TRANSCRIPT OF PROCEEDINGS

IN THE MATTER OF:)
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DEPARTMENT OF LABOR)
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Mine Safety and Health Administration)
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Underground Coal Mine Ventilation)

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United States Department of Labor
Mine Safety and Health Administration

IN THE MATTER OF:)
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Underground Coal Mine Ventilation)
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Holiday Inn Meadowlands
340 Racetrack Road
Gallery B
Washington, Pennsylvania

Thursday,
April 10, 2003

The hearing convened, pursuant to the notice, at 9:02 a.m.

BEFORE: MARVIN NICHOLS, JR.
Moderator

MEMBERS OF THE COMMITTEE:

KEVIN HEDRICK
MARK ESLINGER
BILL FRANCART
W. P. KNEEP
HERMAN NARCHA
CARL LUNDGREN

SPEAKERS:

JAMES LAMONT
RANDY BEDILION
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LEON J. MOSKLINK, JR.
ROBERT BOHACH
JOHN EALY
JEFF MIHALLIK
JOHN GALLICK
FLOYD CAMPBELL
BARRY COX

P R O C E E D I N G S

(9:02 a.m.)

MR. NICHOLS: Good morning everybody. My name is Marvin Nichols. I'm the director of the Standards Office for MSHA and I'll be the moderator for today's public meeting. Dave Lauriski wants me to pass his thanks and appreciation to you folks for showing up to give us some comments on the belt air rule.

Let me introduce my colleagues up here, and with the exception of one person, this makes up the committee that is working on the Belt Air Rule. The guy that's just coming in and sitting down is Carl Lundgren. Carl is an economist on my staff at headquarters.

Next to Carl is Herman Narcha. Herman is with the Solicitor's Office at headquarters. Herman's our in-house attorney. And next to me on my left is Bill Knepp. Bill is the acting district manager in District 3 in Morgantown. Bill is also the chairman of the Belt Air Committee.

Down on the end to my right is Kevin Hedrick. Kevin is with the Electrical Safety Division Approval and Certification with the MSHA tech support. Next is Mark Eslinger. Mark is a specialist in District 8 in Vincennes, Indiana. And next to me, on my right, is Bill Francart. Bill is with the Ventilation Division with the Pittsburgh Health and Safety Technology Center.

We have one more committee member, Deborah James of my staff, that's not here, but as I said earlier, this pretty much makes up the Belt Air Committee.

This is the third of five public hearings on the belt air proposed hearing. Last Thursday we were in Grand Junction, Colorado. Tuesday of this week we were in Charleston, West Virginia and we have two more hearings planned after this hearing. The next hearing will be on April 29th at the Holiday Inn in Birmingham at the Airport Holiday. And on May 1st at the Holiday Inn North in Lexington, Kentucky.

The initial announcement of these rulemaking hearings was contained in the Notice of Proposed Rulemaking published on January 27, 2003 in the Federal Register. Three of the hearings were rescheduled due to conflicts with other hearings the agency plans to hold on plan verification and single sample. A modified hearing location and date notice was published in the Federal Register on March 12, 2003. Both these documents are available out at the sign-in table if you'd like a copy. Also, my office notified many of you on May 7th by e-mail that we were rescheduling the three hearings.

The purpose of these hearings is to receive information from the public that will help us evaluate our proposed rule. The scope of the issues we are addressing

with this proposed rule are well-defined in the rule and this hearing will be limited to soliciting public input on these issues.

I'd like to give you some background that brought us here today to this proposed rule. MSHA proposed rule is based on careful consideration of existing ventilation rules, a review of belt entry ventilation ordered by the MSHA assistant secretary in 1989, a secretarial advisory committee in 1992 and MSHA's experience in granting over 90 petitions for modifications where belt air has been safely used in underground coal mines.

MSHA published a proposed rule to revise safety standards for ventilation of underground coal mines in January 1988. Included in that proposed rules were provisions to allow for the use of belt air. In response to public comments and information submitted during six public hearings in June 1988, the assistant secretary called for a thorough review of safety factors associated with the use of belt air. That occurred in March 1989.

MSHA completed this review and concluded in August 1989 in the belt entry ventilation review report that directing belt air to the face can be, at least, as safe as other ventilation methods provided carbon monoxide monitors or smoke detectors are installed in the belt entry.

After the belt entry ventilation review report was

issued, we reopened the ventilation rulemaking record and held a seventh public hearing in April 1990 to receive public comment on issues raised in the report. Comments received during and after the seventh public hearing expressed widely divergent views on the recommendations of the belt entry ventilation review committee.

Some commented that the use of belt air provides positive ventilation and reduces the possibility of a methane buildup in the belt entry. Other commenters maintained that the use of belt air reduces safety due to increased fire hazards and greater dust levels. Due to these divergent views, when the ventilation rule for underground coal mines was finalized in 1992, it did not include provisions that would have allowed mine operators to use belt air. However, MSHA existing standards continue to allow for the use of belt air on a mine-specific basis through the petition for modification process.

MSHA decided the use of belt air to ventilate for working places should continue to be evaluated. As part of this effort, the Secretary of Labor appointed an advisory committee in January 1992 and charged it to make recommendations concerning the conditions under which belt air could be safely used in the faces of underground coal mines.

This committee was designated as the Department of

Labor's advisory committee on the use of air in the belt entry to ventilate the production face areas of underground coal mines and related provisions. This advisory committee held six public meetings over a six-month period. After reviewing an extensive amount of material, the advisory committee concluded that belt air could be safely used to ventilate working places in underground coal mines provided certain precautions were taken. These precautions included the use of new AMS technology.

The advisory committee made 12 recommendations to support this conclusion. The advisory committee submitted its report to the Secretary of Labor in November 1992. MSHA published a December 1992 notice in the Federal Register announcing the availability of the advisory committee's final report and stated that we would review its recommendations.

In the preamble of this proposed rule, we discuss the recommendations of the belt entry ventilation review report and the advisory committee. The proposed rule also incorporates MSHA experience with petitions for modifications under 101(C) of the Federal Mine Safety and Health Act. In instances where we have not followed a recommendation made in the belt entry ventilation review or advisory committee reports or a term and condition from the petitions for modification, we've provided an explanation

in the preamble.

MSHA has also included definitions of appropriate personnel, atmospheric monitoring system, AMS operator, belt air course, carbon monoxide abient level and point feeding in the proposed rule. Proposed Section 75.350 maintains the prohibition that the belt air course cannot be used as the return air course and requires that intake and return entries be separated with permanent ventilation controls.

It would allow the use of belt air to ventilate sections so long as certain requirements are met. These requirements includes the installation, operation, examination and maintenance of an atmospheric monitoring system or AMS, training requirements, the establishment of designated areas for dust monitoring and monitoring the primary escapeway for carbon monoxide or smoke.

When belt air is used to ventilate the working section, point feeding would be allowed only under the following conditions (1) if the point feed and belt air course are monitored for CO or smoke; (2) there is a means available to remotely close the point fee regulator; (3) a minimum velocity is allowed through the point feed; (4) the location is approved in the mine ventilation plan; and (5) an AMS is installed, operated, examined and maintained.

Section 75.351 of the proposed rule also includes provisions for the following -- the requirements for the AMS

operator and a designated surface location; minimum operating requirements for the AMS; location and installation of AMS sensors; establishment of alert and alarm levels; establishment of CO abient levels; installation and maintenance requirements for the AMS; sensors, time delays, training and communications.

Section 75.352 of the proposed rule specifies actions by the AMS operation and miners in the case of alerts, alarms, malfunctions and insufficient air velocity. The proposed rule of Section 75.371 would add six requirements subject to ventilation plan approval. These include designated areas, location of point feed regulators, additional CO sensors in belt air courses, if required, time delays, reduced alert and alarm settings in instruments for alternate and alarm level for monitoring.

The proposed rule in Section 75.372 would require the location and type of all required AMS sensors on the mine ventilation map. Section 75.380, escapeways would be modified to address the use of point feeding.

The issues surrounding the sue of belt air are important to MSHA and in particular, this belt air committee. We particularly welcome comment on the following issues (1) the benefits of integration of slippage switch monitoring into AMS's for belt air bags, the cost of such requirements and any difficulty operators may experience in

accomplishing this section, if required; (2) whether or not life lines and escapeways are needed, if so, what are the associated costs and maintenance issues. These two issues were discussed in the January 27th Federal Register document.

We'll use the information provided by to help us decide on how best to proceed in this rulemaking. These five hearings, along with other written comments will give manufacturers, mine operators, miners and their representatives and any other interested party, an opportunity to present your views on the proposed rules.

Prior to starting the belt air hearings, we'd received three comments on the proposed rule. You can view these comments on our website at the following address, www.MSHA.gov/regs/comments/belt air/belt air docket/HTM.

The format for this public hearing will be like all of the rest of our hearings. It will be conducted in an informal manner. We will have a verbatim transcript of the hearing and we will post that on our website as soon as possible. That usually takes a couple of weeks. We have a post-comment period cutoff date and that is June 30, 2003. So you can continue to submit comments up until June 30th.

We will begin with the folks that have signed up to speak and once we conclude with that list, we will ask if anyone else would like to come up and offer comments. The

first presenter we have is Jim Lamont with UMWA.

MR. LAMONT: Good morning.

MR. NICHOLS: Good morning, Jim. I failed to mention it, but when you come up to speak, please spell your name for the benefit of the court reporter and give us who you're associated with.

MR. LAMONT: Good morning, again. My name is James Lamont, L-A-M-O-N-T. I'm with the United Mine Workers of America. The United Mine Workers of America is pleased to given the opportunity to submit comments to the Mine Safety and Health Administration regarding the proposed rule of underground coal mine ventilation safety standards for the use of belt entry as intake air course to ventilate the working sections in area where mechanized monitoring equipment is being installed or removed.

The union is concerned the proposed rule will have a significant and detrimental impact on miners. The depth of the effect goes far beyond 30 C.F.R. 75.301, 371, 372, 380, 350, 251 and 372 cited as by MSHA. The union intends, in these comments, to address the changes the agency has proposed in each section of the regulations. However, because of the problems this rule will create with other sections of the regulations as well as my specific modifications to certain statutes, the union will offer evidence that the new rule, as currently written,

significantly reduces the safety protection miners currently enjoy.

