

TRANSCRIPT OF PROCEEDINGS

U. S. DEPARTMENT OF LABOR
OFFICE OF STANDARDS, REGULATIONS AND VARIANCES
MINE SAFETY AND HEALTH ADMINISTRATION

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Before the Department of Labor

U. S. DEPARTMENT OF LABOR
OFFICE OF STANDARDS, REGULATIONS AND VARIANCES
MINE SAFETY AND HEALTH ADMINISTRATION

Holiday Inn
1950 Newton Pike
Lexington, KY 40511

Thursday,
May 1, 2003

The parties met, pursuant to the notice, at
9:00 a.m.

BEFORE: ED SEXAUER
Moderator

Heritage Reporting Corporation
(202) 628-4888

P R O C E E D I N G S

(9:00 a.m.)

1
2
3 MR. SEXAUER: Good morning. My name is Ed
4 Sexauer. I'm the acting Deputy Director in the Office of
5 Standard Regulations Variances for the interim. I will
6 be the moderator for this public hearing on the proposed
7 belt air rule for underground coal mines titled
8 underground coal mine ventilation standards for the use
9 of a belt entry as an intake air force to ventilate
10 working sections and areas where mechanized mining
11 equipment is being installed or removed; otherwise
12 referred to as belt air.

13 On behalf of David Risky, the Assistant
14 Secretary of Labor for Mine Safety and Health, I want to
15 welcome all of you here today. Also here today is
16 several others from MSHA: Bill Francart, on my immediate
17 left, from the Ventilation Division of Pittsburgh Safety
18 Health Technology Center. Next to Bill is Kevin Hedrick
19 of the Electrical Safety Division Approval and
20 Certification Center, MSHA Technical Support, and on the
21 far left is Debra James from our office of Standard
22 Regulations and Variances, and on my immediate right is
23 Mark Eslinger, District 8, Vincenz District Office.

24 This is the last of five hearings on the
25 proposed rule. The other hearings were held on April 3rd

1 in Grand Junction, Colorado; April 8 in Charleston, West
2 Virginia; April 10, Washington, Pennsylvania; and April
3 29 in Birmingham, Alabama.

4 The initial announcement of these rule making
5 hearings was contained in the Notice of Proposed Rule
6 Making published January 27, 2003, in the Federal
7 Register. Copies of the proposed rule are available in
8 the back of the room.

9 Three of these hearings were rescheduled due to
10 conflicts with other hearings the Agency will be holding
11 on plan verification and single sample. A modified
12 hearing location and date notice was published in the
13 Federal Register on March 12, 2003. Many of your
14 organizations were also notified of the change of the
15 date and location by email on March 7th.

16 The purpose of these hearings is to receive
17 information from the public that will help up evaluate
18 our proposed rule. The scope of the issues we are
19 addressing with this proposed rule are well-defined in
20 the rule and the hearing will be limited to soliciting
21 public input on these issues.

22 I'd like to first give you some background that
23 lead us to the proposed rule. Second, review for you the
24 essential elements of the rule, and finally discuss the
25 format of these hearings.

1 For the background: MSHA's proposed rule is
2 based on careful consideration of existing ventilation
3 rules; a review of the belt entry ventilation ordered by
4 the MSHA Assistant Secretary in 1989; a secretarial
5 advisory committee in 1992; and MSHA's experience in
6 granting over 90 petitions for modification where belt
7 air has been used safely in underground coal mines.

8 MSHA published a proposed rule to revise safety
9 standards for ventilation of underground coal mines in
10 January of 1988. Included in that proposed rule were
11 provisions to allow air course through the belt entry to
12 ventilate working places.

13 After considering the public comments and
14 information submitted during six public hearings in June
15 of 1988, the Assistant Secretary called for a thorough
16 review of safety factors associated with the use of belt
17 air to ventilate working faces. That was in March of
18 1989.

19 MSHA completed this review and concluded in
20 August 1989 in the Belt Entry Ventilation Review Report
21 that directing belt entry air to the face can be at least
22 as safe as other ventilation methods provided carbon
23 monoxide monitors or smoke detectors are installed in the
24 belt entry.

25 After the Belt Entry Ventilation Report was

1 issued, we reopened the ventilation rule-making record
2 and held a 7th public hearing in April 1990 to receive
3 additional public comments on issues raised in the
4 report.

5 All the comments received during and after the
6 7th public hearing expressed widely divergent views on
7 the recommendations of the belt entry ventilation report.

8 Some commenters said that the use of belt air provides
9 positive ventilation and reduces the possibility of a
10 methane buildup in the belt entry. Other commenters
11 maintained that the use of belt air reduces safety due to
12 increased fire hazards and greater dust levels.

13 MSHA carefully considered all the comments, and,
14 due to these diversion views, when the ventilation rule
15 for underground coal mines was finalized in 1992, it did
16 not include provisions that would have allowed mine
17 operators to use belt air to provide additional intake
18 air to working sections.

19 MSHA's existing standards continued to allow
20 this practice on a mine-specific basis through the
21 petition for modification process. MSHA decided instead
22 that the use of belt air to ventilate working places
23 should continue to be evaluated.

24 As part of this effort, the Secretary of Labor
25 appointed a Federal Advisory Committee in January 1992

1 and charged it to make recommendations concerning the
2 conditions under which belt air could be safely used in
3 the face areas of underground coal mines.

4 This committee was designated as the Department
5 of Labor's Advisory Committee on the use of air in the
6 belt entry to ventilate the production face areas of
7 underground coal mines and related provisions.

8 This advisory committee held six public meetings
9 over a six-month period. After reviewing an extensive
10 amount of material, the advisory committee concluded that
11 belt air could be safely used to ventilate working places
12 and underground coal mines provided certain provisions
13 and precautions were taken. The precautions included the
14 use of new technology, the atmospheric monitoring system,
15 or AMS.

16 The advisory committee made 12 recommendations
17 to support this conclusion and submitted its report to
18 the secretary of labor in November 1992. It published a
19 December 1992 notice in the Federal Register announcing
20 the availability of the Advisory Committee's final report
21 and stated that we would review its recommendations.

22 In the preamble of the proposed rule, we
23 discussed the recommendations of the belt entry
24 ventilation review report and the advisory committee.
25 The proposed rule also equates MSHA experience with

1 petitions for modification.

2 In instances where we have not followed a
3 recommendation of the belt entry ventilation review or
4 advisory committee reports or a term and condition from
5 the petitions for modification, we provide an explanation
6 in the preamble to the proposed rule. Now I will briefly
7 review what we have proposed.

8 Entry has included definitions for appropriate
9 personnel, atmospheric monitoring system, AMS operator,
10 belt air force, carbon monoxide ambient level, and point
11 feeding in the proposed rule.

12 Proposed Section 75-350 prohibits the belt air
13 course from being used as a return air course and
14 requires that the intake and return entry be separated
15 with permanent ventilation controls. It would allow the
16 use of belt air to ventilate sections so long as certain
17 requirements are met.

18 These conditions include the installation,
19 operation, examination and maintenance of an atmospheric
20 monitoring system, training requirements, the
21 establishment of designated areas for dust monitoring,
22 and monitoring the primary escape way for carbon monoxide
23 or smoke. When belt air is used to ventilate the working
24 section, point feeding wouldn't be allowed or only under
25 limited conditions.

