

## EXECUTIVE SUMMARY

### “KEEPING AMERICA’S MINES DRUG- AND ALCOHOL-FREE”

**Sponsored by the Mine Safety and Health Administration and  
The States of Kentucky, West Virginia and Virginia  
Hazard Community and Technical College  
Hazard, Kentucky  
December 8, 2004**

#### **Introduction**

*On December 8, 2004, the Mine Safety and Health Administration (MSHA) and the States of Kentucky, Virginia and West Virginia hosted “Keeping America’s Mines Drug- and Alcohol-Free,” a one-day substance abuse summit. This kick-off meeting in the Southern Appalachian region brought together a coalition of government, mining industry, labor, miners, and public health experts in sharing information, expertise and experiences in dealing with substance abuse in mines and the community.*

*Throughout the course of the day, over 200 participants listened to keynote speeches from Mr. David Dye, Acting Assistant Secretary for the U.S. Department of Labor’s Mine Safety and Health Administration and Ms. LaJuana Wilcher, Secretary of Kentucky’s Environmental and Public Protection Cabinet; engaged government panelists representing the States of Kentucky, West Virginia and Virginia and MSHA on the “The Urgent Case for Action on Substance Abuse,” learned from coal operators on the employer experience with “Substance Abuse Programs, Successes, Challenges and Lessons Learned,” heard concerns on the Miner Experience and the Impact of Substance Abuse; and explored “Resources for the Mining Industry” and steps to a drug-free workplace for employers and small mines.*

*Participants were exceptionally engaged in the Action Planning Workshop in which 4 facilitated discussions were held in breakout groups. These 4 groups included 1) Mine Substance Abuse Task Force – what is the purpose, scope and priority setting?; 2) Substance Abuse – what should be the government’s role?; 3) The Role of the Workers’ Compensation Carriers – how can they help? and 4) Integrated Efforts between Government, Industry, Labor and Community Resources – how to get the biggest bang for the buck on education, outreach, resources, and enforcement.*

*Summit participants were able to identify priorities and actions needed to address drug and alcohol abuse among miners. The participants’ keen interest and ensuing dialogue provided evidence that there is multi-sector commitment in addressing this pervasive issue in the Southern Appalachian region and a sense of urgency for solutions.*

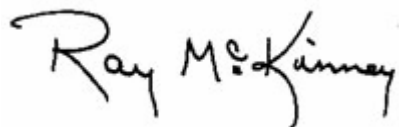
## Foreword

I would like to take this opportunity to express my appreciation to all of you who supported and participated in our "Keeping America's Mines Drug- and Alcohol-Free" Summit. Without a doubt substance abuse is a national concern to our society; however, the prevalence of this issue in our communities can deter the positive safety and health trends experienced by the mining industry in the last several years. The participation and dedication we observed at the December 8, 2004 Summit reinforced my belief that we are a forward-thinking industry with the courage to spear head into solving problems and issues knowing full well that the answers are not readily available.

As promised, this document provides an executive summary of the discussions and ideas that came about at the Summit. In addition to this summary, we will have all the Summit keynote speeches and power point presentations available on the Mine Safety and Health Administration's web site at <http://www.msha.gov>.

We charged ourselves with a multi-faceted goal at the beginning of the Summit. We were taking a visionary look at short-term and long-term solutions, evaluating what the industry could do to mitigate the problems, and establishing a path for the Mine Substance Abuse Task Force to explore as solution pioneers. This summary highlights the break out session groups' thoughts, recalls pertinent comments that were made and provides a reminder to all of us that the momentum must continue if resolution is to be achieved.

Thanks again for your hard work and contributions. Addressing the substance abuse and alcohol problems in the mining industry is a monumental step in our journey to zero injuries, illnesses and fatalities in the Coal mining industry.

A handwritten signature in black ink that reads "Ray McKinney". The signature is written in a cursive, slightly slanted style.

Ray McKinney

## **Keynote Speeches**

Keynote speeches were delivered by Acting Assistant Secretary David Dye for the U.S. Department of Labor's Mine Safety and Health Administration (MSHA) and Ms. LaJuana Wilcher, Secretary of Kentucky's Environmental and Public Protection. Remarks by both speakers emphasized the pervasive nature of substance abuse particularly in the Southern Appalachian Region of Kentucky, West Virginia and Virginia and the cause for concern for the mining industry. In several recent fatal mining accidents, toxicology reports revealed the presence of drugs or alcohol in the victims' systems. Given that MSHA currently has no enforcement authority under the Mine Act regarding individual accountability for substance abuse in mines, MSHA's efforts will focus on outreach, education and assisting operators in substance abuse programs. The partnership of MSHA and the states of Kentucky, West Virginia and Virginia plays a significant role in our goal to educate and enlighten the mining community on the dangers of drugs and alcohol in the mining workplace and the increased risk to miner health and safety. Under Kentucky's leadership, efforts are being taken to reach out and join forces with MSHA, states, operators and miners in gathering information about drug and alcohol abuse, its impact on miner safety and designing various approaches to the problem in the mining industry and communities.

