
EDUCATION & LABOR COMMITTEE

Congressman George Miller, Chairman

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Chairman Miller Statement on Findings of Investigation into Crandall Canyon Mine Disaster

WASHINGTON, D.C. – U.S. Rep. George Miller (D-CA), chairman of the House Education and Labor Committee, issued the following statement today on the findings of his investigation into the August 2007 disaster at the Crandall Canyon Mine near Huntington, Utah.

On August 6, 2007, a section of the Crandall Canyon Mine, what had been the South Barrier supporting the Main West corridor of the mine, became the site of the worst coal mining tragedy of 2007.

Pillars of coal supporting the roof over the South Barrier burst, sending coal flying and creating enough force to register a 3.9 on the Richter scale.

The pillar bursts – known as a “bump” or “bounce” – created rubble that blocked every exit from the South Barrier. The bump trapped six miners working in the South Barrier.

Nine months later, those six men remain entombed in the South Barrier, somewhere between 1,000 and 2,000 feet underground. Three courageous rescuers who attempted to reach them also died in the rescue effort.

These men performed dangerous work that we depend on to power our homes and businesses.

Our Committee – along with engineering experts working as consultants to the Committee – has investigated the circumstances leading up to the Crandall tragedy to find out what went wrong so we can prevent it from happening again.

Based on our experts’ analysis, I am able to conclude that it is likely that the tragedy was the result of a flawed plan for conducting retreat mining in the area of the mine where the deaths occurred.

Therefore, also based on this analysis, I am able to conclude that the plan should never have been submitted by the mine operator, and should never have been approved by the U.S. Mine Safety and Health Administration.

I will talk in more detail about these conclusions, and I will also discuss pending legislation that would help ensure that flawed plans do not receive MSHA approval in the future.

Based on the work of our Committee staff, I was concerned that the mine operator may have willfully misled MSHA about information that could have affected MSHA's decision to approve the mining plans for the South Barrier.

As a result, I made a referral to the U.S. Department of Justice. I will discuss this referral in more detail.

In May 2007, UtahAmerican Energy, a wholly-owned subsidiary of Cleveland-based Murray Energy Corporation, sought approval from MSHA for a plan to conduct retreat mining in the South Barrier of the Crandall mine. MSHA approved the plan in June.

Retreat mining involves removing coal as the miners are withdrawing from the mine, allowing controlled roof collapses to occur during the withdrawal.

Most of the coal in the western part of the Crandall Canyon mine, which miners accessed through the Main West corridor, had already been mined.

By 2006, the only significant coal left in the western part of the mine was in the North and South Barriers that had been left to support the Main West corridor. Main West itself had been sealed shut in 2004.

UtahAmerican had already "developed" and pulled pillars in the North Barrier and was developing the South Barrier. Development is a process that leaves pillars of coal in place and opens the way for recovering coal from those pillars.

The plan that MSHA approved in June 2007 was a plan for retreat mining the pillars in the South Barrier.

The first question this investigation sought to answer was whether it was prudent for MSHA to have approved this plan.

To help answer this question, the Committee engaged the services of the Norwest Corporation, a geo-engineering consultancy based in Salt Lake City.

Based on Norwest's analysis, the plan that UtahAmerican Energy submitted and that MSHA approved would probably have been successful if the pillars left inside of the Main West corridor were in pristine condition.

Pristine pillars likely would have been strong enough to help support the South Barrier on one side and the North Barrier on the other side while the barriers were retreat mined. The Norwest analysis, however, concluded that it was unlikely that the pillars in Main West were in pristine condition.

Moreover, notes from the U.S. Bureau of Land Management dating from the time the area was sealed in 2004 indicate there had already been deterioration in the pillars.

In March 2007, three months before UtahAmerican received approval for its plan for the South Barrier, pillars burst inside of the North Barrier. That bump was severe enough to temporarily shut down the mine and force the operator to end retreat mining of the North Barrier.

Fortunately in that case, although the North Barrier was being retreat mined at the time, no miners were working there at the moment when the bump occurred.

Based on our review of the Norwest analysis, if there was any question about the condition of Main West before March 2007, the bump in the North Barrier should have alerted everyone to the fact that Main West's pillars may not have been strong enough.

That's because the severity of the March bump was evidence that the pillars in Main West were degraded. If they were not degraded, then the bump in the North Barrier would likely not have occurred.