1 Section 70-351 of the proposed rule includes
2 provisions for the following: Requirements for the AMS
3 operator and a designated surface location, minimum
4 operating requirements for the AMS, location and
5 installation of AMS sensors, establishment of alert and
6 alarm levels, establishment of CO ambient levels,
7 installation and maintenance requirements for the AMS,
8 sensors, time delays, training, and communication.

9 Section 75-352 of the proposed rule specifies
10 actions by the AMS operator and miners in the case of
11 alerts, alarms, malfunction, and insufficient air
12 velocity.

13 Section 75-371 would add six new elements
14 necessary for ventilation plan approval including
15 designated areas, location of point feed regulators,
16 additional CO sensors and the belt air force, if
17 required, time delays, reduced alert and alarm settings,
18 and alert and alarm levels for monitoring.

19 The proposed rule in Section 75-372 would
20 require the location and type of all required AMS sensors
21 be included in the mine ventilation map.

22 Section 75-380, escape ways, would be modified
23 to address the use of point feeding.

24 The issues surrounding the use of belt air are
25 important to MSHA. We welcome comments on any of these

1 issues and on the following issues in particular: One,
2 the benefits of integration of slippage switch monitoring
3 into AMSs for belt air mines, the cost and any difficulty
4 operators may experience in using AMSs to monitor
5 slippage switches; second, whether or not lifelines and
6 escapeways are needed and, if so, what are the associated
7 costs and maintenance issues?

8 These two issues were discussed in the January
9 27th Federal Register document. We will use the
10 information provided by you to help us decide how best to
11 proceed in this rule-making. These five hearings will
12 give manufacturers, mine operators, miners and their
13 representatives, and other interested parties an
14 opportunity to present their views on this proposed rule.

15 Today we have received four written comments on
16 this proposed rule. You can view these comments on our
17 web site at www.msha.gov.

18 The last item I'll discuss will be the format
19 that we will follow this morning. First, formal rules of
20 evidence will not apply, and this hearing will be
21 conducted in an informal manner. Those of you who have
22 notified MSHA in advance or have signed up to speak will
23 be invited to make your presentations first. After all
24 scheduled speakers are finished, others can request to
25 speak, and you'll have time to do so.

1 If you wish to present any written statements or
2 information today, please clearly identify your material.

3 When you give it to me, I will identify the material by
4 the title as submitted for identification purposes.

5 You may also submit comments following this
6 public hearing. If you do, please submit them to MSHA by
7 June 30th, 2003, which is the close of the post-hearing
8 comment period. Comments may be submitted to MSHA by
9 electronic mail at: comments@msha.gov; by fax at (202)
10 693-9441; or by regular mail or hand-delivery to MSHA
11 Office of Standards, Regulations and Variances, 1100
12 Royalton Boulevard, Room 2352, Arlington, Virginia,
13 22209.

14 A verbatim transcript of this public hearing
15 will be available on request. If you want a personal
16 copy of the hearing transcript, please make arrangements
17 with the court reporter. These are the same procedures
18 we followed at the other public hearings. We will post
19 the verbatim transcripts of all these hearings on our web
20 site. Each transcript should be posted there
21 approximately one week after the completion of the
22 hearing.

23 We will now begin with persons who have
24 requested to speak. Please begin by clearly stating your
25 name and organization for the record to make sure we have

1 this information accurately recorded. So our first
2 speaker today will be Joe Urban with United Mine Workers.
3 Joe, would you come up, please?

4 MR. URBAN: Thank you, Ed. I apologize. I
5 don't have a copy to give the Committee of my comments
6 I'm going to make, but I'll be sure and provide them with
7 copies so they can have them for the court reporter.

8 Good morning, ladies and gentlemen. My name is
9 Joe Urban, U-R-B-A-N. I'm with the United Mine Workers
10 of America, the International. I am a Deputy Regional
11 Director for United Mine Workers, Region 3 of the
12 midwest. I appreciate the opportunity to address this
13 panel today and to discuss the proposed rule.

14 I feel it's important to provide you with some
15 degree of my background and my expertise. I'm an
16 underground coal miner. I have approximately 31 years
17 total experience in both underground and surface mining
18 applications.

19 I was employed underground for 13 consecutive
20 years prior to going to work for the United Mine Workers
21 in 1985 as a coal mine safety inspector. In addition,
22 I'm a qualified MSHA instructor for most all applications
23 of Part 48. I am a qualified OSHA instructor for the
24 construction industry and general industry for both the
25 10-R and 30-R course requirements.

1 I have underground mining certification for the
2 states of Illinois and Indiana. I am an MSHA-qualified
3 mine rescue trainer and have been involved extensively in
4 underground coal mine disasters.

5 The latest is the disaster that occurred on
6 September the 23rd, 2001, at the Jim Walter Resource
7 number five mine located in Brookwood, Alabama, where my
8 primary responsibilities were step-by-step plan
9 development and key-decision making within the command
10 center for the rescue and recovery operations on behalf
11 of the United Mine Workers of America, Local Union 2368,
12 during that disaster. I hold current MSHA qualifications
13 for both surface and underground.

14 First of all, I know just about the entire
15 panel. I've worked with you from one time or another
16 with the exception of Debra. I appreciate working with
17 you Debra.

18 You have a double-edged sword today and that is
19 a good side of the sword is this is your last hearing.
20 The bad side is you're going to hear a lot of information
21 you've already heard. Bear with us.

22 The United Mine Workers feels that it's
23 pertinent that we have this information brought to you.
24 You have to realize that the actions that you as a
25 committee do affect thousands of lives.

1 Allow me to begin by saying that it appears that
2 the agency extensively cited two reports in the preamble
3 to the proposed rule as a basis for making many of their
4 determinations of which I think Ed has already alluded
5 to.

6 In that regard, the Union is extremely
7 disappointed with the amount of validity given to the
8 belt entry ventilation review or what we commonly refer
9 to as the BEVR report despite the lengthy objections we
10 offered to many of its findings during the hearings on
11 the ventilation rule.

12 The UMWA is disturbed by the method that MSHA
13 used to give the appearance that they were complying with
14 the recommendations of the advisory committee on the use
15 of belt air to ventilate the production areas of
16 underground coal mines and related provisions or the
17 advisory committee.

18 In the Federal Register, Volume 68, Number 17,
19 Page 3937, the Agency states, "commenters from labor, on
20 the other hand, maintained that the use of belt air in
21 the belt entry reduces safety due to increased fire
22 hazards and greater dust levels," of which Ed has already
23 alluded to.

24 Due to the divergent view, and I'm talking about
25 the operator's views, academia, and also labor, when a

1 ventilation rule for underground coal mines was finalized
2 in 1992, it did not include the provisions that would
3 allow mine operators to use belt air to provide
4 additional intake air for the working sections.

5 The position expressed by the UMWA during that
6 round of hearings was based on extensive investigations
7 and research. That position, gentlemen and lady, has not
8 changed. The position we took in 1989 and stand by today
9 is that we feel that this particular document is
10 irrelevant and should not be used as a basis to go
11 forward with rulemaking.