## **Government Panel: the Urgent Case for Action**

Federal and state government senior officials presented a panel discussion on the "Urgent Case for Action." Messrs. Paris Charles, Executive Director of Kentucky Office of Mine Safety; Frank Linkous, Chief of Virginia's Division of Mines; C.A. Phillips, Deputy Director of the West Virginia Office of Miners' Health, Safety and Training; and Ray McKinney, MSHA's Administrator for Coal Mine Safety and Health and Acting Director of the Southern Appalachian Region, engaged in a discussion on the urgency for government action and provided their perspectives on the need to address the problem of substance abuse in coal mines in the Appalachian area and beyond. Coal mining, by its intrinsic hazards to miner health and safety, does not provide "second chances" for "mistakes" caused by a miner altered or impaired by drug and alcohol use or abuse. Anecdotal and toxicological evidence from recent coal mining fatalities and accidents suggest a very serious problem which places everyone working in the mine at risk. The nexus of a positive forecast for the coal industry's future in which more miners are needed, more money is available for the drug of choice on the street and an industry pressured to accept a forced tolerance of labor present a new challenge in coal production. Without a remedy for the substance abuse problem in the Appalachian area, the coal mining industry will be engaged in riskier mining production due to more

difficult mining conditions, larger and more advanced technology, ultra-gassy mines, increased risk for haulage accidents and fatalities, and growing population of contractors. There was consensus that the entire coal mining industry must collaborate to address the multiple challenges facing operators, governments, miners, families and the communities in which we live and operate.

## **Employer Experience Panel**

Representatives of 5 coal mining companies presented a panel discussion on experiences with their existing substance abuse programs and offered advice on the keys to a successful program and potential pitfalls when employers embark on establishing such programs in the workplace. The panel members included Messrs. Buddy Johnston, Lone Mountain Processing, Inc.; John Schoolcraft, Alpha Natural Resources; Arch Runyon, Massey Energy; Donnie Pauley, Peabody Energy; and Ms. Helen Churilla, Consol Energy. These operators described their substance abuse programs, how they were developed and implemented and outlined their policies for pre-employment, post offer, for cause and random drug testing through a certified drug testing laboratory. Common to these operator programs were the provision of Employee Assistance Programs, adherence to a zero tolerance policy for illegal drugs or last chance agreements, the utilization of a medical review officer and 3<sup>rd</sup> party administration, and the need for commitment to address the substance abuse issue in the mining workforce. Increasingly, the problems encountered by these operators include the proliferation of prescription pain medication, the availability of illegal substances, use of prescription drugs on the job causing impairment or altered behavior, and the availability of “cleansing” agents via the internet or local vendors supplying masking agents to alter samples. Substance abuse is a cultural issue, however, lessons learned from these operators indicate that working toward the common goal of decreasing substance abuse in the workforce requires a company commitment, continuous improvement in the substance abuse programs, sharing of information and experiences, and realization that solutions cannot be found until the mining community as a whole has a better idea where the problems are. There was consensus by the employer experience panel that this Substance Abuse Summit was a tremendous step forward and that major efforts need to be taken to meet the existing challenges and those that lie ahead.

## **Miner Experience Panel**

Messrs. Reece Maggard, Scotia Employees Association; Minness Justice, MSHA; and Danny Osbourne, Jr. addressed miners’ concerns with the problem of substance abuse among coal miners in the Appalachian region. Recognizing that operators and communities need to take action to address the growing prevalence of substance abuse,

the miner panel stressed the need for uniform and fair administration of drug testing – “equal and just for all” – and to prevent employee harassment and discrimination. The panel shared their painful experiences either personally or with loved ones, presented a poignant argument that with the support of employers, family and the community, “second chances” can be instrumental in helping an addict overcome the abuse of oxycontin and other illegal drugs and assist one down the “hard, rough road” to addiction recovery.

