk analysis of the specific area to be sealed.  
20 Some mines historically do not liberate methane.  
21 These mines should not be held to the same standard  
22 as mines that liberate large amount of methane. If  
23 the atmosphere to be isolated behind a set of seals  
24 is to be inerted and/or is known based upon mine  
25 history that the sealed area will never achieve an

1 explosive mixture, then there is no rationale to  
2 increase the seal strength requirements. Instead,  
3 mine history, monitoring of the sealed area and the  
4 ability to inert the seal atmosphere should dictate  
5 seal design strength requirements.

6 MSHA asked for comments on the  
7 appropriateness of the three-tiered approach to seal  
8 strength in the ETS.

9 As stated in our previous comment,  
10 Interwest Mining Company suggests that rather than  
11 increasing seal strength design requirements, MSHA  
12 should allow mines to conduct a risk analysis of the  
13 specific area to be sealed. Some mines, again,  
14 historically do not liberate methane and should not  
15 be held to that same standard as mines that liberate  
16 large amounts of methane.

17 MSHA seeks comments on the feasibility,  
18 including in the final rule a requirement that  
19 existing seals be removed and replaced with higher  
20 strength seals. Interwest Mining Company does not  
21 agree with the removal of existing seals for higher  
22 strength seals. It does not make any sense to  
23 potentially expose miners to an atmosphere and  
24 potentially introduce oxygen into a sealed area  
25 which may contain methane and could expose the

1 miners to an explosive mixture.

2 Additionally, existing seals, sealed  
3 areas which do not contain explosive mixtures do not

4 benefit from a construction of a higher strength  
5 seal as a factor of the safety for an explosion of  
6 120 psi seal versus a factor of safety for a 20 psi  
7 seal are the same if no explosion is possible.

8 MSHA is requesting comments addressing  
9 the sampling of approach in this ETS: Sampling and  
10 sampling frequency only when a seal is outgassed.  
11 Interwest Mining Company believes that sampling  
12 frequency should be determined by site-specific mine  
13 conditions, mine history, and approved by the  
14 district manager. For example, a mine that has no  
15 history of methane should not be required to sample  
16 weekly. If historical data determines that the mine  
17 does not produce methane, the district manager may  
18 approve a different sampling procedure such as  
19 monthly, quarterly, et cetera.

20 There's another sampling approach more  
21 appropriate for the final rule, such as when the  
22 seal is ingassing.

23 Interwest Mining Company does not  
24 believe there is a need to sample seals that are  
25 ingassing. Again, if a mine does not have a history

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1 of methane liberation, sampling should not be  
2 required.

3 MSHA requests information and  
4 experiences for the mining community concerning  
5 sampling sealed areas.

6 Interwest Mining Company believes that  
7 specific conditions at the mine would require  
8 different sampling procedures. A mine with a  
9 complex ventilation system, one that has a blowing



10 and exhausting fans, will have a different effect  
11 than a mine that is only on an exhausting or a  
12 blowing system. Again, we believe that the  
13 historical information should be utilized to  
14 determine sampling intervals.

15 MSHA is requesting comments from the  
16 mining community on the appropriateness of the ETS  
17 requirements regarding open flames associated with  
18 welding, cutting, and soldering activities within  
19 150 feet of the seal and the feasibility of this  
20 requirement.

21 Interwest Mining Company does not agree  
22 with this ETS requirement. There are some instances  
23 that seals be built on the intake or next to belts  
24 or belt drives and other situations. Cutting and  
25 welding should be allowed if air quality checks are

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1 made and the methane and oxygen are continually  
2 monitored.

3 MSHA requests comments regarding the  
4 appropriate number and location of sampling pipes  
5 for the final rule and Interwest Mining Company  
6 believes that one seal in a set of seals should be  
7 designated for sampling and be provided with  
8 sampling pipes; however, the appropriate number and  
9 location of sampling pipes should be based upon  
10 site-specific mine conditions and historical  
11 experience

12 MSHA requests comments from the mining  
13 community on the ETS requirement for water drainage  
14 systems for seals, including effective alternatives

15 for the final rule.

