

Statement of  
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Before the  
Subcommittee on Labor, Health and Human Services,  
Education and Related Agencies  
of the  
Senate Committee on Appropriations  
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Chairman Specter, Senator Harkin, and Members of the Subcommittee, thank you for inviting me to participate in this hearing on the Sago Mine Disaster and Mine Safety.

I am presently the Vice President for Sponsored Programs of Wheeling Jesuit University. Previously I served as Assistant Secretary of Labor for Mine Safety and Health from 1993 to 2000, and I have been involved in the mine safety field in various capacities since 1968. I live in Shepherdstown, West Virginia.

As you know, the Sago Mine Disaster was really two disasters — first the crisis of the trapped miners, and then the appalling miscommunication to the waiting families, leading them to believe for nearly three hours that all but one of the miners had been saved when in fact all but one had perished. Both parts of this dual disaster must be investigated and their causes identified. And we owe it to the lost miners, and to their families, to take all necessary steps to ensure that there will never again be such a dreadful double tragedy.

Governor Joe Manchin of West Virginia called me soon after the disaster and asked if I would serve as his personal advisor and conduct an independent investigation of the cause or causes of the disaster, assess the rescue and recovery operation, and make recommendations to improve mine safety in West Virginia and across the nation.

In accepting that assignment, which Governor Manchin announced on January 9, I pledged that we would pursue every lead, follow every avenue of inquiry, and take every step necessary to identify the problems that caused the disaster and contributed to the difficulties of the rescue operation and the miscommunication to the command center and the families, and that we would fix those problems.

That is the charge of the Special Commission on the Sago Mine Disaster, and we are in the process of carrying it out. I am grateful to Governor Manchin for entrusting me with this responsibility, and I have promised to deliver a report to him by July 1.

Subsequently the leaders of the West Virginia Legislature, House Speaker Bob Kiss and Senate President Earl Ray Tomblin, appointed six legislators to work with me to help determine what went wrong at the Sago Mine and, in the Speaker's words, to decide "what we as a lawmaking body should do to minimize the chances of such a tragedy happening again." I appreciate the

opportunity to work with these bipartisan colleagues, many of whom have been closely involved with coal mining.

Before going further, I want to stress that our investigation is not intended to duplicate or in any way impede the investigations under way by the federal Mine Safety and Health Administration (MSHA), the West Virginia Office of Miners' Health, Safety and Training, and the West Virginia Board of Coal Mine Safety and Health, or by any other regulatory agency or lawmaking body with statutory responsibilities in this area. But I must also stress that our investigation, unlike the others, has a very specific constituency to whom we are accountable.

We are, of course, accountable to Governor Manchin, and through him to the people of West Virginia and the nation. But ultimately we must answer to twelve good men — Tom Anderson, Alva Bennett, Jim Bennett, Jerry Groves, George Hamner, Jr., Terry Helms, Jesse Jones, David Lewis, Martin Toler, Jr., Fred Ware, Jack Weaver, and Marshall Winans — and to the families to whom they will return now only in memory. And we are accountable as well to the sole survivor of the disaster — Randal McCloy, Jr. — and to his wife and children and all those who continue to pray for his recovery. We must answer to them.

Our responsibility, therefore, is to ask and explore all of the questions to which the miners' families must have answers, including these:

- Was the Sago Mine being operated unsafely?
- Were the responsible federal and state agencies doing an adequate job of enforcing safety and health laws and regulations at the mine?
- What triggered the explosion on the morning of January 2?
- Could the explosion have been contained?
- Why did it take so long to get the rescue operation launched?
- Were the mine rescue teams adequately equipped and supported?
- Was the command center properly organized and directed?
- Were all communications between the command center and the rescue teams properly verified and logged?
- What caused the breakdown in communications at the mine?
- What caused the miscommunication to the miners' families?
- What were the reasons for the long delay in getting the facts to them?
- What steps must be taken to ensure that such a dual catastrophe will never occur again?
- Is the mine rescue system as effective as it should be?