## **Resources for the Mining Industry**

Ms. Elena Carr, Program Analyst in the U.S. Department of Labor’s (DOL) Office of the Assistant Secretary for Policy, provided information on resources for the mining industry and small mines. Utilizing web-based tools and other resources available from the DOL Working Partners for an Alcohol- and Drug-Free Workplace program, she showcased the outreach and information dissemination initiative to encourage and assist work organizations to implement drug-free workplace programs. To initiate such a program, recommendations were provided that employers should take a multi-step approach: development of a drug and alcohol policy, training front-line supervisors to recognize the signs and symptoms of substance abuse, educating miners on the dangers of abuse, drug testing of employees and the provision of Employee Assistance Programs. Various facets of each of these steps were discussed in greater detail and during the question and answer session, Ms. Carr provided guidance on substance abuse strategies. Programs that prohibit drug use among miners will have limited effectiveness unless adequate law enforcement, treatment and prevention efforts, consultation and active support from the labor force are integrated into an employer’s overall strategy to combat substance abuse in the workplace.

## **FOUR ACTION PLANNING WORKSHOPS**

### **THE ROAD MAP FOR THE TASK FORCE**

*Substance and alcohol abuse is a serious problem in our communities; unfortunately our mining industry is not immune to this problem. Substance abuse in our mines is a serious problem and if left unchecked we will invariably see an increase in mine accidents and fatalities, a decline in our skilled mining workforce and a decrease in our productivity. Currently, there is a lack of hard data that would allow us to determine the scope and magnitude of the problem or to develop effective options for curbing substance abuse.*

*In an effort to fill the information vacuum, Kentucky has proposed forming a joint task force to gather the necessary information, and to research the difficult issues surrounding substance*

*abuse with the goal of developing recommendations to curb substance abuse in the mines. Participants will include state agencies from Kentucky, West Virginia, Virginia as well as MSHA, and will also include representatives from the mining industry and labor. Working together we can begin to craft solutions to this serious problem.*

### **Demographics**

- ◆ An information network needs to be established to identify the scope of the problem, population affected and the drug of choice in particular areas. This will require a coordinated effort of all parties, including testing laboratories, medical facilities that administer prerequisite testing for job placement and companies with on-going screening programs. Information such as pass/failure rates, active EAP initiatives, type of testing etc. should be included in the data collection process. The final product should be a sanitized data base that can be used by the industry and community officials to address high risk areas and prevalently used drugs and to be a reference for what is or is not working. The data base should be a living document with continuous update feeds.

### **Elevate the Industry's Knowledge Base**

- ◆ The responsible person with the most knowledge of an employee's behavior is the first line supervisor. He/she is at the point of control and it is imperative that this person be provided with the tools to properly identify and address drug and alcohol use in or at the mine. Industry needs an understandable and usable definition of *impairment*. This will send a clear signal to the miners of the expectations and allow the responsible official at the mine to make clear and informative decisions related to testing for suspicion or cause. There is a clear need for an industry guidance document that provides the supervisor with information to associate behavioral issue with the use of particular substance.
- ◆ It is understood that abuse of prescription drugs is on the rise and the use of illegal drugs is declining. This pattern reflects a need for criteria to be established to evaluate an employee's mental and physical condition in relation to the prescription drugs being consumed. Altered behavior that affects the employee's ability to perform the duties and functions of the job must be addressed, even though illegal drugs are not involved. Return to work restrictions need to be addressed, much the same as they are with the present compensation program.
- ◆ The scope of the sampling procedure needs to be evaluated to ensure that all drugs (including prescription drugs) that alter the behavior and increase job site risk are detected.

### Information Outreach

- ◆ All available entities such as companies, states, and federal programs should be canvassed for successful training programs that address behavior, effects and associated diseases related to substance abuse. This information could be categorized and web-based to assist the industry in addressing the problem.
- ◆ A video for industry and family viewing should be developed depicting the problems and concerns associated with substance abuse in a miner's life. Outreach efforts should span well beyond the mine site. Local television stations, big screens in the market place and industry gatherings should be targeted for presentation. A template for this action could be the video "The Right Choice."
- ◆ The use of the following resources should be elevated as potential vehicles for information outreach:
  - State and Federal Inspection Agencies
  - Health and Safety Managers
  - Internet Coal
  - Coal Mining Associations
  - Holmes Safety Associations
  - Labor Management Positive Change (LMPC)

### Incentives/Assistance

- ◆ Realistic incentives that can be utilized to support and upgrade quality programs to address substance abuse in the mining industry can be studied. This would include the potential to reduce compensation cost, provide severance tax breaks, reduced license fees etc.
- ◆ The potential for developing cooperative programs or arrangements to augment effective substance abuse programs can also be studied. This would include group participation to reduce overhead costs, mentoring programs for small mines by larger mines with well established programs etc.
- ◆ The effectiveness of treatment centers for rehabilitation and aftercare should be evaluated and focus on a quality program to mitigate chances of replacing one drug with another (methadone). Safeguards should be built in to prevent reentry into the industry with a therapeutic treatment that still alters behavior.
  - ◆ The infrastructure of present programs for inclusion of an EAP component should be studied.

