

MAJORITY MEMBERS:

GEORGE MILLER, CALIFORNIA,
CHAIRMAN

DALE E. KILDEE, MICHIGAN, VICE CHAIRMAN
DONALD M. PAYNE, NEW JERSEY
ROBERT E. ANDREWS, NEW JERSEY
ROBERT C. "BOBBY" SCOTT, VIRGINIA
LYNN C. WOOLSEY, CALIFORNIA
RUBÉN HINOJOSA, TEXAS
CAROLYN MCCARTHY, NEW YORK
JOHN F. TIERNEY, MASSACHUSETTS
DENNIS J. KUCINICH, OHIO
DAVID WU, OREGON
RUSH D. HOLT, NEW JERSEY
SUSAN A. DAVIS, CALIFORNIA
DANNY K. DAVIS, ILLINOIS
RAÚL M. GRIJALVA, ARIZONA
TIMOTHY H. BISHOP, NEW YORK
LINDA T. SÁNCHEZ, CALIFORNIA
JOHN P. SARBANES, MARYLAND
JOE SESTAK, PENNSYLVANIA
DAVID LOEBSACK, IOWA
MAZIE HIRONO, HAWAII
JASON ALTMIRE, PENNSYLVANIA
JOHN A. YARMUTH, KENTUCKY
PHIL HARE, ILLINOIS
YVETTE D. CLARKE, NEW YORK
JOE COURTNEY, CONNECTICUT
CAROL SHEA-PORTER, NEW HAMPSHIRE



COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

MAJORITY (202) 225-3725
MINORITY (202) 225-4527
<http://edlabor.house.gov>

MINORITY MEMBERS:

HOWARD "BUCK" McKEON, CALIFORNIA,
SENIOR REPUBLICAN MEMBER

THOMAS E. PETRI, WISCONSIN
PETER HOEKSTRA, MICHIGAN
MICHAEL N. CASTLE, DELAWARE
MARK E. SOUDER, INDIANA
VERNON J. EHLERS, MICHIGAN
JUDY BIGGERT, ILLINOIS
TODD RUSSELL PLATTS, PENNSYLVANIA
RIC KELLER, FLORIDA
JOE WILSON, SOUTH CAROLINA
JOHN KLINE, MINNESOTA
CATHY McMORRIS RODGERS, WASHINGTON
KENNY MARCHANT, TEXAS
TOM PRICE, GEORGIA
LUIS G. FORTUÑO, PUERTO RICO
CHARLES W. BOUSTANY, JR., LOUISIANA
VIRGINIA FOXX, NORTH CAROLINA
JOHN R. "RANDY" KUHL, JR., NEW YORK
ROB BISHOP, UTAH
DAVID DAVIS, TENNESSEE
TIMOTHY WALBERG, MICHIGAN
DEAN HELLER, NEVADA

August 27, 2007

VIA FACSIMILE – 202-693-6111

The Honorable Elaine L. Chao
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Room S-2018
Washington, DC 20210

Dear Secretary Chao:

In light of troubling reports and the Committee's observations about the questionable stewardship and lax oversight of operations at the Crandall Canyon Mine in Utah, the Committee seeks specific information about how the Department of Labor carried out its roles and responsibilities in overseeing mining activities at the mine. Accordingly, I have enclosed a detailed list of the information the Committee requires at this time and a list of supplemental instructions to assist with your response to my request.

Please respond to me in writing of your plans to produce the requested information within three days of this letter and direct MSHA to coordinate the production of the requested information with the Committee's Chief Investigative Counsel, Michael Zola, who may be reached at (202) [REDACTED]-[REDACTED]. I look forward to your prompt response.

Sincerely,

GEORGE MILLER
Chairman

cc: Senior Republican Member Howard "Buck" McKeon

Enclosures: Documents and Information Requested
Information Request Supplemental Instructions

Documents and Information Requested

Please provide copies of the following documents:

1. All communications since January 2001 through the receipt of this request between the Department of Labor (including MSHA) and representatives, employees or agents of Murray Energy Corporation, Andalex Resources Inc., Agapito Associates Inc., the Utah Division of Oil Gas and Mining, the U.S. Bureau of Land Management and any other party regarding the Crandall Canyon Mine. Please note that the Committee on Education and Labor defines "communications" very broadly to mean each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
2. All records of "events" gathered and recorded in the Inspector's Portable Applications for Laptops (IPALS) database related to Crandall Canyon Mine and a master list of specific "event codes."
3. All minutes of proceedings beginning January 2001 through the receipt of this request where mine enforcement, mine plans, transfer or replacement of any MSHA personnel was discussed between the Department of Labor (including MSHA) and representatives, employees or agents of Murray Energy Corporation, Andalex Resources Inc., Agapito Associates Inc., the Utah Division of Oil Gas and Mining, the U.S. Bureau of Land Management and any other parties regarding the Crandall Canyon Mine. If the minutes of the proceedings do not include the names of all attendees, whether in person, via conference telephone or other means, then provide that information separately.
4. The complete employment record for Mr. Allyn Davis, Region 9 District Manager for MSHA during his tenure with the Department of Labor.
5. Any complaints, regardless of the source, made to the Department of Labor about the Crandall Canyon Mine from January 2001 through the receipt of this letter.

In addition to the above, I respectfully request a concurrent production of information requested by the Chairman of the Senate Committee on Health, Education, Labor and Pensions submitted on August 23, 2007 with the following changes:

1. In place of "All petitions for changes to mine plans," requested in paragraph 2 of the request, we seek all mine plans submitted to MSHA for approval, including any amendments, modifications or petitions for change. This includes copies of all petitions for modifications of the Mine Act and all supporting documents and reports that have been filed by mine operators with MSHA involving the Crandall Canyon Mine.
2. In addition to the "petitions" requested in paragraph 3 of the request, we seek all the plans submitted as well.
3. For the mine maps requested in paragraph 14 of the request, we seek such documents dating back as early as January 2001.

Information Requests Supplemental Instructions

In responding to the information request from the Committee on Education and Labor, please apply the instructions and definitions set forth below.

Instructions

1. In complying with the request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Records, documents, data or information called for by this request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committees.
2. In the event that any entity, organization, or individual denoted in this request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
3. Each document produced should be produced in a form that renders the document capable of being copied.
4. When you produce documents, you should identify to which paragraph in the Committee's request the documents respond.
5. Documents produced in response to this request should be produced together with copies of file labels, dividers or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by any matter prior to production.
6. Each folder and box should be numbered, and a description of the contents of each folder and box, including the request number to which the documents are responsive, should be provided in an accompanying index.
7. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a non-identical or identical copy of the same document.
8. If any of the requested information is stored in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information.
9. If compliance with the request cannot be made in full, compliance should be made to the extent possible and should include an explanation of why full compliance is not possible.

10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applied to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be bates-stamped sequentially and produced sequentially.
15. Two sets of documents should be delivered to Longworth 1107 to the Attention of Michael C. Zola.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer

hard drive files, CDs, DVDs memory sticks, and recordings) and other written, printed typed, or other graphic or recorded matter of any kind of nature, however or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft of non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches and other units thereof.
5. The terms “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.