The situation is further compounded by the agency's decision to withdraw several proposed safety regulations, including belt flammability, training and retraining of miners, continuous monitoring of respirable coal mining dust and self-contained self-rescuers. These rules, if enacted, would have enhanced protection afforded to miners, when implemented in conjunction with a comprehensive belt air regulation.

In writing the proposed rule, the agency arbitrarily selected the information to support their positions. They chose to ignore reports of Investigation 9380, Fire Detection for Conveyor Belt Entries, 9426, Analysis of Underground Coal Mine Fires and 9570, Hazards of Conveyor Belt Fires. They also singled out testimony of some individuals given during previous ventilation rule hearings regarding ventilating with belt air, while excluding, for unspecified reasons, the information presented by others.

The agency extensively cited two reports in the preamble to the proposed rule as a basis for making many of their determinations. In that regard the union is extremely disappointed with the amount of validity given to the belt entry ventilation review or BEVR report despite the lengthy

objections we offered to many of its findings during the hearings on the ventilation rule.

Finally, the UMWA is disturbed by the method that MSHA used to give the appearance they were complying with the recommendations of the advisory committee on the use of belt air to ventilate the production areas of underground coal mines and related provisions of the advisory committee.

In the Federal Register, Volume 68, number 17, page 3937, the agency states "Commenters from Labor, on the other hand, maintain that the use of belt entry reduces safety to increase fire hazards and greater dust levels. Due to these divergent views, operators, academia and labor, when the ventilation rule for underground coal mines was finalized in '92, it did not include the provisions that would have allowed mine operators to use belt air to provide additional intake air to the working sections." The position expressed by the UMWA during that round of hearings was based on extensive investigations and research. That position is as relevant today as it was in 1989 and the union stands by its previous conclusions.

There should be no doubt that while belt air petitions have been approved on a mine-by-mine bases and are in place at many mining operations, the use of belt air to ventilate working areas does introduce additional and dynamic hazards that would otherwise not be present. These

hazards can be mitigated by incorporating specific safety controls into the mining plans at the operation.

It must be understood that the union is not taking the position that these hazards are eliminated by additional safety precautions. Rather the UMWA recognize hazards conditions created by the use of belt air maybe adequately controlled by utilizing specific safety enhancements. The proposed rule ignores the safety benefits provided by the PDOs currently enforce at various mines throughout the nation and attempts to apply a one size fits all philosophy in its place.

This approach will significantly diminish the level of safety miners have at these operations that they currently enjoy. The union would argue that a PDO currently approved for use at a mining operation as the full force and weight of a statutory regulation. The conditions they put forth are requirements the operator must meet in order to use belt air to ventilate a working area.

The agency recognizes these mandatory requirements for purposes of compliance and enforcement. The simple fact is the conditions outlined in the PDO become the mandatory standard at that particular operation to which they are prescribed. Broad changes in the writing and application of the rule as is proposed here will eliminate protections miners have and place the agency in a position contrary to

their Congressional mandate.

Section 101(C)(9) of the Federal Mine Safety and Health Act of 1977, the Act states "No mandatory health or safety standard promulgated under this title shall reduce the protection afforded miners by an existing mandatory health or safety standard." Congress strictly forbid the agency for enhancing any rule that would offer lesser protection than miners currently enjoy. The union believes the application of the proposed rule in its current form would undercut the health and safety of miners.

Belt Entry Ventilation Review report, the agency offered the findings of the BEVR as a significant basis for their decision to propose this rule. In the background statement for the rule, the agency cites the BEVR finding that directing belt entry air to the face can be as least as safe as other ventilating methods provided carbon monoxide monitors or smoke detectors are installed in the belt entry. The agency appears to be summing up the report and using that as justification for moving this rule forward.

The UMWA suggest that the agency is focusing on a single aspect of the problem that is created by utilizing belt air to make its case. This approach does not lend itself to the enhancement of miners safety. In fact, it is a concept that will, in many instances, result in an opposite effect. Monitoring mine atmosphere for carbon

monoxide or using smoke detectors may play a critical role in improving the safety of using belt air. However, far from the agency's implication here, it does not begin to adequately address the complexities of the issues.

The union would argue that MSHA's brief summation of the BEVR parallels the context of the report itself. As you aware the UMWA authored extensive comments regarding that report. In the hearings on the proposed rule safety standard for underground coal mine ventilation, the UMWA was highly critical of the report for using data and research that was incomplete, narrowly focused, misleading and that it did not support the committee's conclusions.

The union also objected strenuously to the use of this report as a basis for the agency's guidelines for the belt air portion of the rule. The UMWA was not alone in its critique of the report and MSHA's use of it. The United States Department of Health and Human Services, the National Institute for Occupational Safety and Health, NIOSH, was also deeply critical of the reviewer's findings. NIOSH noted that the practice of ventilating with belt air at any velocity is unsafe and unhealthy.

Further, the use of high velocities would increase fire and explosion hazards from coal dust. NIOSH concluded that the use of belt air to ventilate the working faces was not a safe practice. The allowance and use of belt air to

ventilate the working areas of the mines is a diminution of the protections of the miners safety and health as provided by the Mine Safety and Health Act of 1977.

The union has again reviewed the recommendations of the BEVR committee and determined the report does not adequately address the conditions the use of belt air will create. The authors of the report even acknowledge the need for additional research as well as a different approach to maintenance of the mine. The UMWA would address these recommendations in the BEVR as follows (1) increase emphasis should be placed on belt maintenance, belt entry clean up and rock dusting. Historically, belt conveyor entries have posed significant hazards to minors. Despite this fact, poorly maintained belt conveyor entries do not receive adequate or routine maintenance.

A review of MSHA statistics reveals this is still a chronic problem, much as it was at the time the report was first issued. Coal spillage, float coal dust and accumulations of combustible materials -- paper, wood, et cetera, are continually cited by the agency's inspection personnel. For the agency to offer this recommendation as a solution is a problem in itself. Spillage has continued to exist in the mining industry for years and without the agency putting the force of law behind it is disingenuous.

Operators who have never found it necessary to

improve belt conveyor cleanup will not be inclined to reconsider their maintenance program simply because the agency suggest it in using belt air to ventilate working areas.

(2) Emphasis should be placed on proper construction and maintenance of stoppings, separating intake escapeways from intake entries.

The agency has never shown the institution will hold to operators accountable for poorly constructed and inadequate stoppings. This rule will have no effect on stoppings that meet the minimum requirements of the law but do not provide adequate protections to prevent the quick prorogation of a burn through. The agency has far too long accepted the status quo and a recommendation to improve stopping construction and maintenance will not be heeded by mine operators.

(3) the section should be designed by entry location, number of entries or pressure differential to enhance the protection of intake escapeways from contamination by fires in adjacent entries. The UMWA would suggest a major motivating factors for moving this rule is tied to the number of entries operators are seeking to drive in the development sections. Unfortunately, driving additional entries to address the problem of insufficient face ventilation, which is a position the union believes to

be the proper solution, is not the goal of the proposed rule or the motive of the operators.

Instead, they seek to maintain three entry systems that level sections starving for ventilation and solve the problem by pushing additional air to the most hazardous entry in the mine. Clearly, the desire to increase face ventilation in this manner is not inspired by a need to increase safety, but by a will to reduce costs.

In the comments submitted during a ventilation rule hearings, NIOSH made this point clear when they stated "Belt air usage represents the least expensive method of increasing ventilation to the face, not the best for worker, health or safety." Maintaining of the intake escapeway at a higher pressure than the belt entry and entries in common with the belt is not an absolute requirement in this rule.

The UMWA believes such a requirement is necessary to ensure the health and safety of miners. Further, this must be accomplished through natural pressurization, whereby the air entering the intake escapeway is always maintained at a higher velocity than air entering the conveyor belt entry. The UMWA would caution against establishing a system of false pressurization by means of restricting or regulating the amount of air flowing from the intake escape right to the working face.

(4) Intake escapeways should be maintained free of

potential fire sources unless such sources are protected by fire suppression or other acceptable devices. The union is disturbed that such a recommendation had made its way into this document. It is the position of the UMWA that maintaining the intake escapeway as free as possible from potential fire sources should be the current practice at all mines and should not be contingent on the use of belt air for face ventilation.

(5) Directing the air through the belt entry and to the return through a restricted regulator or pipe overcast does not comply with Section 75.236 and should be discontinued. Our comment on that is this practice is no longer accepted.

(6) Training should included drills in communication and evacuation techniques and include precautions to be taken for escape through smoke. Training on new and existing plans or regulations is an extremely important element ensuring the health and safety of miners. Much emphasis is placed on training miners for new tasks, new and experienced miners and other issues.

The UMWA is on record as supporting training on a much broader scale than is currently in practice. Based on that fact, and the changes in the mining industry, the union is concerned that there is insufficient time allotted for such training. Continuing to add training subjects without

required additional time to adequately educate the miners does not obtain the desired result. Far too many subjects in the current training regiment overburdens the system and important issues do not get the attention they deserve. Support for this and other training must be contingent upon a requirement that specifies additional training time.

(7) Belt entries used to ventilate the working places shall be equipped with carbon monoxide monitoring systems or smoke detectors. MSHA and the Bureau of Mining should encourage development and testing of improved smoke detectors. MSHA should initiate the development of performance standards for CO monitors and smoke detectors. MSHA should continue to stress maintenance of CO monitoring systems.

The agency continues to hold the position that the use of CO monitors or smoke detectors in the conveyor belt entry is sufficient protection for monitor in sections using belt air to ventilate the face. The UMWA, on the other hand, believes the use of CO monitors and smoke detectors shall be utilized in these entries to maximize the protection miners receive.

The available technology and new technology driven by such a requirement would ensure state-of-the-art fire detection systems. The union also views entries in common with the conveyor entry as an area that requires special

attention. The UMWA has often argued that the safest method of controlling the hazards associated with the belt entry to have it isolated from all other entries. This position has not changed. However, the agency has approved mining plans which allows for multiple entries in common with the conveyor belt entry.

Because of that, the union believes carbon monoxide monitors and smoke detectors should be required in each of these entries at intervals no greater than those in the conveyor belt entry. Entries in common with the convey belt entry shall be deemed part of the coal hauling system and protection should be applied as if they were.