12 There's to be no doubt that while belt air
13 petitions have been approved on a mine-by-mine basis and
14 are in place at many mining operations, the use of belt
15 air to ventilate work areas does introduce additional and
16 dynamic hazards that would otherwise not be present.

17 And fortunate or unfortunate, Mark and I have
18 had quite a bit experience of working on a proposed
19 decision and orders for the 101-C petition process.

20 These hazards can be mitigated by incorporating
21 specific safety controls into the mining plans at the
22 specific operation. It must be understood that the union
23 is not taking a position that these hazards are
24 eliminated by additional safety precautions. Rather, the
25 recognized hazardous conditions created by the use of

1 belt air may be adequately controlled by utilizing site-
2 specific safety enhancements.

3 I personally feel that the proposed rule ignores
4 the safety benefits provided by the PDOs, or Proposed
5 Decision and Orders, currently enforced at various mines
6 throughout the nation and is attempting to apply a one-
7 size fits all philosophy in their place. This approach,
8 I feel, will significantly diminish the level of safety
9 for miners at these operations of which they currently
10 enjoy.

11 I do question why the agency chose to only
12 review the latest PDOs in their review. I can understand
13 why they would not include the two entry PDOs because of
14 their unique application.

15 However, if the Agency would have included all
16 the past PDOs approved, i.e., being three entries or
17 more, and the list and chart used by the Agency, I feel
18 that it would have showed more additional safety
19 precautions that were required whenever the PDO approval
20 process first began for belt air utilization to the
21 working faces when they had originated.

22 The union would argue that a PDO currently
23 approved for use at a mining operation has the full force
24 and weight of a statutory regulation. The conditions
25 they put forward are requirements the offeree must meet

1 in order to utilize belt air to ventilate a working area.

2 The Agency recognizes these mandatory
3 requirements for purposes of compliance and enforcement.

4 The simple fact is the conditions outlined in the PDO
5 becomes the mandatory standard at the particular
6 operation to which they are prescribed.

7 Raw changes in the writing and application of
8 the rule as is proposed here will eliminate protections
9 miners have and place the Agency in the position contrary
10 to their Congressional mandate.

11 Section 101(c)(9) of the Federal Mine Safety and
12 Health Act of 1977, the Act states, "no mandatory health
13 or safety standard promulgated under this title shall
14 reduce the protections forwarded miners by an existing
15 mandatory health or safety standard."

16 Congress strictly forbid the Agency from
17 enacting any rule that would offer a lesser protection
18 than miners currently enjoy. The union believes the
19 application of the proposed rule in its current form
20 would undercut the health and safety of miners.

21 The Agency has offered the findings of the belt
22 entry ventilation review report as a significant basis
23 for their decision to propose this rule. In a background
24 statement for the rule, the Agency cites the belt entry
25 ventilation review reports findings that "directing belt

1 entry air to the face can be at least as safe as other
2 ventilation methods provided carbon monoxide monitors or
3 smoke detectors are installed in the belt entry."

4 The Agency appears to be summing up the report
5 and using that as justification for moving this rule
6 forward. The UMWA would suggest that it appears the
7 Agency is focusing on a single aspect of the problem that
8 is created by utilizing belt air in order to make its
9 case.

10 Monitoring the mine atmosphere for carbon
11 monoxide or using smoke detectors may play a critical
12 role in improving the safer use of belt air. However,
13 far from the Agency's implication here, it does not begin
14 to adequately address complexities of the issues.

15 The UMWA was not alone in its scrutinization of
16 the belt entry ventilation review report and MSHA's use
17 of it. The U.S. Department of Health and Human Services,
18 National Institute for Occupational Safety and Health,
19 NIOSH, was also deeply critical of the reviewer's
20 findings.

21 NIOSH noted, "the practice of ventilating with
22 belt air at any velocity is unsafe and unhealthy."
23 Further, "the use of high velocities would increase
24 foreign explosion hazards from coal dust."

25 NIOSH concluded that "the use of belt air to

1 ventilate the working faces was not a safe practice."

2 The allowance and use of belt air to ventilate the
3 working areas of the mine is a diminution of the
4 protections of the miner's safety and health as provided
5 by the Mine Safety and Health Act of 1977.

6 The Union has again reviewed the recommendations
7 of the belt entry ventilation review committee and
8 determined the report does not adequately address the
9 conditions the use of belt air will create.

10 The authors of the report even acknowledged the
11 need for additional research as well as a different
12 approach in maintenance of the mine. This is addressed
13 in the recommendations in the belt ventilation review
14 report and reads as follows:

15 Number one, increased emphasis should be placed
16 on belt maintenance, belt entry clean-up, and rock
17 dusting. Historically, belt converter entries have posed
18 significant hazards to miners. Despite this fact, poorly
19 maintained belt converter entries do not receive adequate
20 or routine maintenance.

21 A review of the MSHA statistics reveals that
22 chronic problem as much a problem today as it was at the
23 time the report was first issued. Coal spillage, float
24 coal dust, and accumulations of combustible materials,
25 i.e., paper, wood, and etcetera, are continually cited by

1 the Agency's inspection personnel.

2 For the Agency to offer this recommendation as a
3 solution continues to create problems that have existed
4 in the mining industry for years without putting
5 additional force of law behind it is disingenuous.

6 Operators who have never found it necessary to
7 improve belt conveyor clean-up will not be inclined to
8 reconsider their maintenance programs simply because the
9 Agency suggests it when using belt air to ventilate
10 working areas.

11 Number two, emphasis should be placed on proper
12 construction and maintenance of soffets separating intake
13 escape ways from intake entries. The Agency never has
14 shown institutional will to hold operators accountable
15 for poorly constructed and inadequate stoppage.

16 This rule will have no effect on stoppings that
17 meet the minimum requirements of the law. Those do not
18 provide adequate protections to prevent the quick
19 propagation of a burn-through.

20 The Agency has for far too long accepted the
21 status quo, and the recommendations to improve stopping
22 construction and maintenance will not be introduced by
23 mine operators.

24 Number three, a section should be designed by
25 entry location, number of entries, the pressure

1 differential, to enhance the protection of intake
2 escapeways from contamination by fires in adjacent
3 entries.

4 The UMWA would suggest the major motivating
5 factor for removing this rule is tied to the number of
6 entries operators are seeking to drive in the development
7 section. Unfortunately, driving additional entries to
8 address the problem of insufficient face ventilation,
9 which is the position the Union believes to be the proper
10 solution is not the goal of this proposed rule or the
11 motive of the operators. Instead, they seek to maintain
12 three entry systems that leave sections starving for
13 ventilation and solve the problem by pushing additional
14 air to through the most hazardous entry in the mine.

15 Clearly, the desire to increase face ventilation
16 in this manner is not inspired by a need to increase
17 safety, but by a will to reduce cost.

18 In the comments submitted during the ventilation
19 rule hearing, NIOSH made this point clear when they
20 stated, "belt air usage represents the less expensive
21 method of increasing ventilation to the face, not the
22 best worker health and safety." Maintaining the intake
23 escapeway at a higher pressure than the belt entry and
24 entries in common with the belt is not an absolute
25 requirement in the rule.

1 The MWA believes such a requirement is necessary
2 to ensure the health and safety of miners. Further this
3 must be accomplished through natural pressurization or by
4 the air entering the intake escapeway is always
5 maintained at a higher velocity than air entering the
6 conveyor belt entry. The MWA would caution against
7 establishing a system of false pressurization by means of
8 restricting or regulating the amount of air flowing from
9 the intake escapeway to the working face.

