



TESTIMONY OF

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ON BEHALF OF
NATIONAL MINING ASSOCIATION

BEFORE THE
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OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

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INTRODUCTION

Mr. Chairman, members of the Committee, I am Bruce Watzman, Vice President, Safety, Health and Human Resources for the National Mining Association. Thank you for providing us this opportunity to share our thoughts regarding the issues we face as we strive to meet the mandates of the Mine Improvement and New Emergency Response Act (MINER) Act of 2006 and the challenges that remain as we strive to return each miner home safely to their families after each shift.

Today I want to discuss three related issues: safety technology; safety culture and the path going forward to bring about further improvements in mine safety and health. But, before turning to the specific issues before the committee let me again express our sympathy to the families of the fallen miners at the Crandall Canyon mine. We mourn their losses and are determined to return to the path that existed for much of the past three decades, when steady reductions in fatalities and serious injuries were the rule. That is why we supported strong new mine safety legislation last year, established an independent commission to provide recommendations for new safety risk-based systems and continue to partner with the National Institute for Occupational Safety and Health to develop and test new safety and communication technology.

In 1977 Congress declared in the Mine Act that “the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource – the miner.” The mining industry strives to reflect this priority through performance. Indeed, the industry’s commitment is reflected in thirty-five years of decreasing injuries and fatalities. And, while last year this steady progress was tragically interrupted by a series of accidents, 83 percent of our nation’s operating mines worked the entire year of 2006 without a single lost-time accident. Nonetheless, recent events serve as a powerful reminder that we in the industry need to reinforce the “safety-first” culture that produced the declining number of injuries and fatalities over the past three decades.

MINER ACT

Last year, NMA supported passage of the most sweeping mine safety legislation in more than 30 years. The MINER Act, as implemented through Emergency Response Plans, recognizes the need for a forward-looking risk assessment, that good safety practices continually evolve based upon experience and technological development, and that every underground coal mine presents a unique environment and what may work in one may not be effective or desirable in another.

Since passage of the MINER Act the industry has moved aggressively to identify technologies that satisfy the law’s requirements as quickly as

possible. While more work needs to be done, the industry has made significant investments and progress. Briefly,

- 100,000 additional self-contained self-rescuers (SCSRs) have been placed into service, with another 100,000 on back order.
- All underground coal mines have submitted emergency response plans including plans to supply breathable air and other supplies to sustain miners trapped underground. Units to meet these requirements are being ordered and installed without the normal testing that a device such as these would normally receive.
- All underground coal miners have received new training and will continue to receive quarterly training.
- Underground coal mines have implemented procedures to track miners underground.
- Existing communications systems have been hardened and redundant systems installed.
- More than thirty-five new mine rescue teams have or will be added around the country.

This progress is only the beginning of our continued commitment for reaching our desired goal to protect our nation's miners.

The recent accident at Crandall Canyon spotlighted our continuing challenge to develop reliable two-way communication devices that could help locate and communicate with miners trapped underground. At a time when most Americans are well-connected with each other through cell phones, many wonder why miners cannot communicate from underground to the surface. Intuitively, we understand why: Sending a signal through rock deep underground is far more challenging than signaling through the air.

Apart from these fundamental technical barriers to in-mine or through-the-earth signal propagation, explosions, fire and roof falls produce destructive forces that can damage or destroy system components and render the system inoperable. At present, there is simply no available single system that can withstand all potential scenarios while maintaining mine-wide communications.

Despite these daunting technological challenges, the industry is not sitting idly by until a reliable system reaches acceptable functionality under all circumstances. Today one member of NMA, Alliance Coal, has developed one of several systems that use radio frequency identification (RFID) tags and bi-

directional readers to track miner's movement throughout the mine, prevent. This is an improvement over earlier systems and is considered state-of-the-art. Yet, it too is susceptible to damage by destructive forces that will affect its functionality. The system currently requires a connective through-the-mine fiber optic cable that is vulnerable to damage and could potentially render the system useless.

NMA member companies recently conducted tests of communication technology being developed primarily for Department of Defense use. The results indicate that improved communication systems are possible. The Kutta system, a subterranean wireless communication system having the ability to couple onto and transmit radio signals using the existing metallic infrastructure in the mines, including metal core lifelines, phone cables, tracks, etc. holds great promise. Its ability to interface with a mine UHF leaky feeder communication system has the potential to integrate an analog and digital handheld multi-frequency radio and complementary repeaters to overcome traditional barriers to enhanced wireless communication.

There are other improvements in communication that can be achieved. Our concern is not that additional communication requirements will be mandated, nor is it the cost of communication systems. Rather, it is that realistic expectations of what is technologically achievable drive whatever requirements become the industry practice. Working with researchers at the National Institute for Occupational Safety and Health (NIOSH) we continue to approach this issue through sound science and realistic timeframes for implementation.

In sum, there is no silver bullet technology yet available. True "through-the-earth" wireless technology does not yet exist. Until we overcome the technical barriers that preclude transmission of signals through the earth, the systems will require some form of underground backbone and infrastructure, which are susceptible to damage. Nevertheless, the perfect solution may still be beyond reach, we will not be deterred in the quest to find and deploy it.

CREATING A CULTURE OF PREVENTION

We have so far commented on technical improvements and these are clearly important. But perhaps the most important element in improving safety is the relentless focus on "safety culture". For successful companies safety culture exists at every level of the organization. In those companies with outstanding safety performance safety is emphasized at every shift at the mines and is an integral part of the business model.