(8) MSHA should consider requiring improvement to or replacement of point type heat sensors. Much has been accomplished by various research efforts by labor, industry and the government. These efforts have been extremely beneficial in improving fire detection and monitoring. There is no need at this point in time for any operation to be using point type heat sensors. Because of technological advances, the union believes all mines should be equipped with CO monitoring systems and smoke detectors regardless of the use of belt air to ventilate working areas. As stated previously, such systems should be required in all entries that are common with the conveyor belt entry.

There is also a need for the industry not to just

accept current technology as adequate to meet a current requirement and eliminate further research and advances. The rule must include languages that drives the industry to continue to seek better technology.

(9) Where belt air is directed outby from the section, water lines should be relocated from the belt to a separate intake entry to facilitate firefighting activities. This recommendation offered here is not germane to the subject. Belt air traveling outby cannot be used to ventilate working faces in the mine. However, the need to protect the integrity of firefighting equipment, including water lines, is important. This is true regardless of the direction of air flow.

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

(10) Further research shall be conducted to evaluate the impact of air velocities on underground mine firefighting and to provide information on the growth and spread of mine fires involving material other than conveyor belts. The UMWA supports further evaluations of firefighting and underground mining. The union does not see this as a subject that should be limited to the implementation of any particular rule. A better

understanding of the hazards that may be encountered during such operations would benefit miners and the operator.

The Belt Entry Ventilation Review report is no more relevant today than it was when it was first published in July of 1989. The BEVR contains nothing new that would convince the UMWA there is any reason to recognize its validity today. The union's position that committee assigned to conduct this review did nothing more than condone a position the agency had taken as based on sound judgment. A narrowly focused, incomplete and misleading report that did not show its own conclusion does not mature and become better with age. It is, as it was when first introduced, an irrelevant document that should not be the basis for formulating any changes in the mine health and safety standards.

The union strenuously objects to the agency dragging this document off the shelf after all these years and billing it as more than what the facts show it to be. Implementation of the rule, based on the BEVR will result in the diminution in the miners health and safety.

Advisory committee use of air in belt entry to ventilate the production face areas of underground coal mines and related provision, belt air advisory committee or otherwise known as the advisory committee. The UMWA has never fully endorsed the recommendations offered by the belt

air advisory committee. The union believes that their report should be the starting point for discussions on what additional health and safety precautions maybe necessary to mitigate the hazards introduced in the mines by belt air.

However, rather than addressing what the UMWA sees as shortcomings to the advisory committee recommendations by adding additional protection for miners, the agency has chosen to eliminate some of those suggestions. In essence, the agency has determined that they are more acutely aware of the needs of miners regarding this matter than the panel appointed by the Secretary of Labor to study belt air usage in detail.

MSHA has arbitrarily decided what items within each recommendation of the advisory committee fits their current rule, making an enforcement scheme and lay them out as a proposed rule. This type of selective editing beyond the deficiencies in the advisory committee report further erodes miners health and safety protection. Further, the agency gives no consideration to the protection miners and their representatives have been able to obtain at the mine sites through the 101(C) petition process.

The union would argue that the recommendations of the advisory committee, coupled with language currently used in these petitions, should have been the basis for MSHA's writing of this proposed rule. The rule eliminates the

protections miners currently possess. These protections carry the full weight of a statutory regulation, and are, in fact, enforced as such at the mine site. The union objects to the agency's attempt to strip these enhanced health and safety requirements from the miners.

The advisory committee offered 12 recommendations for the agency to consider for the use of belt air to ventilate the working areas. The UMWA would offer the following comments regarding each. The agency and the advisory committee agree on the use of belt air provided carbon monoxide monitors or smoke detectors are installed in the belt entry. The union would agree that monitoring and detection systems must be included as a condition when using belt air for ventilation. The technology is available and allows the use of both of these safety devices in the mining industry. To use one method exclusively does not enhance miners safety.

The union believes the use of carbon monoxide monitoring and smoke detectors as well as methane monitoring systems should be utilized in the mining industry regardless of the use of belt air at a particular mine. Contrary to the assertions of the agency, they have not fully addressed and incorporated this recommendation of the advisory committee into the proposed rule.

Training, as outlined in the proposed rule, would

fall under the already overburdened requirements of Part 48. The union's reading of this recommendation does not conclude that was the committee's intent. The fact that they noted training in item 1, subsections *B and C*, clearly demonstrates there intent to offer specific training about the system, its function, installation, maintenance and operation to miners. This goes beyond what should be incorporated in Part 48.

The committee made special note that early warning fire detection systems shall be inspected by MSHA. The committee clearly understood MSHA's responsibility to inspect mining operations and chose to place special emphasis on the inspection of atmospheric monitoring systems. The agency does not appear to have given the committee's request any weight at all. They have determined to include these inspections as just another portion of their regular inspection. That is not what was intended by the committee in this case.

The air velocity in the conveyor belt and location of sensor is confused in both the advisory committee report and the proposed rule. The union has consistently argued that it is not sufficient to make a determination regarding minimum velocity of air allowed to be coursed through the conveyor belt entry without also looking at what the maximum should and also be placed on it.

This determination is essential to ensuring the integrity of the entire mine ventilation system. High velocity of air will inherently cause more expirable dust to be coursed to the face areas where miners will be working. Greater velocity also possesses a greater threat that smoldering coal or other materials become an uncontrollable fire in a significantly shorter period of time than if the velocities are relatively low levels.

The location of sensors in the belt entry is a matter of debate, based on the agency's writing of this proposal. The committee stipulated sensors should be located not further than 1000-foot intervals in the belt entry. However, the proposed rule leaves that requirement up to interpretation. The agency has stated "If the belt drive takeup and/or tail piece are installed together in the same air course, they maybe monitored with one sensor located not more than 100 feet down wind of the last component."

The union must ask if the agency's intent is to allow a single sensor to be viewed as adequate protection where the belt is in a single split of air, as it would have to be, without regard to the length of the belt in question. That being the case, the language is sufficiently vague to allow several conveyor belts from the section to be monitored with a single sensor provided they are in the same

air course. This is an extremely dangerous proposal and it's certainly not the intent of the advisory committee. The agency must immediately take steps in this rule to correct this problem.

The determination that responsible persons have received a great of attention recently. Unfortunately, the agency has not taken the concerns raised in that debate seriously. The union is convinced specialized training regarding the monitoring system in place at the mine is essential for someone to be considered responsible for its operation. The lives of every miner at the operation hinges on the individual being acutely aware of not only how and why the system functions as it does, but what precise steps are necessary when the system alerts them of a problem.

The agency has once again made a determination that routine training is sufficient to ensure compliance. The union would argue that the standards set to meet compliance for this task should be raised. Miners need to be certain that the responsible person is knowledgeable, reliable and qualified. The agency must raise the threshold for the responsible person if they are serious about protecting miners health and safety.

The recommendation to include certain information with regard to the AMS in the firefighting and evacuation plan does not give the union any comfort level whatsoever.

Recent events have demonstrated many of these plans are antiquated and are in need of overhaul before adding additional information or requirements to them.

The union would urge that the agency immediately begin the process of reviewing and updating the firefighting and evacuation plans at all mining operations to ensure they meet the challenges place on them in today's industry. The agency can then revisit the proposition of adding this material into that plan.

The UMWA is convinced that short of such action on the part of the agency, incorporation of such information and requirements will be useless. The union is also convinced MSHA's determination that the need to have management review and initial the date recorded by the AMS's mistake. The UMWA is not certain how MSHA logically concluded that since the AMS log is available for review by miners and authorized representatives of the secretary. The mine operator will also review the AMS log data.

In the preamble for the proposed rule, MSHA notes that they will not be adopting item 13 as recommended by the advisory committee. They specifically identify slippery switch monitoring and ask for comments on that subject. The UMWA will address this issue in our later comments. However, they failed to note that with that decision they are also omitting the use of smoke detectors as recommended

by the advisory committee. The union does not believe this to be an oversight, but rather a deliberate attempt to eliminate a portion of the recommendation without offering a valid reason.

The union supports the use of CO monitors and smoke detectors in the conveyor belt entry and would like MSHA to address this issue. The union disagrees with the advisory committee and the agency regarding the assignment of alert and alarms levels. The union takes its position because the proposed rule fails to offer a standard method for determining the abient level at the mine. Without such a standard, the union cannot be certain levels specified by any particular operator are accurate.

The UMWA would, however, agree with MSHA's final sentence in this section. The issue must be addressed on a mine-by-mine basis as conditions warrant. The UMWA is convinced this should be the rule with regard to the use of belt air to ventilate working places in its entirety. Conditions at each mine do not lend themselves to a rule such as this. The attempt to place a one size fits all with regard to this issue is ill-advised. The use of any other method but a mine-by-mine determination regarding the use of belt air and what specific safety needs are necessary will, without exemption, reduce safety protection for miners.

The recommendation by the committee, and agreement

by the agency, to maximum and minimum air velocities on page 3944 of the Federal Register, Volume 68, No. 17 is not remotely germane to this issue. There has been no one, to the union's knowledge, arguing that sufficient air must be coursed into the conveyor belt entry to adequately control methane and dust levels. The use of belt air to ventilate the working places should not have any effect on this requirement.

The decision not to require life lines in the primary and alternate escapeway for the reasons cited by the agency is ill-advised. The assertion that life lines are quickly destroyed during mining and not a priority for repair is a consequence of MSHA's enforcement activity. Roof bolts are routinely destroyed during the mining process, but are replaced immediately in the bolting cycle. The agency's logic here would lead one to believe roof bolts are not important because they are easily and routinely damages, also.

Many operations are currently required to install and maintain life line as part of the mine's PDO. MSHA's decision would eliminate that protection and erode safety protection for these miners. The union cannot accept the decision by MSHA not to require the intake escapeway at a higher pressure than adjacent air course. The integrity of the mine atmosphere and the ability for miners to have a

source of fresh air in the event of a fire or other event that requires them to evacuate the mine cannot be overstated.

MSHA correctly cited that it maybe difficult to maintain a pressure differential in the proper direction. However, that difficulty does not justify abandoning the requirement. Should the agency be allowed to make determinations on which sections of the Mine Act to enforced based on how difficult they may be could have a catastrophic impact on miners health and safety.