16 We believe that MSHA should define what  
17 is impounding water. Some water behind a seal would  
18 not pose a problem. Seals and sets of seals could  
19 be constructed to allow water to flow to the lowest  
20 area, and the seal built in the location would  
21 contain the water drainage system. Again, this  
22 should be determined on a site-by-site or a  
23 site-specific basis.

24 MSHA solicits comments regarding the  
25 removal of insulated cables and metallic objects

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1 through or across seals is feasible and will not  
2 involve significant technical or practical problems.

3 We agree with the removal the cables and  
4 tracks and other metal objects across or through the  
5 seal.

6 Interwest Mining Company disagrees with  
7 removal of all cables from the sealed area. This  
8 could create a hazardous condition. For example,  
9 bleeder systems that generate large quantities of  
10 water require pumping systems be maintained up to  
11 the final sealing process. Taking the time to  
12 remove all pumping and monitoring communication  
13 cables, et cetera, prior to the final sealing  
14 process would allow the bleeding process to flood  
15 and potentially block ventilation resulting in  
16 methane buildup or other hazardous conditions. This  
17 would create a greater hazard to our employees than  
18 the potential danger of a lightning strike.  
19 Grounding the cable to the mine strata or other  
20 alternatives could be a more effective way to deal

21 with cables left behind.

22 Interwest Mining Company would like to  
23 thank you, the panel, for your time in allowing us  
24 to come in during these hearings.

25 MS. SILVEY: Thank you, Mr. Sanich. I

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1 heard, and this comment is for everybody here too,  
2 because we heard this comment before and I can't  
3 exactly -- I think we heard it in Morgantown and I'm  
4 not sure exactly whether we heard it in Lexington,  
5 but I know we heard it in Morgantown from a number  
6 of operators who suggested that mines that did not  
7 liberate methane, there was no need to require,  
8 include certain of the requirements for them and  
9 that there should be a risk analysis and based on --  
10 they should be allowed to do a risk analysis and  
11 based on that risk analysis then that would dictate  
12 what the requirements should be.

13 I have two points on that. One, and I  
14 probably should have asked some of them and really I  
15 hope it gets back to some of them.

16 When you say not liberate methane, and  
17 I'm assuming that you mean do not liberate large  
18 quantities of methane, or you tell me what you mean  
19 when you say do not liberate methane, your mines do  
20 not liberate methane.

21 MR. SANICH: I guess I would say our  
22 mines are in a peculiar situation because one of the  
23 two mines that we currently are operating the  
24 underground mines, liberates basically no methane.

25 MS. SILVEY: Basically you mean you have

1 never had a measurement of methane?

2 MR. SANICH: Maybe three, four,  
3 five-tenths methane over the years, so we are in a  
4 different situation than let's say than most mines  
5 are, and that's why we believe that a risk analysis  
6 of our mines is more appropriate because, you know,  
7 again, a 50 psi seal, if you have an area that's  
8 inert and will more than likely always be inert,  
9 20 psi seal would be just as safe.

10 MS. SILVEY: I want to get clarification  
11 of what the commenters mean when they say no  
12 methane.

13 Now, you say low. You have two mines.  
14 What does the other one -- let's get to the one, the  
15 three-tenths, four-tenths or whatever you said. Is  
16 that -- how long have you been -- what is the trend  
17 for that? I mean, how long a period of time has it  
18 been always giving that amount?

19 MR. SANICH: The one mine that we are  
20 operating in Utah currently, to my knowledge, and I  
21 would only be speaking just based off what I  
22 understand, they have never in probably close to  
23 30 years have had a methane issue to where, and I  
24 will go as far as to say five-tenths the methane  
25 that probably would be the maximum that they have

1 seen.

2 MS. SILVEY: What about the other mine?

3 MR. SANICH: That's a newer mine and we  
4 have not seen any methane in that mine as well.

5 Traces, let's say.

6 MS. SILVEY: The question I have is,  
7 with respect to this risk analysis, and you included  
8 some factors, being sure you included some factors  
9 in here. You gave the history of methane and you  
10 gave the mine history and certain other things, the  
11 ability to inert the sealed atmosphere, but when you  
12 are talking about a recommendation, if you are  
13 suggesting that we make certain requirements based  
14 on risk analysis, I would like it if you could be  
15 very specific with respect to how you would do that,  
16 the parameters to be included in certain, in such a  
17 risk analysis, and that is how you are going to do  
18 it, how it is going to be evaluated, what is going  
19 to be included in it. It's got to be laid out. It  
20 just can't be you telling me you are going to do a  
21 risk analysis.