But even after the near-disaster in March, the company forged ahead with plans to do the same kind of retreat mining in the South Barrier that it had done, with nearly catastrophic consequences, in the North Barrier.

The Norwest analysis concludes that the likely cause of the pillar bursts in the South Barrier – the pillar bursts that ultimately cost nine men their lives – was the unaccounted for degradation of the pillars in Main West.

Norwest's analysis also leads me to conclude that, with due diligence, UtahAmerican Energy and its engineering consultants, Agapito Associates, as well as MSHA, should have determined that there likely was degradation in Main West and recognized the serious danger of the South Barrier plan.

The conclusion I have come to, therefore, is that UtahAmerican Energy should never have submitted its retreat mining plan for the South Barrier in the first place.

More importantly, MSHA should never have approved the plan.

The next question the investigation sought to answer was, given the danger of this plan, why did MSHA approve it? There are at least two possible reasons.

First, based on the work of our committee staff, I believe that UtahAmerican Energy may have deliberately and significantly downplayed the extent of the March bump in its conversations with MSHA staff.

Second, I believe that MSHA failed to do its due diligence.

Committee counsel deposed current and former officials from MSHA District 9, which includes Utah. One of the deponents was Allyn Davis, the District 9 supervisor.

During the course of Mr. Davis' deposition, he referred to photographs taken of the damage to the North Barrier after the March bump. Mr. Davis first saw the photos many months after the March bump.

Under oath, Mr. Davis said: "The photos that I saw and the description that I got from Laine Adair don't match."

Laine Adair was the general manager of, among other UtahAmerican mines, the Crandall Canyon Mine before it closed.

Unfortunately, Committee counsel was unable to discuss this allegation with Mr. Adair. He invoked his Fifth Amendment right against self-incrimination in refusing to answer questions at a deposition before the Committee.

So did six other individuals: MurrayEnergy CEO Robert Murray; the president of UtahAmerican; two other UtahAmerican employees; and the president of Agapito Associates and a former principal of Agapito.

Mr. Davis' statement and other indications that UtahAmerican Energy may have misled MSHA prompted me to make a criminal referral to the U.S. Department of Justice.

I have asked the United States Attorney General to investigate whether Mr. Adair, acting alone or in conspiracy with others, willfully concealed a material fact or made materially false representations to federal officials.

I didn't take lightly the decision to make this request; I did it in full recognition of the fact that this tragedy cost nine men their lives.

The fact that UtahAmerican Energy may have misled MSHA in no way absolves the agency of its decision to approve the deadly retreat mining plan amendments. MSHA officials must not sit on their hands and wait for mine operators to bring information to them.

MSHA officials should have determined whether the pillars in Main West were still in the same condition that they were in 2004, despite the passage of three years' time, despite significant human-caused seismic activity in the intervening years, and despite the red flag that was the severe March bump.

Moreover, that the March bump happened was no secret, even if the severity of it may have been.

Agapito even made a passing reference to it in a letter submitted by the operator to MSHA. Mine workers knew about it. The Bureau of Land Management had an idea of the severity of the bump.

MSHA should have known about the bump and looked more critically into it. MSHA did not.

Clearly, MSHA needs additional resources, including more inspectors and the technology to better challenge assumptions made by mine operators and their consultants. But the agency also needs to start doing its job.

That's why the House of Representatives has voted to force the agency to do its job. In January, the House passed new mine safety and health legislation.

This legislation is important to this discussion because it directly addresses the mining hazards uncovered by this investigation.

Among other things, the legislation would require MSHA to implement new safeguards for reviewing and approving retreat mining plans. It would also require MSHA to inspect retreat mining operations once they begin, since even the best-laid plans can't always anticipate real-world conditions.

These safeguards would directly address the root causes of the Crandall tragedy.

The Senate is now considering this important legislation. I urge the Senate to pass it promptly.

The findings of this investigation demonstrate that the Crandall Canyon tragedy might have been avoided at several key moments.

They suggest that the mine operator did not act in the interests of the safety of its employees and that MSHA failed these miners and their families.

As long as we continue to ask men and women to go underground to mine coal, we must make sure that they are as safe as possible. We have a long way to go in meeting that objective.

This tragedy should give us all the reason we need to act.