10 Number four, intake escapeways should be
11 maintained free of potential fire sources unless such
12 sources are protected by fire suppression or other
13 acceptable devices.

14 The Union is disturbed that such a
15 recommendation has made its way into this document. It
16 is the position of the UMWA that maintaining intake
17 escapeways as free as possible from potential fire
18 sources should be the current practices at all mines and
19 should not be contingent on the use of belt air for face
20 ventilation.

21 Number five, directing the air through the belt
22 entry and to the return through a restrictive regulator
23 or pipe overcast does not comply with Section 75.333 and
24 should be discontinued. To my knowledge, this practice
25 is no longer accepted.

1 Number six, training should include drills and
2 communication and evacuation techniques and include
3 precautions that should be taken for escape through
4 smoke. Training on new and existing plans or regulations
5 is an extremely important element in ensuring the health
6 and safety of miners. Much emphasis is placed on
7 training miners for new tasks, new inexperienced miners,
8 first aid and other issues.

9 The MWA is on record as supporting training on a
10 much broader scale than is currently the practice. Based
11 on that fact and the changes in the mining industry, the
12 union is concerned that there is insufficient time
13 allotted for such training. If I may, for the committee,
14 being an individual that is qualified through to Agency
15 for conducting training on Part 48, gentlemen and lady,
16 you have to stop and consider the fact that coal miners
17 right now receive eight hours of annual refresher
18 training. You can only put so much information in that
19 eight hours. And for them to be able to grasp and accept
20 new or revised, additional protections that would be
21 required under the use of belt air, you're going to have
22 to look at broadening that time span for annual refresher
23 because you just can't get all that material in. You can
24 get in, but you're not going to do justice for the
25 material.

1 Continuing to add training subjects without
2 requiring additional time to adequately educate the
3 miners does not obtain the desired result. Far too many
4 subjects in the current training regime overburdens the
5 system and important issues do not get the attention they
6 desire. Support for this and other training must be
7 contingent upon a requirement that specific additional
8 training time must be required.

9 Belt entries used to ventilate the working
10 places should be equipped with carbon monoxide monitoring
11 systems or smoke detectors. The MSHA and the Bureau of
12 Mines should encourage development and testing of
13 improved smoke detectors.

14 MSHA should initiate the performance of
15 performance standards for CO monitors and smoke
16 detectors. MSHA should continue to stress maintenance of
17 CO monitoring systems. The agency continues to hold the
18 position that the use of CO monitors for smoke detectors
19 in the conveyor belt entry is sufficient protection for
20 miners in the sections using belt air to ventilate the
21 face.

22 The MWA, on the other hand, believes the use of
23 CO monitors and smoke detectors should be utilized in
24 these entries to maximize the protection miners receive.

25 The available technology and new technology driven by

1 such a requirement would ensure state-of-the-art fire
2 detection systems. The union also abuse entries in
3 common, but with the conveyor belt entry is an area that
4 requires special attention.

5 The MWA has often argued that the safety method
6 of controlling the hazards associated with the belt entry
7 is to have it isolated from all others. This position
8 has not changed. However, the agency has approved mining
9 plans that allows for multiple entries in common with the
10 conveyor belt entry. Because of that the union believes
11 carbon monoxide monitors and smoke detectors should be
12 required in each of these entries at intervals no greater
13 than those in the conveyor belt entry.

14 Entries in common with the conveyor belt entry
15 should be deemed part of the coal-hauling system and
16 protections should be applied as if they were.

17 Number eight, MSHA should consider requiring
18 improvements to or replacement of point-type heat
19 sensors. Much has been accomplished through various
20 research efforts by Labor, industry and government.
21 These efforts have been extremely beneficial in improving
22 fire detection and monitoring. There is no need at this
23 point in time for any operation to be using point-type
24 heat sensors. Because of these advances the union
25 believes all mines should be equipped with CO monitoring

1 systems and smoke detectors regardless of the use of belt
2 air to ventilate working areas. As stated previously,
3 such systems should be required in all entries that are
4 in common with conveyor belt entries.

5 Number nine, where belt air is directed outside
6 from the section, water lines should be relocated from
7 the belt to a separate intake entry to facilitate
8 firefighting activities. The recommendation offered here
9 is not germane to the subject. Belt air traveling
10 outside cannot be used to ventilate working faces in a
11 mine. However, the need to protect the integrity of
12 firefighting equipment, including water lines, is
13 important. This is true regardless of the direction of
14 the air flow.

15 Mining designs and plans should be reviewed to
16 ensure this equipment is placed in locations that will
17 ensure their availability and immediate access in the
18 event they are needed.

19 Number ten, further research should be conducted
20 to evaluate the impact of variable velocities on
21 underground mine firefighting and to provide information
22 on the growth and spread of mine fires involving
23 materials other than conveyor belts. The MWA supports
24 further evaluation of firefighting in underground mining.

25 The union does not see this as a subject that should be

1 limited to the implementation of any particular rule. A
2 better understanding of the hazards that may be
3 encountered during such operations would benefit miners
4 and the operators.

5 The belt entry ventilation review report is no
6 more relevant today than it was when it was first
7 published in July of 1989. The belt entry ventilation
8 review report contains nothing new that would convince
9 the MWA that there would be any reason to recognize its
10 validity today. The union's position that the committee
11 assigned to conduct this review did nothing more than
12 condone the position the agency has taken as being based
13 on sound judgment. A narrowly focused, incomplete,
14 misleading report that did not support its own
15 conclusions, does not mature and become better with age.

16 It is, as it was when it was first introduced,
17 an irrelevant document that should not be the basis for
18 formulating any changes in mine health and safety
19 standards. The union strenuously objects to the agency
20 dragging this document off of the shelf after all these
21 years and billing it as more than what the facts show it
22 to be. Implementation of a rule based on the belt entry
23 ventilation review report, in my opinion, would result in
24 the diminution of miners health and safety.

25 In closing, let us not forget the mine for our

1 problems which have occurred, not only this year, but
2 last year, PB No. 8, 84 mine. And let us not dare forget
3 the leverage mine, which is still on fire and burning as
4 we speak here today. In addition, last year in April the
5 Blue Diamond mine and in September the Fairfax mine.
6 These fires alone should lend validity to the vital
7 importance of abolishing this proposed rule and require
8 you to go back to the drawing board to rewrite the
9 proposed rule. Let's find out all we can about these
10 disasters before we implement something we all will not
11 be able to live with. Thank you for your attention and
12 your patience. If you have any questions, I'll try to
13 respond.

14 MR. SEXAUER: Joe, you covered a lot of ground.
15 Those were very thoughtful comments. We appreciate
16 them. Does anyone on the panel here have a question? I
17 just have a couple. You reference a NIOSH document.
18 Could you provide us a cite for that reference.

19 MR. URBAN: I don't have it with me, Ed, but
20 we'll get that on the record. We'll send that in to you.

21 MR. SEXAUER: Okay, in your discussion of
22 petitions for modification, each petition is unique for a
23 particular mine. I'd be interested about, perhaps, a
24 criteria you might use when looking at these petitions in
25 determining which provisions should be extracted and

1 applied to this rulemaking, assuming this rulemaking is
2 going forward.