22 MR. SANICH: And we would more than  
23 likely submit additional comments that would clarify  
24 that.

25 MS. SILVEY: I would like it very much

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1 if you would clarify that.

2 MR. SHERER: I have a couple comments.

3 MS. SILVEY: Thank you.

4 MR. SHERER: Thank you for your input,  
5 Mr. Sanich.

6 One thing you mentioned that I would  
7 like to explore a bit, you mentioned that you had  
8 seals on intake next to belt lines. Is that  
9 correct?

10 MR. SANICH: I didn't say we had them.  
11 I said there is the potential that there could be  
12 seals built to where they were on the intakes and  
13 they had to be examined basically on a pre-shift.

14 MR. SHERER: That worries me in that we  
15 have a requirement for stopping between belt lines  
16 and intake.

17 MR. SANICH: Let me rephrase that. It  
18 would be 150 feet of a belt drive.

19 MR. SHERER: Have you read the preamble  
20 which lets you do that? We use the same method that  
21 we use for permissible equipment and active gobs and  
22 it is a string that we call the string line method.  
23 You take a string and stretch it out and within 150  
24 feet of that it lets you use the separation provided  
25 by that stopping line for determining whether you

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1 could weld or not. I think that most of what you  
2 are intimating to be problems may go away under that  
3 approach.

4 MR. SANICH: That may be true.

5 MR. SHERER: Thank you.

6 Another issue that Mrs. Silvey spoke  
7 about is low methane, and you mentioned  
8 three-tenths, four-tenths, five-tenths. Was that in  
9 sealed areas or was that in active, ventilated  
10 areas?

11 MR. SANICH: Primarily I would tell you  
12 that for the most part the methane that we have seen  
13 is, I will say in active areas. It just kind of  
14 comes and goes. It will go for a long time without  
15 seeing anything at all, meaning zero, and then there

16 will be just a hit or miss occasion where you see  
17 something, but as far as us sampling our sealed  
18 areas, I would say that we have typically seen  
19 methane concentrations less than three-tenths. It  
20 could be zero.

21 MR. SHERER: Sure.

22 Are you aware that Sago was a low  
23 methane liberation mine?

24 MR. SANICH: Yes.

25 MR. SHERER: Okay. Thank you.

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1 MS. SILVEY: Mr. Sanich, I have one  
2 other comment. On your comments with respect to  
3 sampling pipes, and as you noted, ETS requires two  
4 pipes and I say it for everybody, the location of  
5 the pipes earlier. Your recommendation is that the  
6 appropriate number and location be based on  
7 site-specific conditions but do you or your company  
8 agree that that should be the two pipes as laid out?  
9 You didn't comment about that, as laid out in the  
10 ETS, the location of the two pipes that the ETS  
11 specifies. What is your opinion on that?

12 MR. SANICH: Again, my opinion would be  
13 that I would agree with the comments to, especially  
14 the Colorado Mining Association because, again, with  
15 the type of gates and gobs that we have, I think to  
16 the extended or the longer pipe would more than  
17 likely get damaged and there would be basically no  
18 opportunity to go in and replace or repair that  
19 pipe.

20 MS. SILVEY: So that comment was to

21 eliminate the pipe from the job isolation seals.

22 Okay. I just wanted to clarify that.

23 Okay. Thank you.

24 MR. STEPHAN: I would just like to ask  
25 you real quick again about this 150 feet and open

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1 flames, the welding and cutting issue and if testing  
2 were to suggest that sparks or hot metal from the  
3 welding or cutting operation could perhaps extend or  
4 jump 15 or 20 feet, would you be more likely to be  
5 in favor of a standard that specifies a number less  
6 than 150 feet, perhaps 20 feet, or would that make  
7 things --

8 MR. SANICH: This is me speaking and not  
9 my company, but I would say that I don't think a  
10 distance specification is really the way to go  
11 because, again, it's kind of a prescriptive versus  
12 what are you really dealing with at that particular  
13 location, so it's why I say I'm more favored to  
14 utilizing the technology of an electronic instrument  
15 that could give you constant readout while you are  
16 performing the job that you are doing, that cutting,  
17 welding, et cetera.