Once again, however, the union would agree with the portion of MSHA's logic that issues must be addressed on a mine-by-mine basis. This is consistent with the use of belt air currently.

Another item I'd like to comment on here, in the proposed rule, MSHA is not including the requirement to report to the MSHA district manager if it exceed eight hours as recommended by the advisory committee. And this is for AMS malfunctioning. MSHA's rationale is there no need to limit the use of handheld monitoring since it is considered a safe alternative. We believe there would be no incentive then to make sure that this system gets put back in place if that's MSHA's rationale.

And question in Recommendation 6 that talks about the location and establishment of a DA. The rule is

requiring the position of permanent DA to be at a point no greater than 50 feet upwind from the section loading point in the belt entry or where the belt air flows over the loading point or no greater than 50 feet upwind from the point where the belt air is mixed with air from another intake course near the loading point.

That we found somewhat confusing and don't know if that will give a true reflection of what our miners are being exposed to simply because we believe dust is generated more so from transfer points from tail pieces and such. To have a DA located at a point outby that rather than at a tail piece, on by that, would not reflect what the miners are being exposed to unless we're off base on that.

That's basically about all I have, gentlemen.

MR. NICHOLS: Okay, thanks, Jim. Can you leave us a copy of your testimony?

MR. LAMONT: I sure could.

MR. NICHOLS: Good. Does the committee understand all of Jim's comments or do you need to ask any questions?

MR. NARCHA: I have a couple of questions for Mr. Lamont. My name Herman Narcha from the Office of the Solicitor. Thank you very much for your comments. They're much appreciated.

Early on in your discussion, you indicated that there were some safety elements in the PDOs that were not in

the proposed rules and that you had concerns. Are there any specific safety elements that you had concerns about?

MR. LAMONT: I believe I have some gentlemen here who will be talking somewhat on those concerns. And we will be addressing further in our written comments. We have, granted, a lot of different PDOs out there. We have one right now that will be coming in place in another operation and I believe has a lot stricter safety precautions, regulations than what is proposed in this rule. But we will comment. So there should be people to speak on that, also.

MR. NARCHA: All right, you had also mentioned that NIOSH was critical of the BEVR report. You had quoted NIOSH use of the belt air is not a safe practice. Do you have a copy or can you give us a copy of where you got that statement from? I'd appreciate it. I can give you my card after this meeting.

MR. LAMONT: I may have it with me.

MR. NARCHA: You had also indicated that the BEVA report was not relevant at the time it was issued and it's not relevant now. Is there any report -- obviously, you haven't seen the entire record for this proposed rule, but is there any report that you would like us to take a look at in terms of preparing this proposed rule apart from the advisory committee report. You'd indicated that, that was a starting point.

MR. LAMONT: We had the mine workers recommendations, I believe, back in '89, '92, extensively talk about the reports and our position on that.

MR. NARCHA: If you could submit that as part of the record, I'd appreciate that. I those are all my questions.

MR. NICHOLS: Anybody else?

(No verbal response.)

MR. NICHOLS: Okay, thanks, Jim.

MR. LAMONT: Thank you.

MR. NICHOLS: Our next presenter is Randy with the UMWA. I'll let Randy pronounce his last name. I don't want to butcher it here.

MR. BEDILION: Good morning, my name is Randy Bedilion, B-E-D-I-L-I-O-N. And i'm glad you didn't pronounce it because it's been mispronounced more than right.

I'm a safety committeeman at RAG Cumberland mine, a member of Local 2300 of the United Mine Workers of America. I'd like to thank you for the opportunity. What I'm about to inform you is some, but not all, the problems we have at Cumberland mine. I don't want to sit here and try emphasis the flammability in a coal mine because I think we should be knowledgeable enough, if we're here at this meeting, to already be aware of this.

At Cumberland mine we've had numerous fires on our belt lines. Luckily, nothing major. We do not feel that pushing a potential hazard at the us, the miners, is the answer. One of my questions to you is, why push a hazard to the miners? One of our greatest hazards in a coal mine is a belt fire. Why push it to us faster? At our mine we've had numerous belt fires. Luckily, we've been able to get the men out in a timely manner to prevent unknown damage. I also feel that no matter what safety precautions are instituted the risk factor is still too high to take this chance.

Another point to be taken is that our mine is very gaseous. I feel this is another risk to the miners in that, not only could push a fire to us more quickly, but also to bring additional methane to the miners. These are some of the reasons the use of any velocity to ventilate working places creates unsafe and unhealthy situations.

At our mine, the isolation of our belts gives the miners another very valuable assets. This is another means of regress in case of evacuation. In the event of an emergency, I don't feel that reducing costs and jeopardizing is a fair trade. It is our position that intake escapeways be kept as free as possible of potential fire sources.

At our mine we have the Conspec System in place. All the belts are monitored with the CO monitors. We

believe that the belt entry should never be common with entries used for face ventilation or the intake escapeways. The belt entry ventilation review report contains nothing more today that would convince the United Mine Workers to support its validity today than it did in 1989 when it was written.

The belt area advisory committee should be investigating the hazards of increases belt air to the working faces. Further, we feel they should be researching as how to improve the health and safety of miners.

In closing, I'd like to say that the agency needs to reinforce training. In years past, many things in the mining industry has changed, but the training is still minimal, just enough to pass the fire stand alone staying compliance. We feel the agency needs to raise their standards to help ensure greater health and safety standards for the miners. Thank you.

MR. NICHOLS: Thank you, Randy. Does the committee understand Randy's comments? Are there any questions?

(No verbal response.)

MR. NICHOLS: Okay, do you want to leave us a copy of your stuff there. Thanks, Randy. The next presenter will be Mark Segedi with the Mine Workers.

MR. SEGEDI: Thank you, gentleman. My name is

Mark Segedi from the United Mine Workers Local 1197 here in Washington County. I'm currently president of Local 1197 and also on the safety committee. I've been on the safety committee of Mine 84 approximately 22 years.

I don't have anything written down. It's pretty hastily. What I wanted to say won't take very long. I have in front of me, sir, a report from the United States Department of Labor, Mine Safety and Health Administration Coal Mine Safety and Health report of investigation of underground coal mine fire, January 6, 2003 at Mine 84. This report was released yesterday, April 9, 2003. This is MSHA's report of the mine fire at Mine 84.

I'm sure this report can be made available to the committee through Mr. Kevin Stricklin, who is here today, from MSHA District 2. This report was made up from the accident investigators, who are Mr. Joseph O'Donnell, Coal Mine Safety and Health; David Lewetag, Coal Mine Safety and Health; and Inspector William Francart of Pittsburgh Safety and Health Technology Center; and Michael Guana, Pittsburgh Safety and Health Technology Center. The originating office is MSHA District 2, Honker, Pennsylvania, Cheryl McGill District Manager. So if you gentlemen would need this report, I'm sure it will be available.

I would like to state a few things. Before Consol purchased Mine 84, RP owned Mine 84. We used belt air quite

often to ventilate the sections. My experience with that was one big constant problem with our longwall panels being 3, 5, 7/1000, 10,000th feet long. Our belt entry was constantly used, basically, we felt as a bleeder entry because of the solid cold rib along the rims along that belt entry. There was a constant battle before we can mine coal at the face in our sections.

We had to deal with the 5/10 percent of methane, 7/10 percent of methane and sometimes 1/10 percent of methane constantly traveling up our belt line to the face area before we can deal with the methane that we had at the face. So we were constantly adding 1 percent sometimes to the face area before even starting to mine any coal. That methane came from our belt entry because it was a constant bleeder off the solid rib that runs along the belt line. That was a constant problem for us.

Also, Mr. Lamont mentioned about the stoppings and numerous standards of the stoppings, at Mine 84 I've experiences, and also, I'm sure if you would talk to your MSHA District 2, Mr. Lamont talks about the minimum standards of stoppings. Before Consol purchased Mine 84, we used sometimes the Kennedy stoppings, minimal stoppings. Also, the basic core block that you use to put a house foundation along or a stopping belt line.

My experience with the mine fire that happened on

January 6, 2003 that those stoppings would not have held up at all with the intense amount of heat that was generated by the mine fire at Mine 84. Luckily, the standard now at Mine 84 that Consol uses is at 8-inch solid cement block. That, sir, in my experience was a very, very positive thing that helped control that fire from breaking out from the belt line entry into the other entries and it gave us precious amounts of time to get our firefighting efforts under control to stop that fire.

I'm not sure if you gentlemen know. We did control that fire. The fire is our and the mine is back to work. Luckily, Consol uses those kinds of block, which isn't the minimum standard. When I talk about minimum standards, they do not have to use that kind. But any other kind of material used there, that fire off the belt line would have breached that belt entry into the other entries and I'm sure we would have lost a coal miner.

Also, sir, I would like to read some conclusions out of the report. "The root cause of the accident was the operator's failure to recognize record and correct hazardous conditions along the 1B belt flight. Rollers were removed because the bearings had failed. However, the rollers were not replaced. This contributed to the misalignment of the belt, which caused the belt to cut into steel structure. The cutting action separate the belt into thin streams that

accumulated around the shafts of the moving rollers and structure.

"The cutting action also produced sufficient heat to discolor the steel. Damaged top and bottom rollers were observed at several locations along the entire belt flight. This condition is a source of frictional heating. There were accumulations of loose coal on both sides of the belt and hard packed coal under the moving bottom belt. The hard packed coal was in direct contact with the bottom belt and bottom rollers.

"Additionally, the 4-inch diameter water line was not connected to a water supply from the 26 cross cut to the 31 cross cut, a distance of approximately 1000 feet. The condition limited firefighting capabilities and compromised the safety of the miners. The power cables and wooden posts and cribs located in the belt entry at the 26 cross cut provided additional fuel that may have rapidly intensified the severity of the fire.

"Smoke rolled back towards the longwall face area, prevented approaching the fire from the in by fresh air approach. Redirecting the air in order to begin to fight the fire from the outby side delayed firefighting activity."

So there's been a lot of questions about the belt, and you'll probably be hearing a lot more testimony today. I'm sure, sir, if you look back at MSHA's records, the

amount of violations, not only at Mine 84, but all the other coal mines along the belt conveyor systems. That is one constant source of fire. And believe me, sir, it was proved very well in Mine 84.