3 MR. URBAN: Ed, we have some people that are
4 going to give you some specifics from the PDOs that they
5 have at their operations. They will give you some
6 insight as to some of the areas that we feel need to be
7 address.

8 MR. SEXAUER: Okay, thank you. Our next speaker
9 is Butch Oldham.

10 MR. OLDHAM: My name is Edgar Butch Oldham,
11 O-L-D-H-A-M, Jr. And first I'd like to take the
12 opportunity to thank the panel for sitting and listening
13 to us and taking our comments. And hopefully, and I'm
14 sure you will, take them serious, because there are some
15 things in this rulemaking that we don't agree with and
16 don't feel like it goes far enough. So, at least, I
17 appreciate the opportunity.

18 And as Joe mentioned, I'm going to talk a little
19 bit about some specific petitions for modifications that
20 I have in my area. Things that we've negotiated through
21 the petition process that we feel is really going to be a
22 loss and a safety factor for the guys if this rule goes
23 through as proposed. Because like the rule says, all
24 petitions will be eliminated once this has went through
25 the process and is passed. So like I said, I want to

1 talk a little bit about these.

2 One of them is at the Camp 11 mine where we have
3 a belt air petition. That mine has been shut down now,
4 but at least we had the petition there. It was active
5 and some of these are the things that were negotiated in
6 the petition. As I understand the rulemaking, you know,
7 you're sticking with 10 and 15 parts per million for the
8 alert and alarm levels.

9 At the Camp 11 mine, we had our levels set at 2
10 parts per million over ambient for the alert. So we had
11 a lower setting that worked. We had provisions in that
12 petition that allowed for the diesel equipment, the time
13 delays and such. So we had something better than what
14 you're proposing at that mine through the petition
15 process. Also, intake entry, the primary intake escape
16 entry had to be maintained at a higher pressure over any
17 other entry that was common with it, I mean, the other
18 entries, the neutral entries and the belt entry.

19 And in that petition it had to be at least 10
20 percent higher in the primary intake escapeway to keep it
21 pressurized so we wouldn't get smoke or hopefully
22 wouldn't get smoke into the primary intake escape.

23 Also, it's stated in our petition that the
24 intake escape entries had to be maintained free of fire
25 hazards, you know, to the extent practical. You know,

1 you've got to have pumps and things in there that's
2 necessary, but any unnecessary stuff just couldn't be
3 allowed in the intake escapeway.

4 One thing that Joe talked about is training
5 requirements. And I also sit on the mining board for the
6 State of Kentucky and that has been a concern of ours.
7 In Kentucky, instead of the 8 hours, we've got the 16
8 hours of annual retraining, but still, we look at things
9 that the agency puts on every time a petition is
10 approved, every time a new rule is approved, we say,
11 include it in the training program. But there is never
12 any additional time allotted.

13 So if you've got a full-rounded training program
14 now and you're teaching everything you're suppose to in
15 your 16 hours with Kentucky or 8 anywhere else, then what
16 do you take away to provide the training that's required
17 for these petitions and for the new rules. So that's
18 something we've got to look at.

19 Like I've always said, if we have a full-rounded
20 program, then we're taking away from something. Because
21 if it was necessary to talk about in the annual
22 retraining and felt like people needed that training,
23 then what part do you take away? Do you take first aid
24 away and don't teach it to get the other parts in or what
25 do you take away? I'm having a hard time figuring that

1 out because I don't know.

2 CO sensor location. That's one I don't want to
3 talk about, all right. The use of time delays, like I
4 said, we had that. It was the three-minute time delay at
5 the Camp 11 mine because they did have multiple pieces of
6 diesel equipment there. So to avoid any nuisance alarms
7 and things, we had the three-minute time delay in that
8 petition.

9 Also, I don't read anything in the proposed rule
10 that limits the amount of air that can be used in the
11 belt entry. At the Camp 11 mine, of course, the velocity
12 had to be at least 50-foot a minute in the belt entry,
13 but no more than 500-foot measured over any 500-foot
14 distance. So there's something that I guess you're going
15 to be able to put unlimited velocities in the belt
16 entries. There's nothing in the rulemaking that
17 prohibits that as a continuation of the belt conveyor
18 halter system and the belt takeup and belt conveyor tail
19 piece on the same split of air.

20 They had one CO sensor to be used at this
21 location, but they had requirements. They had to be
22 installed near the center and in the upper right third of
23 the entry at least 25 feet down wind, not more than 100
24 feet in by the drive belt, the belt takeup and the tail
25 piece on the same belt. I don't read that in the

1 proposal that there's any requirement that makes them do
2 anything.

3 If an alarm occurs at shift change, it was in
4 their petition no one was permitted in the mine except
5 qualified persons designated to investigate the source of
6 the alarm. Also, in the proposed rule, the designated
7 surface location, an AMS operator. And I know it allows
8 the AMS operator to designate a surface location at the
9 mine.

10 What was a little bit of a concern to me in the
11 proposed rule, you've got "or another location." We
12 don't know where that location is. Could that be off
13 mine property in another city? You know, we find that's
14 a problem because then if you have a mine fire, have a
15 storm or something, phone lines -- that's what we're
16 relying on is the phone system to contact those people --
17 and you have the mine fire in a mine and that person
18 can't warn them, you know, they need to be at that mine.

19 That location needs to be at the mine where they're
20 monitoring those systems. Those are the ones at Camp 11.

21 Another one is the Ohio 11 mine. Where we had a
22 belt fire there and I helped investigate that. As a
23 matter of fact, I helped assist with the firefighting
24 efforts. And the CO system in what you presently have is
25 not necessarily anything designated to exactly where they

1 have to put a sensor where there's smoke tests have to be
2 done to make sure that, that sensor is going to pick up
3 all the air that's in that belt entry.

4 MR. SEXAUER: Excuse me, just so I understand
5 this correctly. The Ohio 11 mine there was belt fire,
6 was that before or after you had a petition in place?

7 MR. OLDHAM: It was during. They had a petition
8 in place at the time.

9 MR. SEXAUER: Okay.

10 MR. OLDHAM: That's what I'm going to speak on
11 because it was just right out by a header. And during
12 that fire, the sensor and the header never picked it up
13 because we had common entries with the belt entry and had
14 fresh air coming in from the roadway into the header and
15 the sensor was hanging on a post, on the backside of a
16 post. It never picked up the fire. The sensor a
17 thousand feet away picked it up. So you know, there was
18 no requirement in that petition that said where you had
19 to put it, if a smoke test had to be done to determine
20 the direction of the air or exactly where to put it. And
21 everybody felt so comfortable that the CO sensor was so
22 great that they could just hang it on a post and it would
23 pick it up, but it didn't.

24 After the fire, and we could get in there, we
25 moved that sensor two feet, pick it up -- it was hanging

1 off the post, moved it two feet and it started picking it
2 up. So that's how critical sensor location is. And you
3 know, we learned a valuable lesson in that fire because
4 we should have had early warning detection, but we didn't
5 because of that.