18 MS. SILVEY: I understand the position  
19 that you would take with that, but I'm thinking in  
20 terms of what happened at the Darby mines. If they  
21 had such a piece, it would have told them that  
22 welding was okay because they didn't have -- because  
23 there were specifications that said the no welding  
24 on or near seals or within ten or twenty feet of  
25 seals, then that would have been something different

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1 that could have prevented Darby. Just looking from  
2 that perspective.

3 MR. SANICH: It seems like that would be  
4 a sensible approach.

5 MR. STEPHAN: Thank you.

6 MS. SILVEY: Thank you, Mr. Sanich.

7 Our next speaker is Craig Watson with  
8 VHP.

9 MR. WATSON: Good morning. My name is  
10 Craig Watson, W-A-T-S-O-N. I'm also an underground  
11 coal miner for VHP, San Juan Mine South, Waterflow,  
12 New Mexico. I represent 230 plus coal miners and I  
13 have some general comments from them in reference to  
14 seal construction, materials and monitoring and some  
15 general safety philosophies that we have at our  
16 mine.

17 You already heard from Chris Barbee and  
18 I echo much of his sentiments, and I won't restate  
19 those. The miners have some concerns, though.

20 First of all, I applaud and they applaud  
21 your effort and time and commitment to helping make  
22 them safe and allow them to work and prosper and  
23 support their families and they are very, very aware  
24 of the risks and hazards of coal mines. Those  
25 really have not changed over the last hundred years.

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1 The only things that we have between us and those  
2 risks are the ability to manage, identify and  
3 mitigate these risks, both with technology,  
4 training, management and culture.

5 MS. SILVEY: Excuse me. Please, you are  
6 doing real good. I mean, I don't want to interrupt  
7 your thoughts, but can everybody hear him? I'm  
8 sorry. I hate to ask you. It looked like some  
9 people were straining to hear you.

10 MR. WATSON: Should I start again or  
11 keep going?

12 MS. SILVEY: Keep going.

13 MR. WATSON: Okay. Again, the risks in  
14 the coal mine that we incur, and we see have not  
15 changed in the last hundred years. The risks and  
16 hazards are still there and the only thing between  
17 us and those hazards are training and technology and  
18 our ability to identify, manage, and mitigate these  
19 risks and some of that is the culture and the miners  
20 that do the work. This is the objective of my  
21 presentation this morning is some of the concerns  
22 that they have from an actual hands-on application  
23 of seal construction and handling and the peace of  
24 mind and information as far as monitoring our gob  
25 gasses and to deal with the issues as they arise

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1 sufficiently and safely and consistently.

2 As I mentioned, though, they do very  
3 much appreciate your time and effort and resources  
4 to help them keep their jobs and work safely and  
5 support their families.

6 Specifically, in dealing with seal  
7 construction, whatever the end result of your effort  
8 as far as whatever the end result of seal  
9 construction, a 50 psi seal or 120 or whatever the  
10 value is, at some point please do consider that

11 whatever you design, whatever you agree upon,  
12 someone has to build it and when they are building  
13 it they have to have the material hauled in and  
14 prepare the site and so many times now in the coal  
15 mine we see injuries, minor or moderate involving  
16 lifting, twisting and carrying of materials.

17 Don't misunderstand me. The coal miners  
18 very much want to build whatever you want to build  
19 for safety. 175, 20 steps, we don't care. We will  
20 deal with whatever we have to, but it must be  
21 efficient and it must be consistent and it is labor  
22 intensive and it does involve backs and knees and  
23 ankles and physical work, so having said that,  
24 please consider those when we do final designs and  
25 final law to affect what we build.

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1 The miners have conveyed to me an  
2 important fact. In our mind we are very aware of  
3 our gob gasses and we have the ability to monitor  
4 and there's someone continually monitoring these gob  
5 gasses and control, and if we have an issue they get  
6 on the radio and call somebody who works on the crew  
7 and say Craig, take that meter, verify and take a  
8 bag sample, and so if they are working somewhere  
9 else in the mine, they know that someone is taking  
10 care of this safety concern.