### Resources for the Task Force

- ◆ State Police
- ◆ Certified Laboratories
- ◆ Medical Facilities that provide pre-employment drug screening
- ◆ Department of Labor
- ◆ Twelve Step Support Groups
- ◆ Employee Assistance Professional Association (EAPA)
- ◆ Drug and Alcohol Testing Industry Association
- ◆ National Institute for Health (NIH)
- ◆ National Alcohol and Drug Abuse Counselors (NADAC)
- ◆ REACH

### **WHAT SHOULD BE THE ROLE OF GOVERNMENTAL AGENCIES IN KEEPING AMERICA'S MINES DRUG- AND ALCOHOL-FREE?**

*The focus of this breakout group was to identify opportunities for local, state and federal agencies that are available or could be developed to support the coal industry in "Keeping America's Mines Drug and Alcohol Free."*

### Inspections and Oversight

The following activities were recommended:

- ◆ Increased or decreased risk assessment inspections (spot inspections etc.) depending upon quality and results of the program.
- ◆ Function as a coordinator for the Mentoring program for non sampling mines. (Mines with well established programs mentor and guide those without a program)
- ◆ Link MSHA and State Web Sites to facilitate templates and assistance for development of Substance Abuse programs
- ◆ Joint inspections by Federal and State authorities on complaints related to substance abuse
- ◆ Share information between States related to scope of problem, statistics, miner certificate revocations etc. (Possible MOU)



- ◆ Require initial and annual refresher miner training to contain a component related to hazard of substance abuse in the mining industry, possibly 2 options:
  - Letter of encouragement to all operators to include in the training plan or
  - Requirement by District Manager to place into the plan
- ◆ Fund State Grants programs for outreach activities
- ◆ Share miner certification data with local law enforcement groups (electronic access) and request updates on any enforcement actions related to alcohol or substance abuse
- ◆ Involvement in resolving the issues related to “masking” samples. This would include addressing the accessibility of the substances/chemicals used to mask, promoting analysis for masking chemicals in screening process and identification process for those that have altered samples

### *Governmental Involvement in Outreach Programs*

Developments of the following products were recommended:

- ◆ On-line template to assist operators in establishing a substance testing program
- ◆ Promote EAP as a vital step to any quality program and assist with providing the logical steps to bringing that component into the plan
- ◆ Preventative educational programs for new miners entering the work force, including new miner training, and academic institutions
- ◆ Build coalitions and networks with other Federal and State programs that have capability to intervene, such as:
  - Education and Training Assistance (ETA) input as the work force is being built
  - Compensation boards
  - Office of Drug Control Policy
  - Kentucky ASAP
  - UNITE
  - And other organizations
- ◆ State and Federal agencies build a premier program for their agencies that will serve as an example for industry
- ◆ Distribute information to miners on rehabilitation services in communities

- ◆ Assist with development of a video or DVD to raise family awareness of substance abuse problem in the industry
- ◆ Radio/television spots to highlight substance abuse problem and encourage peer oversight
- ◆ Encourage companies to appeal to families through informational materials routed with the checks, earnings statements etc.
- ◆ Develop programs to reach out to the schools, such as “Stay Out, Stay Alive.” The intent is to involve the family in addressing the substance abuse problems in the mine
- ◆ Hold summits and forums for industry and draw miners to the table
- ◆ Draw upon the expertise of the medical field and have health care providers speak at conferences, summits etc.

*Regulatory Agenda for State and Federal Agencies Related to Substance Abuse in the Mining Industry*

Many ideas were suggested, including:

- ◆ Mandate toxicology tests on all persons involved in mining accidents, not just the victim
- ◆ Apply an individual penalty assessment for miners that fail a drug screen test
- ◆ Require a national certification card showing that training on substance abuse had been received and employee has a record of a clean drug screen
- ◆ Suspend or withdraw a miner’s certification for repeated offenses of substance abuse and have a mechanism for the certificate to be earned back
- ◆ Government use of drug screening results should be for information only, not for comparison
- ◆ Limit compensation benefits for injured miners impaired by drugs
- ◆ Legislation put forth to develop regulations to mandate drug testing programs with pre-employment, random and suspicion testing built into the system

- ◆ Adjust Part 50 to require operators to report occurrences of failed tests
- ◆ Require autopsies for all fatality victims including toxicology

