



Testimony of

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Governor
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Before the

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Chairman Miller, Ranking Member Kline, members of the Committee, Secretary Solis and distinguished representatives, I am honored to be here today with the families of the men who lost their lives at the Upper Big Branch mine and with Mr. Stewart, a miner who worked at Upper Big Branch.

Since I learned of this terrible tragedy, my first priority has been to ensure that our miners are represented honorably and that their families have the support and protection they need during this difficult time.

I have personally been through this type of tragedy, losing my uncle and many friends in the 1968 Farmington No. 9 mine explosion.

So, it is important to me to make certain that those who do not know West Virginia miners and their families will come to understand the character and substance of these wonderful people who play such an important role in this great state and in our nation.

When you hear the testimonies of the men and women sitting alongside me today, and as you see the strength and courage on their faces, you will be inspired, as I was at Upper Big Branch, and you will better understand the heart and soul of West Virginia and her people.

West Virginia has a rich history, and mining is a very important part of that history. Coal from West Virginia has powered this country through times of prosperity, times of depression and times of war.

Mining coal is hard and challenging work, and when mining is not done correctly, it can be very dangerous. This we know for a fact. However, in this day and age, we should be able to mine coal safely without risking the lives of our miners – the very people we depend upon to sustain our way of life.

That is why, since the tragedy at Upper Big Branch, my main objectives have been to: determine what occurred, make certain it does not happen again, and determine whether there was intimidation or any other action at Upper Big Branch that put profits ahead of safety.

You can put a price on a ton of coal, and you can put a price on every piece of machinery in a coal mine, but you cannot put a price on the life of a human being; it is priceless. West Virginia expects employers to prioritize safety ahead of everything else. A person who goes to work each morning to provide a living for themselves and their family should expect nothing less than to return home safely.

Almost immediately after I learned of the accident at Upper Big Branch, I appointed J. Davitt McAteer, assistant secretary for the Mine Safety and Health Administration under President Bill Clinton, to head an independent investigation into the explosion.

Mr. McAteer, a native of West Virginia, brings a wealth of experience to the table. He has devoted a considerable portion of his professional life to mine health and safety issues and he is an experienced investigator. At my request, Mr. McAteer led an independent blue ribbon panel in 2006 to investigate the Sago and Aracoma mine accidents in West Virginia.

Mr. McAteer has assembled a team of independent experts to work alongside Director Ron Wooten and his team of state investigators from the West Virginia Office of Miners' Health, Safety and Training. Director Wooten and Mr. McAteer have been working closely with MHSa and will continue to do so throughout this process.

West Virginia deserves to know what happened at Upper Big Branch. We deserve to know why this tragedy occurred, and whether it could have been prevented.

There are questions we need answered. Why did serious safety violations repeatedly occur at Upper Big Branch? Were the miners concerned about their safety? Were miners threatened or intimidated from speaking out? If state or federal regulators knew the mine was unsafe, why was it allowed to continue to operate?

There has been much discussion about administrative and judicial procedures that can allow a mine to remain open in the face of significant safety violations that would otherwise warrant a closure order. We need to ask ourselves: Is bureaucracy getting in the way of safety?

I have asked Mr. McAteer's team and Director Wooten to answer these questions, and more.

I have also asked them, and other mine safety experts, including our state Board of Coal Mine Health and Safety, to recommend legal reforms.

I will incorporate their proposals, and some of my own, into a comprehensive mine safety plan that will address several issues for West Virginia.

One proposal that I think is critical is the establishment of certified mine safety teams in every mine. I envision teams of miners in each mine that are trained and certified to identify dangerous situations. These miners should be empowered to make decisions and take actions, and should be protected by law from threats, harassment or intimidation.

We also need to look at rock dusting standards. Just days after the Upper Big Branch explosion, I ordered Director Wooten to begin testing mines for compliance with an eighty percent total incombustible content rock dust standard, as recommended by a National Institute of Occupational Safety and Health report. I believe West Virginia should mandate this standard.

Some other proposals I am considering include: updating mine ventilation standards in our state code; enhancing criminal penalties for tampering with or altering safety equipment; furthering whistle blower protections; and incorporating more technology in the mines for accident prevention and rescue.

In addition to specific reforms, we should reexamine our overall regulatory schemes – both state and federal.

For example, I have been told by representatives of one coal operator that the United States Bureau of Mines, which was closed in the mid-nineties, had a program staffed with highly qualified personnel that reviewed and approved design plans for all new mines. I was told that there has not been as significant a level of engineering review of new mining plans since the bureau closed. Perhaps this is an area we need to improve.

Corporate governance is another issue the state or federal government should address. No one within a corporate or business structure, from top to bottom, should be protected or untouchable under the law if the corporation or business fails to make safety a priority or fails to empower workers to make the workplace as safe as possible.

With that being said, we have many mining companies in West Virginia and in this country with excellent safety records that put the safety of their miners ahead of everything else. I want to commend those operators for focusing on safety and I encourage others to follow their lead.

We need to look at what these companies are doing that is above and beyond what is legally required, and ask ourselves whether their standards should be required at every coal mine. If a company can focus on safety ahead of profits and still compete in a global marketplace, every company can build a successful business model around a culture of safety.

I want to challenge the coal industry to set a new bar for workplace safety.

That is why I ordered, in the days following Upper Big Branch, a day of honor and mourning for our fallen miners, and asked coal operators to cease production for one whole day, to focus on safety. I asked every underground mine operator and miner to go to work and commit to one day focused completely on making their workplace as safe as possible. I felt this was an appropriate way to honor the miners of Upper Big Branch, and a way to give direction to the coal industry on where we need to go as a state and a nation.

As we move forward and form new goals for mine safety, I will continue to make certain that the laws that are already on the books are stringently enforced.

I have already ordered increased coal mine inspections and stricter enforcement of coal mine health and safety laws in West Virginia. Just days after Upper Big Branch, I ordered the Office of Miners' Health, Safety and Training to immediately inspect every coal mine in the state. The worst offenders, those with a record of the most serious health and safety violations, were inspected within hours of my order.

We have also established a twenty-four hour, seven days a week, industrial accident safety hotline, which allows callers to anonymously report problems in the workplace without fear of retribution. The hotline has been up and running for a short time, but is already seeing results. I hope that it will encourage more workers to become involved in strengthening safety procedures from the front lines.

In closing, I want to thank you for this opportunity to speak to the Committee about these important issues. I also want to thank the families for being strong during this difficult time.

West Virginia is a beautiful state, filled with proud, hard-working people, who are supported by strong families, and who never ask for anything other than an honest day's pay for an honest day's work.

Mining is a way of life for many West Virginians. West Virginia miners – like their fathers and grandfathers who mined coal before them – have not only a strong commitment to provide a good living for their families, but also a deep and patriotic pride that their work, and the energy they produce, has made and continues to make America strong and free.

Thank you for the opportunity to speak today.