In a recent speech to the Utah Mining Association, J. Brett Harvey, President and Chief Executive Officer of Consol Energy, Inc. stated this succinctly. Let me quote key passages from his speech:

"To achieve our goal, we will need to join the science of safety with a culture of safety.

The science of safety is technology-driven. We use technology to help us monitor conditions, to provide early identification of problem areas, to improve communications between sites underground or between the underground and the surface, and to enhance the safety of equipment.

By deploying technology to augment the efforts of our employees, we can minimize physical conditions in a mine as a source of accidents. We are great engineers, and we intend to engineer our mines so that the physical conditions in the mine are as predictable as those inside this room.

The culture of safety, on the other hand, involves engaging the mind of every employee. We want to make safety their core value. You do that in many ways: with constant training regarding safe work practices, with regular discussion of safety issues -- both at work and at home, and with programs that acknowledge and reward safe work practices and safety achievements."

Mr. Harvey's remarks reflect what so many in the industry have come to recognize, that safety must be a core value that "trumps production, it trumps profits, it trumps all other rules, policies or procedures." These same views were captured by the Mine Safety Technology and Training Commission (MSTTC) in its December 2006 report, *Improving Mine Safety Technology and Training: Establishing U.S. Global Leadership*. In the section on prevention the Commission stated that:

Prevention requires that systematic and comprehensive approaches be used to manage risks. Compliance is an important aspect of prevention, but it is more important to realize that it is only a starting point in a more comprehensive process of risk management.

A critical action to ensure success of the process for any company is the creation of a "culture of prevention" that focuses all employees on the prevention of all accidents and injuries... In essence the process moves the organization from a culture of reaction to a culture of prevention. Rather than responding to an accident or injury that has occurred, the company proactively addresses perceived potential problem areas before they occur.

To achieve these goals we will be working with recognized experts to develop a safety management system that encourages integration of safety into the entire suite of business management systems.

Our efforts will build upon the strong leadership demonstrated last year by the industry through the establishment of the MSTTC as an independent body of safety experts charged with examining how advanced technology and training procedures can be more readily adapted for use in our mines. The commission provided a pro-active blueprint for achieving zero fatalities and zero serious injuries in U.S. underground coal mines and our actions going forward will further the adoption of the commission's blue-print.

Risk assessment and management are well-established practices that are employed in many industrial settings. Our goal is to formalize this process for use throughout the mining industry so that we can identify, eliminate and manage conditions or practices that have the greatest potential to cause injury. In so doing we hope to develop a system that recognizes the MSTTC objective to foster an approach that is "founded on the establishment of a value-based culture of prevention that focuses all employees on the prevention of all accidents and injuries."

Our objective is prevention of accidents, injuries and illnesses and reinforcing a culture of prevention. Decisions will be based upon sound science recognizing technologic limits, where they exist. By developing risk-based safety priorities we will identify and focus resources on conditions that most directly place miners in potential peril. Our goal is to foster industry-wide partnerships among coal companies and equipment and service supply providers for the research, development and commercialization of new practices and technology that will raise the performance bar industry-wide.

The Path Going Forward – A Misdirected Legislative Approach

Some believe we must do something quickly with mining legislation otherwise nothing will change. Mr. Chairman let us assure you that things are changing ... they are changing for the better ... and they will continue to change until we reach our mutually shared goal of ensuring that our nation's miners work in the safest possible workplace and return home safely everyday. This committee and the public must not rush to judgment on the necessity for additional legislation. Doing so will unnecessarily divert attention and resources away from the critical task of fulfilling the mandates of the MINER Act.

To be forced to respond to an additional layer of statutory requirements at this time will undermine the progress that has been made on miner training and other vital objectives of the act. It is premature to consider imposing further legislation before the full impact of the original MINER Act can be comprehensively evaluated.

We are not alone in this assessment. Prominent members of the mining engineering academic community have expressed grave reservations about distracting the mining community from the task of fulfilling the directives of the MINER Act. In a July 25 to the chairman and the ranking member of the committee, these experts warned against “dramatically disrupting the very core of the industry” with additional provisions at this time.

Accompanying our statement is a critique of a number of provisions of the pending legislation (HR 2768 and HR 2769) that we believe are unnecessary and possibly even counterproductive to our shared mission of improving mining safety.

Following are the major flaws of the mine safety bills that have been introduced as well as what is missing from the discussion.

- The addition of new regulatory requirements will create confusion and threaten continued progress on implementing the safety improvements required by the MINER Act.
- The S-MINER Act circumvents notice and comment rulemaking, thereby preventing the development of sound safety and health standards and policies.
- The S-MINER Act changes the roles and responsibilities of MSHA and NIOSH in a number of key respects. It also introduces into the safety process organizations unfamiliar with the mining industry
- The S-MINER Act will result in an administrative nightmare for MSHA and the industry.
- The S-MINER Act outlaws the use of belt air to ventilate the face at underground mines. As a result, it would severely diminish safety by prohibiting the use of a procedure critical to the safe operation of a number of underground mines.
- The additional penalty provisions included in the S-MINER Act are draconian, unnecessary and unfair.
- The S-MINER Act’s one-size-fits-all approach fails to recognize that mines are unique. If enacted, this bill will result in many mines installing inappropriate or unnecessary technology.

We urge the committee to defer consideration of these measures until all parties’ – labor, industry, regulators and members of Congress – can fairly and independently analyze the MINER Act’s impact. We achieve more when the total mining industry comes together to solve a problem without alternatives agendas, when we harness the collective efforts of industry, labor and government representatives toward a common purpose.

Mr. Chairman, thank you for the opportunity to provide our perspective on this vital public policy matter. If you or the other members of the committee require additional information, we stand ready to provide it.