Enforcement actions, "A 103(K) order was issued on January 6th and terminated on January 31, 2003. It took us approximately from January 6th to January 31st to fight the fire and put the fire out at the mine. The order was issued to ensure the safety of any person in coal mine until an examination or investigation is made to determine that the mine is safe."

The citations and orders were issued yesterday to 84 Mining Company as a result of the fire. And I would like for you, sir, to listen to a few of them because you'll hear a lot of testimony about the CO monitors today. In the regulations, how everybody feel that those are the fail safe to any problems, which I can agree, sir, as far it's one of the best systems that were brought into the coal mine. But, sir, they're not the only thing that going to save a coal mine. They are one of the best things brought in, but they're not the fail safe.

And if you would listen to some of the orders that were issued yesterday, it will make you think twice about only using and thinking that the COs are the problemsolver.

In 104(D) one order was issued for a violation of

30 C.F.R. 75.172(A), the 1B belt conveyor flight was not maintained in safe, operating condition. Through observation and interviews with miners, it was determined that the following conditions existed that contributed to a fire that occurred on January 6, 2003. Rollers were removed because the bearings had failed, however, the rollers were not replaced. Misalignment caused the belt to cut into the steel structure. The cutting action separated the belt into thin streams that accumulated around the shafts of the moving rollers and stationary structured and produced sufficient heat to discolor the steel. Damaged top and bottom rollers were observed in several locations along the belt flight. This condition is known to be a source of frictional heating." So this is 104(D) order. And sir, if you look back, these are basically common violations in coal mines along belt lines. That's no secret to you, sir, to the operations and to the United Mine Workers.

Another 104(D)(1) order was issued for a violation of 30 C.F.R. 75.400. "There were accumulation of loose coal on both sides of the belt and hard packed coal under the moving bottom belt. The hard packed coal was in direct contact with the bottom belt and bottom rollers. The accumulations varied from 3 inches to 24 inches in depth. These conditions existed between 26 and 31 cross cuts and at various locations between 25 cross cuts and the belt

regulator. Belt strings along the top and bottom roller shafts and hung from the belt structure along the belt flight."

Another one, 104(D)(1) order was issued for violation of 30 C.F. R., 75.1100-3. "The 4-inch diameter water line equipped with fire hose outlets and valves along the 1B belt flight was not maintained and useable in operating condition. The 4-inch diameter water line was not connected to a water supply from 26 cross cut to 31 cross cut. A distance of approximately 1000 feet. The fire code on January 6, 2003 at 26 cross cut that could not be immediately fought from the upwind side, 26 to 31 cross cuts. This condition limited firefighting capabilities and compromised the safety of miners."

What had happened, sir, this fire happened on January 6th at 9:00 a.m., the midnight shift, and moved power on the longwall face, moved back all the equipment, but failed to reconnect the 4-inch firefighting water line and started to operate and mine coal at the mine before that was connected back up.

Another 104(D) order was issued for violation of 30 C.F.R., 75.1502(a). "The operator's approved program of instruction for firefighting equipment and evacuation procedures was not followed. On January 6, 2003 at 8:36 a.m. the MSA DAN 6000 CO monitoring system signaled an alarm

at the man surface location. The alarm indicated an elevated CO level of at least 10 p.m. from sensor at 22 cross cut along the 1B belt conveyor. After receiving the alarm notification in the 1B longwall section, management failed to immediately withdraw the crew to a safe location albeit the sensor activating the alarm."

A 104(A) citation was issued for violation of 30 C.F.R. 75.1725(a). On January 6, 2003 a fire occurred along the 1B belt conveyor flight. The MSA DAN 6000 system, audible and visual alarm unit located at the stage loader was not maintained in safe operating condition. The alarm did not function when elevated CO levels were detected by the sensor at 22 cross cuts along the 1B belt flight conveyor. The battery used to power the unit was intentionally disconnect disabling the alarm. This action resulted in a 9 minute delay in notifying the crew of the alarm state."

So let me state again I do believe that since the CO systems were brought in the coal mine -- they are a very, very good system. They probably saved a number of coal mines throughout their history. But sir, if they're not adequately maintained, and this shows one instance they were not, they're not the fail safe system that you think they are. You know, there's always human responsibility in things and this citation shows one of them.

A 104(D) order was issued for a violation of 30 C.F.R. 75.360(b). "The pre-shift examinations conducted on January 5th and January 6th 2003 of the 1B longwall conveyor belt slight was inadequate. The examiner failed to recognize and record hazardous conditions that contributed to a fire that occurred on January 6, 2003. The belt conveyor was misaligned.

"Rollers were removed because the bearings had failed. However, the rollers were not replaced. Misalignment cause the belt to cut into the steel structure. The cutting action separated the belt into thin streams that accumulated around the shafts of moving rollers and structures along the belt flight and produced sufficient heat to discolor the steel.

"Damages to the top and bottom rollers were observed at several location along the belt. This condition is known to be a source of frictional heating. There were accumulations of loose coal on both sides of the belt and hard packed coal under the moving bottom belt. The hard packed coal was in direct contact with the bottom belt and bottom rollers. The accumulations varied from 3- to 24-inches in depth. These conditions existed between 26 and 31 cross cuts and at various locations between 25 cross cut and the belt regulator."

Sir, it's like I said this report will be

available to the committee if it's needed. I'm sure you can get it through MSHA District 2. Also, sir, let me say one other thing. In my experience of almost 30 years in the coal mine, that is probably the one area, if you were going to have a mine fire, that would be the number one area where you're going to have them. And if you're going to use that kind of air and that velocity to ventilate the face and these panels that are 10,000 feet in by, there are not very many ways to escape.

So I would ask you think twice. You're putting very, very many people in jeopardy with very, very limited escape capabilities. I would just ask you think about that. I've never experienced a mine fire until January 6th and sir, if you would ask these investigators or even from the state, the United Mine Workers and MSHA, who investigated the fire, they were amazed, sir, how fast that fire moved. It was out of control within 15 or 20 minutes. So I would ask you, putting people 10 to 12,000 feet without very few ways to escape, sir, you're doing an injustice to the coal miners. Thank you.

MR. NICHOLS: Thank you, Mark. Nice job without anything written down as you say. We should be able to get a copy of that report. Bill Francart here is on the committee. Any questions or comments for Mark? Did everybody understand his testimony?

(No verbal response.)

MR. NICHOLS: Thanks, Mark. The next presenter will be Leon. Again, I'll let Leon give us his last name.

MR. MOSKLINK: Good morning, my name is Leon J. Mosklink, Jr. I represent the miners at Maplecreek Mine. I'm the chairman of the Health and Safety Committee of Local Union 1248.

We've bee fortunate at Maplecreek not to go through what Brother Segidi and his brothers and sisters went through. I say we've been very fortunate. We've had very good inspectors and inspections from MSHA that, no doubt, you've heard that, that saved the mine in 2001. If wasn't for those inspectors, I probably wouldn't be here.

In August of 2001, the main line belts were taken out of service for despicable hazards that were found by MSHA. They were shut down for five days. Several citations before that time were issues for reversal of belt air at the Maplecreek Mine. Several citations for velocities recorded at not the approved rate on the belt lines.

To have unlimited velocities at the Maplecreek Mine would pose a serious, serious risk to the miners. Just hearing Brother Segedi comment on how the fire was out of control in 15 minutes and to want to allow unlimited velocities on belt lines would pose serious risks to the miners.

Also, at the Maplecreek Mine, inadequate pre-shifts were conducted. To think that maintenance on a belt line -- just suggestion that high maintenance on a belt line would help or prevent operators from keeping the belt line entries having belt air to ventilate the working faces, and not having those operators held accountable is foolish.

That's about all I have to say. Thank you.

MR. NICHOLS: Thank you, Leon. Any questions for Leon?

(No verbal response.)

MR. NICHOLS: Thank you. The next presenter will be Larry Kuharcik with the UMWA.

MR. KUHARCIK: Good morning, my name is Larry Kuharcik, K-U-H-A-R-C-I-K. I'm with the United Mine Workers Safety Committeeman from Local 1702. I work at the Consolidation Coal Company, Blacksville No. 2 mine in Northern West Virginia.

Gentlemen, I have a few points I would like to bring out with you. I worked in a belt line coal mine for 32 years. At my mine we've never ventilated sections with belt air. Our belt air goes down, but there are several other points I'd like to make on this review.

Last fall, we had a major mine fire at Blacksville No. 2 on the belt line at a belt drive. Many officials -- union, local, company, state, federal -- still don't know

how we didn't seal Blacksville No. 2 mine. We were very, very fortunate that, that mine wasn't burned and sealed. Since then, in the past six months, as we speak right now Consol has a belt fire in a mine in Virginia.

We had one about 10 miles down the road here at Mine 84, a belt fire, three in Consol in the last six months. It's serious business when we start ventilating sections, increasing air velocity on belt lines.

I want to go on to the part of the review where it mentions stoppings. The review doesn't require the proper construction and maintenance of stoppings, but just suggest it. Just last month on my monthly safety tour, I walked out our longwall belt line, we use the Kennedy stoppings. I don't know if you gentlemen are all familiar. A Kennedy stopping is a metal stopping. We found numerous belt line stoppings constructed wrong, using wrong panels, improper panels, which has been corrected since then when we brought it to the company's attention. But they were constructed wrong. Yet, the review doesn't require proper construction and maintenance of stoppings, just suggest it.

If we go to the smoke detectors, Mr. Nichols, in your opening statements, I heard you mention CO monitors or smoke detectors. Well, my position and the union's position is we need them both to work in conjunction with each other. We need good, reliable smoke detectors.

I understand when we first started using smoke detectors years ago in the mines we experimented with them. We had a problem with rock dust, different agents was causing them to go off. But with the technology in that now, I guess we do have reliable smoke detectors. And myself and the union would like to see smoke detectors and CO monitors used together.

The life lines, coming from a West Virginia coal mine, the review decided that this was not needed, the life line. Well, in the State of West Virginia, the state law, any time you use a return air course as an intake escapeway, which we do in our coal mine, we are required to maintain a life line. The review said that because of the maintenance and the mining destroying them, they didn't recommend it. We have no problem with it. The law requires us to keep it up to the last open cross cut, be made of a durable material, plus reflection tape every 25 feet for the life line. We've been using them for several years at the Blacksville mine and we have no problems with the life lines, and we would like to see the life lines as a mandatory recommendation for all coal mines. There's no problem with the life line.