6 Also, in the petition for the Ohio 11 mine, the
7 administrator controls or required to minimum the number
8 and types of pieces of diesel equipment in the mine and
9 to notify miners on the working sections when any diesel
10 equipment was operating in those air currents, affecting
11 the sections being ventilated with the belt air. And
12 that was because of the nuisance alarms and we didn't
13 have the three-minute time delay in that petition because
14 that was an older petition. We've learned as we went
15 through time.

16 It's in the proposed rule that in the petition
17 also the concentrations of aspirable dust and intake air
18 forced through the belt entry couldn't exceed 1 milligram
19 per cubic meter. And also, in the Ohio 11 petition, the
20 operator was required at all time in the sections of the
21 mine to maintain a higher air pressure in its primary
22 intake escapeways over that maintained and adjacent
23 entries.

24 And at Ohio 11, we had 150-foot per minute
25 ceiling on the air flow levels in the belt entry in

1 working sections. So 150-feet per minute was all they
2 were allowed to have in that petition on the sections.

3 The most recent petition that we just had
4 approved was the Highland 9 mine. It was the Peabody
5 mine. In that petition, sensors were required to be
6 installed 50 and 100 feet downwind of each belt drive
7 takeup and at each tail piece and that intervals not to
8 exceed 1000 feet. The CO system is required and shall
9 activate alert and alarms signals at a location on the
10 surface on the mine. It doesn't say "or another
11 location." It's at the mine when miners are underground.

12 Ambient levels in that petition can be anywhere
13 from 2 to 10 parts per million, not the 10 and 15 parts
14 per million that's proposed. It's depending on the
15 quantity of air in the belt entry. This makes sense.
16 The higher the quantity of air, the lower the setting on
17 the alert and alarm levels. And they've got a table in
18 that petition, depending on the amount of air that you
19 have in an entry. And if it's more, then the alarm and
20 alert levels go down. And you know, that makes sense to
21 me.

22 Also, the petition allows for a study to be
23 conducted where two or more entries are common. So it
24 recognizes the common entries with the belt entry
25 regarding the effects of diffusion and/or dilution of CO

1 to determine appropriate alert and alarm levels. Until
2 the study is complete and the Board has finalized air
3 quantities in the belt and common entries, shall not
4 exceed 134,000 cfm.

5 Once the study is complete and the CO alert and
6 alarm and ambient levels are determined, they shall be
7 submitted to the district manager for verification and it
8 shall be included in the ventilation plan. And I don't
9 read anything in the proposed rule that allows anything
10 like this to be put in a bid plan and for the district
11 manager to be able to require it.

12 The CO monitoring person and the responsible
13 person designated at the mine are not the same. And the
14 CO person is required to notify the responsible person on
15 duty of any alert and alarms. It's in their petition.
16 If the CO system become inoperative, a sufficient number
17 of trained persons shall patrol and monitor the affected
18 entries so that they are traveled once each hour in their
19 entirety.

20 Primary escapeways shall be protected during
21 mine layout and design and areas of the mine developed
22 after the effective date of the petition, the system
23 shall be designed such that an air course containment of
24 air, the conveyor belt, carries less than half of the air
25 for section ventilation. And to the extent practical,

1 the pressure differential shall be maintained from the
2 primary escapeway to the belt entry. So even in that
3 recent petition, they've seen that, you know, we've got
4 to maintain our primary intake escapeway as smoke-free as
5 possible.

6 What I'd like to say is, how can the agency pass
7 a rule that eliminates all the protections that miners
8 presently have in their petitions that were negotiated
9 between the miners, the miner's reps and the mining
10 companies? This rule does not guarantee the same
11 protections that currently exist and it doesn't allow for
12 mine-specific situations that exist at their mining
13 operations.

14 I don't believe this is what Congress intended
15 when it created the Mine Act and this rule lessens the
16 benefits miners currently enjoy. This rule is not in the
17 best interest of working miners and should be repealed.
18 I appreciate it.

19 MR. SEXAUER: Butch, thank you, those are
20 helpful comments. Just for the record, could you tell us
21 approximately when these petitioners were granted. Do
22 you recall?

23 MR. OLDHAM: Well, the Highland mine, I know it
24 was just approved in March of this year. The Camp 11,
25 it's been several years. I'd have to look it up. I

1 think about '93 for the Camp 11 mine. The Ohio 11 is
2 about -- I want to say somewhere around 1990, but I'd
3 have to look to be positive.

4 MR. SEXAUER: Does anyone else have a question?

5 MR. FRANCO: Yes, Butch, Bill Franco. Just
6 to clarify a couple of points you made. On the Camp 11
7 petition, you mentioned that you maintain a higher
8 pressure in the primary escapeway because you have a 10
9 percent higher pressure or quantity pressure?

10 MR. OLDHAM: Pressure.

11 MR. FRANCO: It's a 10-percent pressure
12 required in the petition?

13 MR. OLDHAM: Yes, sir.

14 MR. FRANCO: And on the Ohio 11 fire, except
15 for the sensor being mispositioned, did you find that the
16 system performed effectively?

17 MR. OLDHAM: Yes, but like I said, you know,
18 like we all say in mine fire, time is of the essence. So
19 if that sensor had been required, you know, to have a
20 test and be placed in the right position and had a smoke
21 test done. You know, something as simple as a smoke test
22 to know where the air was going, it would have been
23 several minutes earlier. But, yes, the sensor did pick
24 it up.

25 MR. FRANCO: And do you have a report that MWA

1 did on the Ohio 11 fire?

2 MR. OLDHAM: Yes.

3 MR. FRANCORT: Could you provide this for us?

4 MR. OLDHAM: I'll try and find it.

5 MR. FRANCORT: One last question on the Highland
6 mine. I think you said the ambient was 2 to 10 parts per
7 million. You meant the alert arm levels?

8 MR. OLDHAM: Yeah, the ambient was set at zero
9 at that mine because it's a new mine and it hadn't been
10 really determined yet. So it was set at zero until a
11 study could be done to determine exactly what the ambient
12 was.

13 MR. FRANCORT: Thank you.

14 MR. SEXAUER: Anyone else? Okay, thank you,
15 Butch. The next speaker will be Tom Sweeten.

16 MR. SWEETEN: Good morning, my name is Tom
17 Sweeten, S-W-E-E-T-E-N. I'm a representative of miners
18 for Local Union 1545, District 12 of Southern Illinois.
19 I had some comments. I'm going to read from two or three
20 different things here and I have some personal comments
21 I'd also like to make.

22 We want to strongly disagree with doing away
23 with the petition process under 101(C) in regard to use
24 of belt air in our nation's mines. I would like to hear
25 comments in regard to this proposed rule. The UMWA has

1 never fully endorsed the recommendations offered by the
2 belt air advisory committee. The union believes that
3 their report should be the starting point for discussions
4 on what additional health and safety protections may be
5 necessary to mitigate the hazards introduced in the use
6 of belt air.

7 The report of the advisory committee, coupled
8 with the 90 petitions which you mention in your preamble,
9 I believe that should be used as a basis for the
10 formation or formulation of these laws in this new rule.

11 As I said before, we don't wholeheartedly endorse the
12 committee, but we do think that they did have some good
13 ideas and they had some good recommendations in there.