11 We know it's back there. If it is not  
12 in parameter range, we like to go and check it. If  
13 we need to, we add more oxygen and we inert it, but  
14 the point is that we are aware of our mine gasses.  
15 We don't take it for granted, and we manage them and

16 the peace of mind that we have with our miners  
17 because of this is important. It allows them to  
18 concentrate on their tasks at hand and help keep  
19 them safe, and that's an important fact. Our mine  
20 is relatively new and a lot of miners are brand new  
21 to the mining industry. We have always done it this  
22 way. At the same time, we're always analyzing and  
23 scrutinizing what we do and how we do it to make it  
24 better, which is an important fact. If something is  
25 better or more safe, we do it.

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1 The miners that said they like the idea  
2 of having two sampling pipes in the seals, two is  
3 twice as good as one. If we lose one from gob  
4 cave-in, we could have the other one, so they like  
5 the idea of having two.

6 So, this is a broad spectrum. Those are  
7 the comments that were conveyed to me. Materials,  
8 handling, and ability to sample and manage our gob  
9 gasses.

10 That's all I have for you. Thank you so  
11 much for your time.

12 MS. SILVEY: Thank you very much,  
13 Mr. Watson. On your sample, since they said they  
14 call you sometimes, do you all have a chromatograph  
15 at your mine?

16 MR. WATSON: Yes, we do.

17 MS. SILVEY: I figured you did. Okay.  
18 I have no other comments.

19 MR. SHERER: Thank you, Mr. Watson.

20 You mentioned that you are continuously  
21 monitoring your gob atmosphere. Do you know how

22 often that sample is? Is it once an hour, once a  
23 day?

24 MR. WATSON: I may have misspoke. I  
25 think it is a 15-minute sampling, but I believe they

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1 can actually lock on any one point at any one time.  
2 I believe that's true. I believe it is a 15-minute  
3 cycle. I did not write it down.

4 MS. SILVEY: Do you all have an AMS  
5 system?

6 MR. WATSON: Yes, ma'am, AMS system,  
7 tube sampling and, of course, our hand-held.

8 MS. SILVEY: Thank you very much,  
9 Mr. Watson.

10 MR. WATSON: Thank you.

11 MS. SILVEY: At this point, is there  
12 anybody else in the audience who either wishes to  
13 make comment or make additional comments if you  
14 spoke earlier, so feel free to do so. Yes?

15 MR. KOCH: I have a couple comments if I  
16 may.

17 MS. SILVEY: Mr. Koch.

18 MR. KOCH: I'm glutton for punishment  
19 here this morning.

20 I wish to comment on a couple things.  
21 We talked about the rebar and the floor. I would go  
22 a little further on that in that there were a couple  
23 people who approached me at the break and that's  
24 that that entry that goes over to the face needs to  
25 be kept accessible for equipment to move in and out,

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1 the ability to carry cans in for roof support, and  
2 it is really impractical to try to put any rebar in  
3 that floor ahead of time. Those bars are going to  
4 spray in different directions.

5 I would also like to point out on that  
6 that I don't believe there is any currently approved  
7 seals that have that rebar in there that don't also  
8 say it's not applicable for convergence locations  
9 where your convergence, and I believe there's a  
10 statement that says that convergence, that's not  
11 applicable to those locations. I believe it may  
12 conceal but they are only approved up to eight-foot  
13 high and that would be inapplicable as well for the  
14 western coal miners, so, anyway, also, there is, in  
15 the Friday, June 8th ETS it talks about do I have to  
16 sample the sealed area in the Friday June 8, 2007  
17 ETS questions and answers. One question, No. 7 is  
18 do I have to sample the sealed atmosphere using both  
19 sampling pipes in each new seal. The answer is  
20 during the 14-day sampling period the seal  
21 atmosphere must be done through both sampling pipes  
22 in each seal. The comment I would like to make, if  
23 you think about that, with gob isolation seals where  
24 you have just sealed, there could be as many as 50  
25 seals coming into play there. If we were to sample

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1 one out of two tubes for 14 days over 15 seals --  
2 over 50 seals -- that would be 1400 samples that  
3 would need to be taken in that two-week period.  
4 Obviously, that's not a practical thing to be doing,  
5 so I think the regulations need to address the gob

6 items. It is another example where I don't believe  
7 gob isolation seals are properly addressed.