Gentlemen, that's basically what I wanted to talk to you today about, but I want to leave you with one question because I'm confused with my government. Since 911

we created Home Land Security, which my ex-governor is ahead of, and I believe everybody in this room will agree that our No. 1 priority is to protect American citizens from either harm or death. Yet, I go down the road to Mr. Lauriski, Department of Labor and we come up with these kind of reviews, which the United Mine Workers and myself doesn't full agree with the advisory committee. But we do agree with a lot of what they say, yet, I read through here and so many things the advisory committee recommended was neglected, wasn't added into the final review.

Now I would like to think that my job and your job and all our jobs is to provide the safest and best for the American people within. We have the knowledge. We have the power. The main thing is we have the power to provide, to protect our own such as the Homeland Security. Every man and woman, thousands of coal miners, men and women in the mine, to give them the most protection. I think it's our responsibility, mine and yours, to make sure they get that by including a lot of the recommendations from the advisory committee. I think you would agree with me that should be our No. 1 priority, and I would like to see a lot of the recommendations put into this review that has not been put into the review. Thank you, gentleman. That's all I have to say.

MR. NICHOLS: Thank you, Larry. We have a

question for you.

MR. NARCHA: Just a couple of questions regarding the life lines. Could you just give me a little more description about how you use the life lines? You said that there was some reflective tape. In your mind, you don't have any problems with life lines being destroyed.

MR. KUHARCIK: No, sir, we don't. It's a state law in West Virginia. They require it. And every 25 feet we have a marker right beside the life line hung. It's approximately 12 inches long. It probably has approximately 6 to 8 inches of reflection tape on it to hold into the life line. The only thing I would like to see -- the State of West Virginia says it must be constructed of durable material. That's one mistake I see. I think it should be fireproof material because you're going to use it in case of a fire. But the Federal Government I would like to see you put in there fireproof material and I see no problems. We have no problems with it. We've used it, I'm guessing, two or three years. It's in our return airways that's designated as an intake, of course. It's kept until the last open cross cut, clear to the shaft where there's a bucket or clear it to the outside, whichever is required, and we haven't had a problem with it.

MR. NARCHA: Well, thank you very much, sir.

MR. NICHOLS: Any more questions? Thank you. We

have three more presenters signed up. Is anyone on a short string that needs to leave real quick? If not, I'd like to take about a 15-minute break, but if people need to get out of here, we'll keep going. Okay, let's break until 10:45.

(Whereupon, a short recess was taken.)

MR. NICHOLS: Robert Bohach, RAG Cumberland Resources?

MR. BOHACH: Good morning, my name is Robert Bohach, B-O-H-A-C-H. I'm the manager of safety at RAG Cumberland Resources, Cumberland Mine. Our parent company, RAG American Coal Holding Company has submitted some written comments on the proposed regulations. And my comments are just to supplement the written comments of our parent company.

Cumberland Mine has been using belt air at the face since late 1984 or early 1985. To the best of my recollection, we have not had any MSHA reportable fires on our belts since that time period. We have had some situations where the conspect, early warning fire detection system has given us the opportunity to detect and deal with early stages of combustion or hot spots prior to them turning into a more serious situation. So the system has worked at our operation.

In general, I feel the attempt to standardize the requirements allowing the use of belt air to ventilate

working sections in areas where equipment is being set up or dismantled is good. The proposed requirement for monitoring the primary escapeway for carbon monoxide or smoke should not be tied into those areas using belt air to ventilate the working faces. I feel if the intent of the regulation is to monitor the primary escapeway for CO or smoke, it should be written into the regulations independent of the direction of the belt air being used to ventilate working faces.

The next comments are concerning the use of the point feeds. I think that the belt air should be monitored for CO at a point prior to introducing fresh air into the belt lines if the belt air, whether it's going to the face or if the belt air is traveling outby and that would be to monitor the air before any dilution effects would catch the CO in the stream of air, regardless of the direction of the belt air.

The new proposed regulation, under 75.351(C)(2) and (4) requires additional sensors no more than 50 feet from where belt air splits. Would this require multiple sensors for a new belt drive location? Would there be a sensor required within 50 feet of the belt air split and then also one installed within 100 feet of the drive installation? I think the regulation may need to be clarified to address that situation. I think that might create multiple sensors that may not necessarily be

advantageous.

The proposed requirement to monitor the CO levels of intake air prior to entering a belt line would not be necessary if the belt air would be monitored prior to the introduction of the fresh air, and also, within 1000 feet of the point fee on the belt line. Monitoring the intake air before entering the belt air provides really no benefit to the belt air being used at the face.

The proposed requirement mandating the ability to close a point feed regulator from either air course without requiring a person to enter the air stream, passing through the regulator, I believe, is unrealistic. How would you get to the regulator if you're not going to be in the air stream that's going to be entering the belt line. I can understand the use of a regulator which, typically, is a sliding door type of mechanism. The regulation prohibits the use of doors and doors could probably be closed remotely, whereas, a regulator is going to require an individual to enter the air stream to actually close the regulator.

The requirement to have point feed regulators approved in the mine ventilation plan will create a number of unnecessary plan submissions in my opinion. Allowing one point feed regulator per flight of conveyor belt would reduce plan submissions and allow mine operators to change the belt ventilation to accommodate changing methane

concentrations on belt lines in a more timely manner. These point feeds should be required to be marked on the mine ventilation map on a timely basis.

I would agree that a plan should be required for more than one point feed utilized on one conveyor belt flight. I would be in agreement in submitting a plan for multiple point feeds on one flight.

The time period the belt air should be monitored after production should be four hours and not 24 hours. The four-hour period would provide protection for belt lines after shutdown. The proposed requirement to monitor belt lines for 24 hours after the belt is shut down is overkill if the belt is not operating. I believe that most of the battery backup systems, or at least the battery backup system on our Conspec System is a four-hour system that would provide an additional four hours of protection. And the 24-hour period, I think, may create problems if there's a problem outage at the mine, et cetera.

The provision requiring the maps to be updated daily I feel that the maps should be updated within 24 hours of changes to the ventilation system. I think that, that might be a more useable wording for the regulation. The requirement for multiple alarms for methane, CO and system malfunctions, I believe, is overkill. A single alarm would require the AMS operator to initiate in investigation and

differentiating alarms I don't feel is going to be any added benefit and it's going to require a number of operators to make changes to the systems already in place.

The sensors should be installed in the upper third of the belt entries near the center of the entries that would expose personnel working on the system to unsafe conditions. I think the new proposed regulations requires the CO sensors to be installed as close to the roof as practicable. I know that our petition requires them to be installed in the upper third of the entry. And here, again, I think that would be able to detect the amounts of CO in the belt entry.

The location of the methane monitors used for the return air alternative on longwall sections should be modified to be located on the face prior to the air starting down the longwall tailgate return entry to protect the sensors, the cables and persons required to work on these sensors. I know that we have submitted a petition in the past to utilize the 340 sensor on the face to monitor the methane entering the tailgate return entry to protect the cable that would be coming off of the longwall face and being set up in the longwall tailgate return entry across from the section loading point.

I know that we've had numerous discussion with MSHA concerning that. We do have a plan in place allowing

that, but I think that the regulations should address that. I don't really think that thought was given to the location of the methane sensor and the longwall tailgate return entry. And now that this provision of the regulation is open I think that should be looked at.

Another suggestion, I feel that the functional test and the calibration should be on a weekly and monthly basis at intervals not to exceed to 10 or 45 days respectively. The seven-day increments at times is too restrictive for working around holidays when the mine establishes a routine or a pattern of a certain day when they test or calibrate the sensors. And if there would be a holiday, we would end up doing an additional inspection one day. The next week we would be doing two inspections to get back onto our routine. That would be similar to making the weekly ventilation runs. Our weekly ventilation runs, if they would fall on a holiday, we would make that the day before the holiday. The following week we would make the run the day before or a week after and then we would make the run on the following day.

I think that giving a 10-day period would not really create a safety hazard, but it would give the operator the flexibility of making the examinations. The requirement for two-way communications in a different entry separate from the AMS is not reasonable for three-entry

sections with the belt in one entry and the primary escapeway in the next entry, especially, if the primary escapeway entry must be monitored for CO as proposed.

Section 75.371 should not require additional sensors. The mine operator decides to install to be approved in the ventilation plan. They should be marked on the mine map, not necessarily submitted into the ventilation plan for approval. I think that having them required to in the ventilation plan maybe a deterrent for operators to install additional sensors. And I think by marking them on the ventilation map at the mine it would enable us to install more sensors along the belt lines without having to submit for approval.

I think that the regulation has also got to look at some provisions under 75.380 for developing new section belts off of an existing main belt line. One of the things that we have had problems with developing a section off of an existing main is trying to come in and dump on the main belt line and the air would be going from the dumping point onto the main belt line and possibly traveling up into another mining section with the belt air going to the face. With the CO monitoring on the belt line, I think, that air flow would be protected in the event of a fire. I think what we've had to do in the past is create resistance on the belt lines. Thereby, pressurizing our belt lines to make

the air go where it necessarily doesn't want to go. And I think that 75.332 might be looked at along with this to address that situation.

One other comment that I have is that the location of sensors for electrical installations should remain no closer than 50 feet and no more 100 feet. I believe that the proposed regulation requires the sensors to be 50 feet of the electrical installations. And I believe that the BEVR regulations required them to be no closer than 50 feet and no further than 100 feet down wind of the electrical installations.

That's all my comments. If you have any questions for me, I'll be glad to entertain them.

MR. NICHOLS: Okay, thanks, Robert. Does the committee have any questions or comments on what Robert's presented to us.

(No verbal response.)

MR. NICHOLS: Thank you very much.

MR. BOHACH: Thank you.

MR. NICHOLS: The next presenter will be John Ealy with the UMWA.

MR. EALY: My name is John Ealy. I'm with the Health and Safety Committee, Cumberland Mine, Local 2300. I didn't really have a whole lot to say, but I just going to speak off the cuff here for a few minutes.