### **The Role of Workers' Compensation In Addressing Substance Abuse in the Mining Industry**

*The focus of this breakout group was to identify the function that Workers' Compensation Insurance Carriers currently have and opportunities to expand their role in creating incentives and facilitating substance abuse prevention programs in America's mining community.*

Key roles and efforts were identified:

- ◆ Carriers should recognize mines with quality drug screening programs with a cost reduction in premiums
- ◆ Carriers should encourage policies that reduce or eliminate benefits for miners that are injured and drug impaired at the time
  - Possibly no cost above the medical cost
- ◆ Efforts should focus on a saved employee program (bring back a positive tested employee to a low risk position) by reducing cost for a quality return-to-work program
- ◆ Improvements be made to the medical review policy to stop oxycontin prescriptions
  - Stop payment for oxycontin prescriptions
- ◆ Representatives from Workers' Compensation Carriers should participate in mining seminars and other meetings of the industry to promote their positions and identify ways to assist the industry

### **Integrated Efforts among Government, Industry, Labor and Community**

*In order to succeed, efforts to eliminate drug and alcohol abuse throughout the mining industry must utilize many strategies and involve all facets of the community. Strategies typically include both reducing the supply of drugs through interdiction and law enforcement efforts as well as reducing the demand for drugs through prevention, intervention and treatment. Although mine operators can establish policies and programs that prohibit drug use among mine workers, such programs will be of limited effectiveness without adequate law enforcement,*

*treatment and prevention efforts and absent adequate consultation and active support from the labor force.*

**Types of Representation within Each Sector (government, industry, labor and community) and their appropriate roles and expertise**

- ◆ Government resources included Small Business Administration, DOL Education and Training Administration, law enforcement, Operation Unite through Coalitions, State Agencies (Office of Drug Control Policy) and Kentucky ASAP, MSHA, State Mining Agencies, Department of Transportation (trucking template), American Medical Association, High Intensity Drug Trafficking Area
- ◆ Industry included pharmaceutical companies' assistance, coal companies, Holmes Safety Association, Compensation Carriers
- ◆ Labor, such as the Professional Miner Program
- ◆ Community resources included churches (self-help), local governments, civic organizations, community-based non-profit organizations, community coalitions (Operation Unite) needs assessment and strategic plans, treatment facilities, Alcoholic Anonymous, half-way houses, counseling services, community services, medical community, regional prevention centers, Partnership for a Drug-Free America, EAPs, and drug testing providers

**Resources Available from Each Sector and Existing Gaps**

These include:

- ◆ Funding (grants, etc.), drug policy, facilitation, training, public service announcements, self-help, law enforcement, drug testing providers and family pressure
- ◆ Existing gaps include legislation, lack of industry-wide company drug-free program, lack of enforcement tools, and lack of positive benefit for all companies to a drug-free workplace

**Most Efficient and Effective Means to Maximize the Use of These Resources**

Three recommendations included:

- ◆ Identification and development of the intangible benefits (e.g. compensation) for the implementation of Drug-Free Workplace policies

- ◆ Combination of multi-sector resources to form a Mining Industry Coalition to develop an industry-wide company drug-free program
- ◆ Promulgation of legislation that requires mine operators to report individuals that test positive to state agencies who then pull miner certification and require rehabilitation and a negative drug test before reinstating the miner in the workplace

*Integrated Efforts to Fill Resource Gaps, Reduce Redundancy, Conserve Limited Resources and Succeed in Eliminating Drug and Alcohol Abuse in the Mining Industry*

- ◆ Awareness and leadership within all sectors are keys to building the bridge between the mining industry and a drug-free workplace. The resources are available to fight the issues. The method of fighting the issue is still questionable and remains our challenge.

### Notable Participant Comments from the Summit

- ◆ “Cleaning up our drug problems in the mine will also clean up our communities.”
- ◆ “No one group or agency can cure this problem; it is going to take a collective effort.”
- ◆ “I want to thank the Company and my mine superintendent for giving me a second chance to earn a living for my family.”
- ◆ “The use of illegal drugs is on the decline and the abuse of prescription drugs is on the rise.”
- ◆ “A quality drug testing program must have a component to evaluate the chemicals used to “mask” results.”
- ◆ “The right time to admit you have a problem **is not** when you are on the way to the bathroom to take the test.”
- ◆ “There has to be a level playing field, some people will not test unless it is mandated.”
- ◆ “Accident reports may not be focusing on all of the problems related to substance use; we usually only have the victim’s toxicology report and no information about the other people involved.”

- ◆ “Employee Assistance Programs are vital; we no longer have the pool of experienced miners to replace the ones we lose.”
- ◆ “The culture of this industry has changed; the number of people here today and the focused interest on addressing this problem is a testimony to our commitment.”