14 The advisory committee offered 12
15 recommendations to the agency to consideration for the
16 use of belt air to ventilate the working areas. I would
17 like to address some of these. The agency and the
18 advisory committee agree on the use of field monitors or
19 smoke detectors. I and the union would feel that, that
20 should be monitoring and detection systems should be
21 used.

22 In addition, I would like to also, or we would
23 like to also point out that we feel that the methane
24 should also be monitored because most of the mines that
25 is going to be using the belt air will be longwall mines.

1 They mine on the solid or in Consolidation Coal
2 Company's case, their belt line is on the solid, there is
3 a great increase of deliberation of methane. That would
4 push it into the face area of the mine. The higher your
5 velocity, the quicker the methane will get there. In
6 cases of our mine, Highland mine, it hasn't been diluted.

7 We still have higher methane levels up to 1 percent
8 higher at the face when we have a big proliferation of
9 methane outlay on the belt line.

10 In the responsible person, which has been hit on
11 by Mr. Urban, he's in charge of monitoring the safety of
12 the coal mine, monitoring all of the system. I believe
13 he should receive more training than just what was
14 required under Part 48. The responsible person could
15 even be off the mine property, as was mentioned by Mr.
16 Oldham.

17 According the proposed rule, he could be in an
18 office somewhere just monitoring equipment and he doesn't
19 even have to be an employee of the mine. He could be
20 from a vendor, such as Burns Detective Agency. And for a
21 mine, for a little while, Mr. Eslinger will probably
22 remember, we had Burns guards monitoring our equipment
23 that had no idea whatsoever how that coal mine was laid
24 out or who they would call. All they knew how to do was
25 to hit delete on that computer so the alarm would stop.

1 They had no idea what was going on with that.

2 It's things like this that we need to take from
3 petitions to ensure that doesn't happened. They need to
4 be trained because as it stands now and as the rule, as I
5 read it, if you had a certain person worked today that
6 worked for Burns, he might quit in two or three weeks and
7 they'll replace him with another and all they do is show
8 them how to use the computer and that was it. That was
9 in my case and I've talked to other people that had the
10 same problem with this application of monitoring these
11 systems.

12 I feel that the alarm and alert level, and it's
13 been mentioned before, should not be set at a specific
14 level, such as 5 parts or 10 parts or 15 for your alarm
15 and alert because your ambient level is different at each
16 mine according to your diesel application and how it's
17 used. The location of sensors in the belt entry is a
18 matter of debate, based on the agency's writing the
19 proposed rule.

20 The committee stipulates sensors should be
21 located not further than 1000-foot intervals in the belt
22 area. However, the proposed rule leaves that requirement
23 up to interpretation. The agency has stated that if the
24 belt drives takeup and/or tail pieces are installed
25 together in the same air course, they maybe monitored

1 with one sensor located not more than 100 feet downwind
2 of the last component.

3 The union must ask if the agency's intent is to
4 allow a single sensor to be viewed as an adequate
5 protection when a belt is in a single split of air or as
6 it would have to be without regard to the length of the
7 belt in question? That being, the language is
8 sufficient vague to allow several conveyor belts in the
9 section to be monitored with a single sensor provided
10 they're on the same split of air. This is extremely
11 dangerous and certainly not the intent of the advisory
12 committee. The agency must immediately take steps in the
13 rule to determine this problem.

14 I have some other comments that might be covered
15 under the 12 points or they might not be as what I feel
16 should be entered into these rules. You should have a
17 maximum velocity set. As it stands now, you could have
18 150,000, 200,000 cfm going down your belt line, which I
19 don't think anybody would disagree that's going to cause
20 more dust to get down there in case you would have an
21 ignition or something or smoke and fire is going to get
22 to the face quicker.

23 In the case of Jim Walter No. 5 mine, which I
24 was down there, they have to have so much tremendous
25 velocity going down their belt lines because they

1 fishtail and they have to use the belt line for one
2 intake air down. They have a petition, but it's covered
3 under that. But even on the driving sections, they have
4 to run and mark probably at least -- when I was down
5 there, they counted it. They have to have at least, oh,
6 let's say, 60,000 on their faces at sometimes. It might
7 not be statutory, but just to keep the methane from
8 igniting when they're using the grip holder or when
9 they're using the miners.

10 There should also be a more comprehensive
11 firefighting evacuation plan. The last time I was here
12 in this very room, sat in this same chair, we met on the
13 firefighting evacuation plan and as far as know, that
14 hasn't been enacted yet. If the belt entry is going to
15 be used as an escapeway, there should be life lines in
16 there.

17 As we saw at Jim Walter, the rigid belt
18 structure was null and void. I mean, if you had to use
19 that to get out because of the heat or the explosion,
20 there was no way in the world you could use that belt
21 because it was destroyed completely. You life line would
22 be more flexible and give you a better chance of getting
23 out of there. Of course, I agree with life lines in all
24 escapeways, whether it's return intake or anything. I
25 feel we should have life lines.

1 In the case of an alarm and alert, you should
2 have two forms of communication independent of each
3 other. You should have, of course, your line phone for
4 the responsible person on the surface to get a hold of
5 whoever is below that would evacuate the line. But in
6 case your line phone breaks down, you need something like
7 your pad system, your leaky feeder system or something
8 like that.

9 And here's the point I've been arguing before
10 this came out, and especially when there's belt air now.

11 But I've been on you because we've had belt air. You
12 should have a regularly schedule PQ survey in a coal
13 mine, whether it's every two years or every year or
14 whatever, it should be set.

15 In the case of our mine, and I hate to keep
16 going back to that, but it's the only one I can speak of
17 with any knowledge as all. The PQ survey, pressure
18 quantity survey, was conducted by Consol for their own
19 uses and they used probably 20 engineering students who
20 had no underground experience, none whatsoever. And they
21 would come and they would go and take a PQ and read
22 certain pressures and certain qualities and Consol would
23 draw up their PQ map, which had -- the first thing at our
24 mine, their PQ survey was so far off -- it had no meaning
25 whatsoever to do with the ventilation plan in our coal

1 mine.

2 The pressures were off so bad that we had a lot
3 of our intake air was getting polluted by dirty air out
4 of the return because the pressures were so bad. And I
5 think the way you change the air and the pressures in the
6 mine because it was drawing longwalls and if you're using
7 belt air that you should have a periodic reading of that
8 PQ. And I believe the federal law should do that.

9 I want to thank you for the opportunity to
10 comment on the proposed rule. I'd like to remind you all
11 that the responsibility of mine safety and health
12 administration is for the working coal miner. It's not
13 for the union. It's not for the companies. It's not for
14 themselves. It's for the working coal miners. The only
15 reason we've all got jobs right now and I feel I have the
16 responsibility of the miner, also. Again, I appreciate
17 you guys letting me speak. If you have any questions,
18 I'll be glad to answer them.

19 MR. SEXAUER: Tom, thank you. Anyone have a
20 question?

21 MR. FRANCO: Tom, one question. At the mine
22 that has the security guards monitoring the system, had
23 they ever detected fires, or did the system ever detect
24 fires that weren't responded to properly because they
25 didn't have proper training?