I've been in the mining industry for 26 years, worked underground all those years except for the last year. Now I'm at the preparation plant. But prior to going outside, my job was as a mine electrician. And I installed and calibrated and maintained the AMS system of the Cumberland Mine. The belt entry is the most volatile entry in a coal mine. One gentleman spoke earlier, the problem we used to have was with methane liberation because it is along the virgin ribs. It took a lot of gas up towards the face. It's a dusty area. As people have spoke, there's been a lot violations on the belts area. It's one of the least maintained areas in the mine. And I just don't like to see it -- it seems like every time there's a proposal that comes out or a rule change, it goes more towards production and less towards the safety and the protection of miners.

I didn't have a whole lot to say until I heard the last presenter and now it prompted me to say a few things. I hope everybody keeps this in context, but I think you can probably see a distinct difference between the mine workers side of this proposal and the company's side of the proposal. And we like to think of safety first and production comes with that. If everything is done safe and efficient, the production comes.

I've installed these monitors for years and I mean, when you get the point where you want to change the

verbiage of being in the upper third of a quadrant to as close as wherever is practical doesn't make sense to me. I mean, there's certain things as far as the time frame on the calibrations. You know, anything we do to deteriorate the safety of this operation of these systems is totally unacceptable to me. I think they are a great thing, like one of the other gentlemen spoke. They do have their faults, but usually if they're disarmed, the battery is taken out or what have you. But it's a great system. I believe in them. Like I said, I've worked on them for years. Our parameters are set low. I mean, I really do believe they have saved a lot of people's lives. And I also believe that keeping them within 50 feet of an electrical installation, instead of saying up to 100, keep them to 50 feet, that's a safety factor builder. I think it's a great thing. It's not a big deal to install these things. I mean, I can install one and calibrate one in 15 minutes. It's not an issue to do that. And like I said, any time that we've had three fires here in six months and they've all been belt line related -- like I said, I've been there. The dust is there. The methane liberation is there. And I heard some comment out in the hall, I think. I heard one gentleman talking about the air velocity and I know there's different philosophy as far as air velocity basically pushing the fire faster so it doesn't have time to propagate

into the cross cuts and ribs and so on and breaching the stoppings, but at the same time I'd like to see some type of a limitation put on the air velocity. I mean, an unlimited amount of air velocity is just like -- I don't know, it's like give an inch, take a mile type of thing. I don't know where you stop this at because I believe ours it at 450 right now. And if any of you gentlemen who's ever been into a mine, I mean, 450 on a wheel is quite a bit of air down a belt line. I understand the philosophy of it getting to the sensors quicker and so on and so forth, but I think that needs to be looked into a little bit as some type of restriction put on the velocity.

I'm a coal miner, not a speaker. So I'm confused. But basically, I just ask you all to look at it once again, take all of this into consideration and try to keep the safety of the people in mind, which I know you do. But like I say, everybody has their side of the story. If I had a copy of all the other comments, I could probably counteract about 90 percent of them. So you can see the distinct difference in the mentality of the way we think today. But like I say, we like to think safety first and everything else will come. Any questions? I'll answer them.

MR. NICHOLS: Okay, John, thanks. We share the same goal. We want to keep mines in the country to remain the safest in the world, which they are right now.

MR. EALY: We can do it safe.

MR. NICHOLS: On the other hand, as you mentioned, there are a lot of issues here. This thing has been studied and studied for the last decade. We've got these over 90 petitions we granted over the past 10 years. If there's some way to codify so of this stuff and make it simpler, we'd like to do that. But our primary goal is to maintain the health and safety of the miners, too.

MR. EALY: We have a lot of areas in the law that are gray. And I do agree with the fact that they need to be black and white. Because whenever you give a gray area, that's where we have a lot of conflicts and lot of disagreements and the intent of the law always comes up. What is the intent of the law? So make it clear.

MR. NICHOLS: Yes, but with all these issues, at some point we'll probably have to agree to disagree on some things.

MR. EALY: We do. We have a lot of disagreements, but we always end up getting over it.

MR. NICHOLS: Well, I think you are a good speaker.

MR. EALY: Well, I'm not sure about. Thank you.

MR. NICHOLS: Thanks, John. The next presenter will be Jeff Mihallik with UMWA.

MR. MIHALLIK: Good morning. I, too, don't have

anything written down. I just had a brief comment. I've been in the mining industry a little over 14 years. I'd say 12 of that's been at the face. I also have assistant mine form papers which I was a fire boss for a while. But mainly, I look at being a shuttle car operator, we've had some roller fires in our sections.

And I really don't want to see an increase or letting the companies say what they could put velocity on that belt. That is very scary to me. I tell you, being on both ends of that, like I say, being a fire boss and being a shuttle car operator, I think I get to see that belt line more than a lot of people. That is a very critical area as far as -- I want to use the word "deregulating" in that area.

I just wait to see. In our mines the gate road sections that we have, we have not for several years we haven't pushed the air to the face. It goes outby. And basically, it was because we fought the methane so much. I mean, you had a section boss trying to fight the methane coming up the belt and then you had the methane at the face.

So there he was trying to balance this, you know, plus, the dust that was coming up the belt. You can try to regulate it the best you can and you put the best water sprays and we have polo systems, but I'd hate to see us go to that scenario. Plus, we use solid core blocks on our

stoppings and I've seen some of them leak. We had a bad roller fire one time. We're trying to get outby this area and we had the smoke coming through the solid core blocks and through the top and through the bottom.

A good friend of mine is on the safety committee. He made the comment one time, err on the side of safety. And I'd like to reiterate that. That's all I have.

MR. NICHOLS: Okay, Jeff. Did I get your last name right?

MR. MIHALLIK: It's Mihallik, M-I-H-A-L-L-I-K.

MR. NICHOLS: Thanks. What mine was that, Cumberland?

MR. MIHALLIK: Cumberland Mine.

MR. NICHOLS: Our next presenter will be John Gallick with RAG Emerald Resources, LP.

MR. GALLICK: My name is John Gallick, G-A-L-L-I-C-K. I'm the safety manager for RAG Emerald Resources, LP, an affiliate of RAG American Coal Holding, Inc.

I refer to RAG Coal Holding's written comments to the standard for my company's overall position on this standard. I'm here to discuss this rule as it results to RAG Emerald Resources. Emerald Mine No. 1, which is a Pittsburgh seam, longwall mine employing 540 people. Our operation produces approximately $6.5 million clean tons per

year.

Emerald Mine No. 1 has the dubious distinction of having had the longest litigated belt air petition in history, including several hearings. Emerald appreciates the need for regulations on this subject. We wish you had had them a lot sooner. I do, however, have some specific comments and concerns on this issue.

First, the new regulation appears to mirror Emerald's newest petition in many areas. I believe the acknowledgement that some areas can have velocity levels lower than 50 feet per minute with reduced spacing is a very positive addition to the rules. We appreciate you're putting that in. Further, the removal of velocity caps from the regulations is also a positive move.

I had the privilege of knowing and working with Don Mitchell and I'm certain that he would appreciate his studies and research being cited as a contributing factor in this decision.

I also agree with the concept stated in the rules that the alert is sent only to the outside AMS operator station. A subsequent investigation is also under his direction until the alarm stage is reached. This should help minimize the number of actual alarms that reach the working sections and should minimize the concerns we all have of the "cry wolf" problem.

I do believe, however, that MSHA should support the work on sensor differentiation that is already being done by the Pittsburgh lab of NIOSH, the old Bureau of Mines. It's always going to be the Bureau of Mines for me until I'm done. Emerald's participated in that research and it seemed to me that the ability to differentiate the causes of CO -- diesel, burning or welding or productions of combustion from fire is now available. The hardware is there. The research they did proved to me that they're quite capable of working and working well.

The problem, as I understand it from the Bureau, has been the inability to develop software to allow the AMS operator to not have to try to understand trend charts, et cetera, but get an actual description of what the cause of the CO is. This software is not going to be developed by private industry as I see it. There's not enough systems in place. I would like to see MSHA support, with money, this research so that at some point it becomes a public domain software and then, can become part of our systems. I believe it would help all of us to be able to differentiate CO causation.

I was also surprised to see that sensors were required in the intake escape way when belt air to the face was being used. Among my concerns about locating sensors in the intake escapeway is the alert/alarm level. I refer back

to what I just discussed about differentiation. Without the differentiation, the intake escapeway in many mines, including ours, is the main transportation route. And I do have concerns with CO from diesel exhaust, et cetera, reaching quantities that are above the alert level. These sensors should not be held to the 5 PPM and 10 PPM standard of the rule, but the regulation should acknowledge that these sensors can be set to provide a warning, but at a high enough level to minimize nuisance alarms. I guess that could either be done with some discussion of abient in that area or just a working, how do you come up with a reasonable warning without too many nuisance alarms.

I believe that the sensors on the intake escapeway of a longwall should be relocated just outby the power train rather than across from the loading point. Placing a sensor at that location provides the protection the rule contemplates without having to move it as the longwall retreats. Each power move, you would move your sensor. It would be properly stationed and you wouldn't have to worry about it being moved willy-nilly.

Another concern involving sensors, to me, is as Bob Bohach described, the calibration and functional testing movement to go to every 31 days and every 7 days, respectively. I noticed that in the new high voltage regs you also went to a seven day rather than a weekly standard

in that area.

This requirement puts a burden on the operator and causes wait of time by doubling examining when there's holidays involved in those time frames, vacations, other areas. I really think that some flexibility should be placed in it that would provide this safety that you're requesting, which is a set timing to do the calibrations and functional tests, but some flexibility, like Bob said, every 10 days, no more than 10 days or some other number that allows some flexibility when you hit the holiday seasons. Around Christmas, et cetera, this is always a major problem for an operator and usually end up having to do double exams in all these areas.

Other items that should be reviewed and changed might seem of minor consequence, but they would make it easier for compliance for the operator without affecting the intent of the rule.

First, 75.351(C)(4) requires the methane and CO alarm signals to be distinguishable from each other. Since in either case the first step in the process is to call the MS operator, I don't see the need for the different signals. The AMS operator will then tell you, you have methane problem with your AMS system or you have a CO issue.