8 I had heard a comment that there is some  
9 new compliance questions and answers coming out.  
10 That might be an opportunity to put some  
11 clarification on what really makes sense.

12 MR. SHERER: I have a comment. Thank  
13 you, again, Mr. Koch.

14 I was just suggesting a possible  
15 approach for any of the rebar. The one concern I  
16 have is you say that rebar is not applicable anyway,  
17 so I guess it is a moot point.

18 MR. KOCH: I don't think it is  
19 applicable. The seals that are there right now that  
20 have been designed so far that are approved so far  
21 have rebar in them are not applicable in the mines  
22 to show convergence.

23 MR. SHERER: So it is a moot point?

24 MR. KOCH: Yes, but --

25 MR. SHERER: Thank you.

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1 MS. SILVEY: Thank you. Thank you,  
2 Mr. Koch.

3 Is there anybody else who wishes to make  
4 comments?

5 MR. COOPER: Can we ask a question?

6 MS. SILVEY: Can you come to the mike?

7 MR. COOPER: I'm loud anyway.

8 I would just like to ask Mr. Stephan. I  
9 didn't quite understand your statement a while ago  
10 when you were asking about distance, 5 to 20 feet

11 from a seal and what happened in Sago. I didn't  
12 understand that statement.

13 MR. STEPHAN: The Darby mine, the  
14 explosion that resulted in the five fatalities, two  
15 men went to the seal for the purpose of cutting a  
16 strap, a metal strap that, you know, was from the  
17 active side to the inactive side and it was the  
18 belief of the Darby investigation team that the  
19 purpose of them going there was to cut that strap  
20 and on the active side of the seals the atmosphere  
21 would have been a fine atmosphere. There would not  
22 have been explosive concentrations of methane there  
23 at all, so when they made their measurements of the  
24 atmosphere, it would have seemed okay to them, so  
25 they began their cutting process but as a part of

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1 the investigation some cutting experiments were done  
2 at the NIOSH Lakeland facility on those exact types  
3 of metal straps where they are kind of corrugated  
4 and there's channels in there and they actually  
5 blocked off the passage of sparks through any means  
6 at all except for along those channels and during  
7 the cutting process, you know how the sparks are  
8 flying all over the place, some sparks flew through  
9 the channel underneath the roof that they would have  
10 had there and shot into the side that would have  
11 been the sealed side for a distance of 15 to  
12 20 feet, and it was just --

13 MR. COOPER: That's what I didn't  
14 understand.

15 MR. STEPHAN: If we established that  
16 distance --



17 MR. COOPER: Very clearly, I do believe  
18 that we have regulations already in place as far as  
19 any welding or anything in the atmosphere, the  
20 active atmosphere, and I didn't quite understand the  
21 statement when you brought Darby up because I had  
22 read that and I did not gather that that particular  
23 incident, those regulations were followed from the  
24 MSHA investigation. Thank you.

25 MR. STEPHAN: You are welcome.

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1 MS. SILVEY: Is there anybody else that  
2 wishes to make comments? Well, if nobody else here  
3 present wishes to make comments or provide  
4 testimony, what I'm going to do now is tentatively  
5 bring this hearing to a close and as I do so I want  
6 to again thank you all for your participation in  
7 this important rule-making process.

8 Again, I want to thank those of you who  
9 came here today and just showed us by your presence  
10 that you are interested in the rule-making process,  
11 although you may not have testified. For those of  
12 you who testified, on behalf, as I said earlier, the  
13 assistant secretary and all of us who have been  
14 involved in this process, we appreciate very much  
15 your testimony. For those of you who promised that  
16 you were going to submit your testimony with  
17 additional written comments and specific information  
18 where we asked you, we will look forward to getting  
19 those to us in Arlington before the record closes on  
20 August 17th. Those specific comments will be very  
21 useful and where you made conclusions, if I can ask

22 you if you can follow it up with specific  
23 parameters, specific support for your conclusions,  
24 if you made any economic sort of conclusions,  
25 specific data in support of that, that will be very

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1 useful for us in crafting the final rule and so we  
2 will, you know, we may see some people in Birmingham  
3 on Thursday and then the record closes on  
4 August 17th and we will begin the job of developing  
5 the final rule, which we hope to have done by  
6 February of '08.