1 MR. SWEETEN: The instance that brought this to
2 our attention about the security guards, it wasn't a
3 fire. It was an alarm where the system had gone down.
4 And you could see that where all he did was he would hit
5 his delete button or whatever it was to shut the alarm
6 off. He never notified anybody. The system was down,
7 and I could be corrected on this by Mr. Eslinger, I
8 believe for 14 hours. It's in a report that we had and I
9 understand he's got quite a few mines where that did
10 happen. What we did get out of that was they would use
11 the same guards and then they started using their own
12 people, who were supplied people monitoring that.

13 They never did it when we were in the mining
14 production status. They were doing it when we were in
15 idle status and that was before we went on weekend
16 schedule, but we had people in the mine. And again, this
17 was brought to us not because of an incident. It was
18 because there was an interruption of the system and the
19 mine was unprotected for so many hours. I can't be
20 specific on that.

21 MR. FRANCORT: So normally security guards don't
22 monitor the system when people are working underground,
23 is that what you mean?

24 MR. SWEETEN: After the Local and MSHA got done
25 with them, they don't ever do it at our place anymore.

1 But they did before this came and they had. We weren't
2 aware of it. They sat a different, complete part of the
3 mine. We didn't know the security people were doing
4 this, the guards.

5 MR. FRANCO: Thank you.

6 MR. SEXAUER: I've received a couple of notes
7 here from my panel. I think it's time for a break. So
8 we'll go off the record. We'll come back in about 10
9 minutes.

10 (Whereupon, a short recess was taken.)

11 MR. SEXAUER: Okay, I would like for Butch
12 Oldham to come back up to the microphone, please.

13 MR. OLDHAM: Okay, yes.

14 MR. SEXAUER: Butch, you indicated you had some
15 updated information.

16 MR. OLDHAM: Yes, I was just a little bit off on
17 my date, but it's like my memory, it's a little short
18 sometimes. We have the PDO for the Highland mine. I
19 received it on January 30, 2003. And the agreement that
20 we worked out with Peabody at Camp 11, I had it March
21 14th of 1994. So that was the two dates that was a
22 little different than what I gave you.

23 MR. SEXAUER: Thank you.

24 MR. OLDHAM: I appreciate it.

25 MR. SEXAUER: Our next speaker is Dan Spinnie?

1 MR. SPINNIE: I am Dan Spinnie, S-P-I-N-N-I-E.
2 I am chairman of the safety committee of Local 2161,
3 Coulterville, Illinois.

4 MR. SEXAUER: I'm sorry, the location again?

5 MS. SPINNIE: C-O-U-L-T-E-R-V-I-L-L-E. I just
6 have a few brief comments. On this belt air you've got a
7 lot of petitions out there and they're mine-for-mine
8 specific and as I recall -- don't hold me to this date,
9 but in 1997 the mine where I worked at, along with me and
10 Joe Urban and management, we wrote a belt air petition in
11 '97, which we haven't used yet. It's in place. And in
12 this petition we have a lot of the same things in it
13 that's comparable to what Joe testified to and I think
14 this is a good thing because each mine is different.

15 Actually, I'm not in favor of belt air
16 petitions, but if you have to do it, I think you have to
17 do it where it works best for your location that way you
18 can put the safeguards in place for your specific mine.
19 But like I say, we haven't used it as of yet, and
20 hopefully, we don't. But we have these safeguards in
21 place if we do have to use it. That's really all I'd
22 like to say on the issue at this time. If you'd I would
23 submit my petition that we did do in 1997 for the record.
24 I'll fax it to you.

25 MR. SEXAUER: Okay, that'll be great. Thank you

1 very much. Any questions? Dan, what mine do you work
2 in?

3 MR. SPINNIE: Ziggler No. 11.

4 MR. SEXAUER: Okay, thank you. Our next speaker
5 is Greg Mayhan.

6 MR. MAYHAN: My name is Greg Mayhan, M-A-Y-H-A-
7 N. I'm a representative of UMWA local in Taylorville,
8 Illinois for 1969. I would like to thank everyone here
9 today for allowing me to speak here.

10 I'm here today to voice my opinion and to oppose
11 the agency, the government's proposal to change
12 underground mine coal mine ventilation safety standards
13 for use of a belt entry as an intake air course to
14 ventilate working sections in areas mechanized mining
15 equipment is being installed or removed.

16 A draft letter from the international union
17 stated we will offer evidence that the new rule, which
18 has been done, as currently written significantly reduces
19 the safety and protection miners currently enjoy. If
20 you, the agency, allow these changes, you are without a
21 doubt putting disaster at the top of the list in the coal
22 fields of America. You're probably sitting there
23 thinking how does this long-haired, freaky person know
24 anything about using belt air as intake air? Well, not a
25 darn thing, but I do know about air on the belt line,

1 substantial air on the belt line. I work in it every
2 day. Volumes of air that not only blow your mind, but
3 blow your hard hat off your head when you have to go under
4 an overcast.

5 How much you say? Well, a federal inspector had
6 to use a high-speed anemometer, and at that time it was
7 over 75,000 cubic feet a minute. Now that is before the
8 company changed from a 1000 horsepower motor to the 2000
9 horsepower motor of the fan. And yes, the travel weight
10 was over 100,000 cubic feet a minute. If and when an
11 ignition would ever occur, an explosion at the face,
12 everyone in my mind without a doubt would not exist,
13 depending on where the belt fire would be. More likely,
14 anyone out by the fire would be at high risk, because we
15 have a blowing ventilation system.

16 The agency now contends that this is not a
17 problem. They're more than right because it's a total
18 disregard for miner's safety. The agency should be cited
19 with negligence, for total disregard for their safety.
20 That they're proposal is inaccurate. The Constitution of
21 this great land states "We the People" are to be the ones
22 who decide how the government is to be governed, and in
23 doing so, as part of the government, we the people of the
24 United Mine Workers of America, and by the way, gentlemen
25 and lady, from my great state of Illinois is why your

1 agency was formed, to protect and serve the mine workers
2 of this country," John L. Lewis.

3 The agency is protecting and making it easier,
4 not only for coal companies from an economic standpoint,
5 but also in every respect and framework in this country
6 to get a hold. I am making a challenge to the Mine
7 Safety Administration to guarantee that from this forward
8 that we are demanding what the laws were intended to do,
9 provide protection for the mine workers. The agency must
10 be held accountable. I thank you very much.

11 MR. SEXAUER: Dennis Balm, please?

12 MR. BALM: I pass.

13 MR. SEXAUER: Nathan Grace?

14 MR. GRACE: I pass as well.

15 MR. SEXAUER: David Owen?

16 MR. OWEN: I also pass.

17 MR. SEXAUER; Okay, that comprises everyone on
18 the speaker's list. Is there anyone else who would like
19 to come up and speak? Any comments from the panel?
20 Okay, if there are no other speakers, then this hearing
21 is adjourned.

22 (Whereupon, at 10:32 a.m., the hearing in the
23 above-entitled matter was concluded.)

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1 REPORTER'S CERTIFICATE

2

3 DOCKET NO.: None

4 CASE TITLE: Underground Coal Mine Ventilation

5 HEARING DATE: May 1, 2003

6 LOCATION: Lexington, Kentucky

7

8 I hereby certify that the proceedings and evidence
9 are contained fully and accurately on the tapes and notes
10 reported by me at the hearing in the above case before
11 the
12 United States Department of Labor.

13

14

15 Date: April 10, 2003

16

17 Laurie McClung

18

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