Secondly 75.350(C)(5) requires point feeder locations to be in the ventilation plan. I don't have a

major problem with a statement of general design and general location being placed in a plan. The actual location should be more appropriately required to be located on the 75.1200 mine map. As presently written, every addition or substraction of a point feed location will generate an addendum submittal to the ventilation plan. This is a time-consuming process for both the operator and MSHA that will lead to no additional safety enhancements.

Thirdly, 75.351(B) should read, and this is in regard to the map for the AMS operator, "and updated within 24 hours when changes are made in central locations or air flow direction." I just think it makes it clearer what needs to be done.

Next, in 75.351(B)(4), the method of contact should be omitted. Obviously, the contact will be by the mine's primary communications system. But I am concerned, as I previously discussed in the proposed rules on 75.1500, that this might eventually get interpreted as requiring the person to be near a phone. I'd like to see some language change there.

Next, in 75.351(C)(5), the requirement for an alarm signal in other locations can be a problem. Most phone systems provide for an all-page alert, but the use of the wording in the regulations says "alarm signal." That implies to me that a section-type audio visible alarm signal

is contemplated and will be required in these locations. We do not presently have these in place and I don't think they're needed to provide like an all-page to those sites.

Next, in 75.351(H), which refers back to 75.340(A), I'd like to make a general comment here. Under 75.340(A), battery charger stations cannot be monitored for CO due to the hydrogen interference. So smoke sensor is the only type of sensor that can be used. I believe that CO sensors can be used in these locations, provided the sensor is placed in a location where any hydrogen gas has had an opportunity to be diluted. My experience is that 50-feed down wind in an air stream will typically provide enough dilution to allow for the use of a CO sensor in place of a smoke alarm. This is important as there has been little work on smoke sensors in this country.

There's been references to smokes sensors, both in the rules and in testimony today. My experience with smoke sensors, I am not convinced that enough work has been done on them and that they are not reliable and feasible as they presently exist. My work with the Bureau of Mines on the previous subject is differentiation. We also worked with smoke sensors, and frankly, the smoke sensors that seemed to have the most reliability, based on their discussion with me, are not commercially available in the United States. I think it's a problem that needs to be addressed.

Next, 75.351(R) needs to be either rewritten or completely removed. Although, a trunk line for communications systems maybe in another entry, almost all mines have spur lines into the belt line. In fact, most pager systems are installed directly in the belt line itself. In either case, there's a natural mixing of phone lines into and out of the belt line. I don't believe the intent of the rule was to prohibit phones from the main phone system from being located at power centers, drive areas, transfers, et cetera. But I believe this rule could be interpreted in this way.

At a minimum, depending on how this rule was finally written, all the systems that are presently in place should be grandfathered in rather than requiring people to take out a whole phone system that's in a belt line and moving it to another entry.

Next, 75.352, I generally agree with this section. I urge the agency to review this section and the proposed 75.502 and assure itself and us that they are, in fact, compatible. I believe that the language here in 75.352 that the MS operator beings the initial action is what both rules contemplate. I like the language in 352 better than it is presently written in 1502.

Finally, just a general comment on life lines. I've spoken about life lines in the past. And in fact, I've

supported their use. First, let me say the discussion on life lines should be under escapeways and not belt air to the face. If life lines are needed, they're in all escapeways, not just those mines using belt air.

If life lines belonged in a rule, and we agree that the escapeway rule is the proper locations for it, then I have some comments on the practical use of them. Life lines can be a problem in an entry that has active traffic. We've used them in the No. 3 entry of a longwall and provided the life line that's kept outby the travel doors. Maintenance wasn't a large problem. However, in any area where traffic is necessary, i.e., setup rooms, areas where we've had to go in and resupport the roof, et cetera, life lines are typically damaged or they're hung up in a way to prevent them being torn apart, but makes them practically useless as a life line for escape.

Finally, in one of our many belt air petitions, we were required to have life lines in the intake escapeway. When intake escapeway was changed from a walking No. 3 entry to a track haulage entry, we had the problem of having an escapeway that is vehicle traffic on track, but a life line traveling down that same entry. And every time we came to a cross cut going up high enough to avoid catching that equipment and back down and then traveling through. If you chose to go into escapeways in any fashion, think long and

hard about how you word it so that it doesn't become a nuisance problem, but, in fact, provides the safety that the previously advisory committee had looked at.

Finally, I urge that, that be part of an escapeway rule if you're going to rewrite an escapeway rule. It doesn't really belong in CO monitoring and the belt air.

I'm prepared to answer any questions if you have any.

MR. NICHOLS: Okay, John, thanks. Anyone have any questions or comments on what John's given us.

MR. KNEPP: Yes, I have a question. One is on intake CO monitoring. What distance would you feel comfortable with on a longwall outby that's centrally located.

MR. GALLICK: Bill, if you have your power train in your intake escapeway that the rule would say either just outby the power train or just outby the doors if there are doors to the No. 3 entry. Some general statement like that rather than a distance. Our power train, as you know, those things the distance varies, depending on where you're located. And I just thought, once you set it up, it'll be set up right. You only make so many power moves. The power moves are planned activity. It would then be properly located and not hung in some haphazard manner. I wasn't looking at a distance number as much as a location point.

MR. KNEPP: Okay, the alarms for CO versus alarms for methane differentiation of that, what kind of problem would that cause for you if that requirement would go through?

MR. GALLICK: I see two problems. One is, if I'm understanding what you're looking for, I would have areas that would have an AMS methane, an AMS CO potential alert or alarm. I would have to have two separate boxes of some sort that would tell that person that, that blinking light there is for methane. That blinking light over here is for CO in either case. If I understand your other rule, other locations would have to have an alarm system also. So I would have a requirement to have multiple areas with at least two different type differentiations.

Now I'm not sure how we would implement that, other than having a separate unit for CO and a separate unit for methane. My belief was that in our procedures, when you get either one, you pick up the phone and you call the AMS operator and find out what you're dealing with, what the problem is. And at that point he'd say you have methane in your return over 1.5 percent, let's say. And then, you'd know what you're dealing with. Or he'd say we have a CO alarm at so and so alarm station. So I just thought we're going to end up having double boxes, for lack of a better word.

MR. KNEPP: Thank you.

MR. NICHOLS: Thanks, John. The next presenter will be Floyd Campbell with UMWA.

MR. CAMPBELL: I wasn't expecting to speak either. I just wrote a few things down here. My name is Floyd Campbell, C-A-M-P-B-E-L-L, from Emerald Mine, UMWA Local 2258. I have 25 years experience, 17 as a fire boss. I think the petition, unique to each monitor is the best to go. I don't think one size fits all law is a good idea.

If you go with a petition for each monitor, that gives the local monitor that understand the conditions there the chance to set up that petition and belt air the way it should be for their unique conditions.

I wrote in the preferential differentials, before we were talking about that. Some of these panels we drive are 3 inches. They're over 12,000 feet long. I've seen them projected for 24,000. If you've got something at the beginning of your belt, if you've got out of control on there, you would override into your intake, your haulage and that's always over pressure until you return -- you would have to escape to 12 to 24,000 feet under apparatus. And that's a long way to go if anybody's every done that.

The increase of the velocity will spread the fire path. Everybody knows that. In our mine we have a petition modification, so we use intake air. When the panels were

started on return air and rock dust kept up clean. We have no methane problems. When we switch over to ventilating them to intake air, any time they can be rock dusted when the section is idle or it's under citation for float dust in the belt line, we're always fighting 1 percent methane at the feeder.

Also, they were changing the inspections of calibrations from 7 to 10 days, that would be a decrease in the percent in number over the length of a year, from 52 to 36. I don't think that's a good idea to decrease the number of inspections for anything.

Basically, that's all I have to say. I just wanted to get on record against this.

MR. NICHOLS: Okay, Floyd, we appreciate it. Any comments or questions for Floyd?

(No verbal response.)

MR. NICHOLS: Thanks a lot. The next presenter will be Barry Cox with the UMWA.

MR. COX: Hello, my name is Barry Cox. I work at RAG Emerald Mine. I'm an elected safety committeeman at the mine. Now acting as the chairman of the safety committee. I've been on the committee for like 12 years.

I just want to start off saying that I'm just a coal miner with just an average education. But when it comes to the safety of our mines, I speak from the heart.

We spent many years adopting a belt air petition and we're not in favor of losing what we fought for. I believe if you want to adopt it into law, you should look at the most stringent petition that is out there.

Forget the petition or law, do you feel in your mind and heart that it's safe for the health and safety of our miners to push 9/10 methane and float coal dust to the face areas where you have mitre bits and drill bits sparking against rock at the working face? It was are made to protect the miners, not jeopardize our lives. The explosion range of methane is 5 to 15 percent, but it is significantly reduced when float coal dust is present. Also, when you have unlimited amounts of air traveling up a belt line, it will overcome the ventilation that pressurized the man doors and ventilation controls from the intake escapeways to the belt lines. All this does is take our escapeway from our miners. Bag rock dusting on our belt line is a thing of the past except when a citation is issued. Bag rock dusting nothing but cosmetic to terminate a citation.

That's all I have to say. That we're against it.

MR. NICHOLS: Okay, Barry, thanks. Any questions or comments for Barry?

(No verbal response.)

MR. NICHOLS: Okay, thank you.

MR. COX: Thank you.

MR. NICHOLS: That's all the people we have signed up to speak. Anyone else in the audience that would like to come up and offer comments or anyone that's offered previous comments want to come up and add to their comments?

(No verbal response.)

MR. NICHOLS: I think this has been a good hearing for us. Let me lay out the timetable and how we'll proceed. As I mentioned in my opening statement, we have two more hearings planned for the last week of this month. The post-hearing comment period closes June 30th. The committee, following the closing of that comment period, will get together and start listing all the issues. Once we get that done, we'll have a discussion with the MSHA leadership and then start making some decisions. And hopefully, have a rule by the end of the year.

It's not going to be an easy task because, as I said earlier, this issue has been around for more than a decade. Our goal is, No. 1, to preserve the health and safety of the miners. But any place it makes common sense to codify some of this stuff, we want to do that to. So thanks for your comments and thanks for your attendance. That will conclude the hearing.

(Whereupon, at 11:37 a.m., the hearing in the above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

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I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the

Date: April 10, 2003

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