7 I would now tentatively close the  
8 hearing. We will be here at 1:00 o'clock in case,  
9 because the Federal Register notice said 9:00 to  
10 5:00, we will come back at 1:00 in case that there's  
11 anybody who came in maybe thinking that they could  
12 come in for the afternoon session and we would be  
13 here.

14 We will come back here just in case  
15 there's anybody else, but if nobody is here at that  
16 time, we will consider the hearing officially  
17 closed. Thank you all.

18 (Whereupon, a lunch recess was taken.)

19 MS. SILVEY: At this time we will  
20 reconvene the Mine Safety and Health  
21 Administration's public hearing on sealing of  
22 abandoned areas in underground coal mines.

23 Our first speaker, as you heard me this  
24 morning, those you who wish to speak, if you would  
25 please spell your name, speak clearly and spell your

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1 name for the reporter.

2 Our first speaker for this afternoon's  
3 hearing is -- excuse me, please. I don't have the  
4 speaker list, do I?

5 Our first speaker is Tom Kay with United  
6 Mine Workers of America at Energy West. Mr. Kay?

7 MR. KAY: Thank you. Tom Kay, K-A-Y.  
8 I'm a representative of the miners of Local 7269,  
9 Energy West Mining. We have a few comments we would  
10 like to make on the new seal regulations.

11 We think it's not practical replacing  
12 all seals already in. We got about 120 seals in our  
13 mine and the cost of that would be enormous for our  
14 company and for the workers also. We also don't  
15 agree with having to remove all cables from sealed  
16 areas. We're -- we got about 25 underfoot covering  
17 over us and we really don't think that lightning can  
18 come down and strike us with that much cover. If it  
19 did, I think I would be sitting a little bit  
20 differently around some people underground, but we  
21 think, you know, we try to get all the cables we can  
22 out of our sealed areas. Sometimes it's impractical  
23 to get them. Removing the metals like the mesh, we  
24 do do that in our mines. We cut it out. Some mines  
25 you got to take into consideration in the roof

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1 control plant the mesh is in there. If they do cut  
2 it out, it would be a violation.

3 Removing rip pins from a sealed area,  
4 you are just exposing miners to dangers in that  
5 it's, you know, we put them in there for support and

6 you get a guy over there trying to take them out, I  
7 think it would cause more of a hazard.

8                   And one other thing, welding within 150  
9 feet of a seal. And that's -- I disagree with that  
10 and so do the people at our mine. We do have a belt  
11 line that does run past seals and if it caves off,  
12 it breaks down, we have to cut on it, repair the  
13 area, whatever. What are we going to do? You know,  
14 we take the measures with seals, we monitor them,  
15 you know, we have instruments. We check for gas and  
16 then, you know, I just think this 150 foot thing, I  
17 mean, it might be good for some other place, but  
18 like in our coal mine, when I talked to Patricia a  
19 few minutes ago, our mine is the one they talked  
20 earlier about not having any gas. We did 14-day  
21 samplings on our seals, zero percent methane. I  
22 think, you know, we need to, you guys need to take a  
23 little bit stronger look on that 150 foot. That's  
24 all I got.

25                   MS. SILVEY: Thank you very much. We

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1 appreciate your comments.

2                   With respect to your comments that it's  
3 impractical to get all cable, can you tell me  
4 exactly what you do now? Since the ETS has been in  
5 effect, do you remove some cables? Give me an  
6 example of when it's impractical to remove a cable.

7                   MR. KAY: What if you have a roofer fall  
8 on a cable. How are you going to go in and get it?  
9 You can see the end sticking out but you are going to  
10 go underneath an unsupported top to try to get it  
11 out.

12                   Or what if there is too much water? You  
13 know, our mine is a wet mine. I mean, it is a real  
14 wet mine and, you know, we come up under these  
15 conditions sometimes, you know. When you are  
16 retreating out of there, you go seal an area off,  
17 you got power off, you are coming out. You know,  
18 you are trying to bring cables out as fast as you  
19 can. Your pump is out. You know, we don't try to  
20 leave a lot of things back in a sealed area because,  
21 you know, you never know what could happen back  
22 there really. And, you know, we're very safety  
23 conscious at our mine and we try to remove all of  
24 our trash out of it and we do a very good job at our  
25 mine.

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1                   MS. SILVEY: That's my only comment.

2                   MR. SHERER: Several comments. Thank  
3 you for your comments.

4                   When you seal along the belt, do you  
5 have a stopping line in between?

6                   MR. KAY: No.

7                   MR. SHERER: You actually have the belt  
8 line up against the seals?

9                   MR. KAY: No. The belt line runs in the  
10 entry where the seals are.

11                  MR. SHERER: Thank you.

12                  MR. KAY: They are ventilated, you know.

13                  MR. SHERER: Sure.

14                  Another question for you. You say you  
15 have areas where you can't get all of the cable out  
16 of the area to be sealed, but you remove as much as

17 you can.

18 MR. KAY: We try to remove as much as  
19 possible. When we pull out of an area to get ready  
20 to seal it, you know, cable costs money.

21 MR. SHERER: Sure.

22 MR. KAY: So, you know, we are trying to  
23 get everything out of there to save costs, but under  
24 some circumstances, you are not going to be able to  
25 get them out.

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1 MR. SHERER: We have actually published  
2 a compliance assistance question that says we want  
3 you to remove as much cable as practicable. We  
4 don't want anybody to go under unsupported roofs or  
5 do anything like that, so I think we probably  
6 answered your concern there.

7 MR. KAY: I just wanted to go on record  
8 about that.

9 MS. SILVEY: That's good. Thank you.  
10 Thank you very much.

11 Next -- our next speaker will be Brandon  
12 Sinclair, United Mine Workers, Energy West.

13 MR. SANICH: Good afternoon. My name is  
14 Randy Sinclair, S-I-N-C-L-A-I-R. I'm a union worker  
15 at the Deer Creek mine in Utah. We have some  
16 comments about the -- being miner friendly when  
17 we're talking about constructing all these seals and  
18 we, if we have to, we build all of them. You are  
19 talking about a lot of costs and a lot of backs  
20 breaking, carrying back to the old seal for miners,  
21 and the 150 foot, we have a lot of areas in our mine  
22 with our large intake will be closer than a hundred

23 fifty foot from the seals and if something would  
24 need to be welded or anything, we got to be able to  
25 fix it and we have a lot of places where the seals

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1 are within that range. In fact, 50-foot, most of  
2 them.

3 Tom took care of most of what I wanted  
4 to say.

5 Retrieving of cables. Like Tom said, we  
6 get most of them out. There's a lot of costs  
7 involved in getting them out safely and we try and  
8 do what we can to get them cables out. Like Tom  
9 said, there is no way you are going to get all the  
10 cables for the bleeder going behind the longwall and  
11 stuff. You are not going to be able to get all them  
12 cables out and I would, like I said, he covered what  
13 I was going to say and I thank you for your time.

14 MS. SILVEY: Okay, Mr. Sinclair. Thank  
15 you very much. Thank you for your time. We  
16 appreciate your comments.

17 MR. SINCLAIR: Okay.

18 MS. SILVEY: I guess for the sake -- I  
19 will ask again. Is there anybody else who wishes to  
20 make any comments? Okay. If there is not anybody  
21 else who wishes to make any additional comments for  
22 this public hearing, again, for those who came, we  
23 appreciate the people who provided comments and  
24 testimony to MSHA, and as you heard me say this  
25 morning, we will move forward in developing the

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1 final rule.

2 If you want to make additional comments  
3 to us before the record closes on August 17th, I  
4 encourage you to do so. At this point, we will now  
5 conclude the Mine Safety and Health Administration  
6 public hearing on seals. Thank you very much.

7 (Whereupon, the hearing was concluded at  
8 1:10 p.m.)

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1 CERTIFICATE WITH ACKNOWLEDGMENT

2

STATE OF COLORADO )

3

COUNTY OF DENVER )

4

5 I, ANDREA FINE, Registered Professional

6 Reporter, certify that I was authorized to and did



7 stenographically report the foregoing proceedings  
8 and that the transcript is a true and complete  
9 record of my stenographic notes.

10

11 Dated this \_\_\_\_ day of \_\_\_\_\_,  
12 2007.

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\_\_\_\_\_  
ANDREA FINE, RPR

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My Commission Expires:  
March 1, 2008

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