- As we absorb the lessons of the Sago Mine Disaster, what additional steps must be taken to better protect miners nationwide?

To help us address these questions, I am gratified that we are receiving support from miners, mine rescue teams, miners' families, mining companies, the United Mine Workers of America, federal and state agencies concerned with occupational safety and health, and the entire West Virginia Congressional delegation.

And, because this disaster has touched everyone in West Virginia — and indeed has affected so many people in Pennsylvania as well, and throughout the coalfields of the United States — it is also gratifying that we are being assisted by student volunteers at Wheeling Jesuit University and West Virginia Wesleyan College and by engineering and law students at West Virginia University. They are the future of our state, and it is heartening that they have volunteered to help us build a safer future for those who dig the coal that creates the energy to drive our nation's economy.

Most of our investigative work is ahead of us, and I do not want to pre-judge any part of that work or speculate about our findings and recommendations. But at the outset I do want to emphasize four points.

First, we have nothing but praise for the mine rescue teams. I have been in charge of such operations, and I know the demands that a mine rescue makes on those who willingly risk their own lives to try to save the lives of others. I'm not sure that anyone but a miner can truly understand what it's like to go underground in the full awareness of hazards seen and unseen that can instantly end your own life, and to go anyway because there are miners trapped in there who are counting on you to come after them. That is a good working definition of heroism, and we will not second-guess anyone who went to the aid of the Sago miners.

Second, we are going to get to the bottom of the Sago Mine Disaster, but we are not going to scapegoat anyone who was on the scene, including those who responded on behalf of MSHA and the West Virginia Office of Miners' Health, Safety and Training. It has been my privilege to know and work with many of those involved, and I want to say here that my strong belief, going in, is that the failures that occurred at the Sago Mine were primarily failures of the mine safety system, probably compounded by human fatigue and communications confusion, rather than failures that are somehow attributable to the personalities of those involved. These are good and competent people. I will be enormously surprised, and deeply disappointed, if our inquiry leads us to conclude otherwise about any of them. And we should all respect the fact that they are grieving the loss of their brother miners just as the miners' families are.

Third, every aspect of our investigation will be open to the miners' families and the public. We will hold a public hearing in Buckhannon, West Virginia, on or around March 1, and we may schedule additional public hearings if needed. I can see no valid reason for conducting any part of our investigation behind closed doors. We need abundant sunshine to help determine what went wrong at the Sago Mine and how to strengthen mine safety protection and enforcement.

Fourth, it is very clear that the nation has not invested as much money and energy in the cause of coal mine safety as in the pursuit of coal production and profits. That imbalance must be

corrected, I believe, if we are to recover from the Sago Mine Disaster by making the mines of the United States as safe as they possibly can be made.

I do not subscribe to the fatalistic view that coal mining is so inevitably dangerous that we must be willing to accept the loss of life as part of the price of coal. Let me point out that there are productive coal mines in West Virginia and elsewhere that have operated for twenty, thirty, forty years without a disaster. Tough federal legislation, enacted in 1969 after the Farmington No. 9 Mine Disaster and subsequently strengthened, has helped to drive down the frequency of disasters and fatal injuries in the mines. And the best mine managers today know full well that safety and productivity go hand in hand.

But legislation must be diligently and aggressively enforced to have meaning, and adequate funds must be committed to the protection of miners — both in day-to-day enforcement and in the development and implementation of technologies as advanced as those that we rely on in other fields, such as reducing the hazards of air travel, pinpointing the location of vehicles, or facilitating instantaneous, error-free communication around the globe and in outer space.

In some industries, investing in state-of-the-art technologies is considered to be just part of the cost of doing business, and it must at long last be seen that way in mining as well. The energy industry can well afford to partner with the government in ensuring that new health and safety technologies are rapidly developed and put to work in the nation's mines.

In 1995, we convened a conference on mine emergency preparedness at MSHA's National Mine Health and Safety Academy in Beckley, West Virginia. Out of that conference came many useful recommendations to improve mine rescue technology and communications, and a number of initiatives, including proposed regulatory changes, were subsequently advanced. But I share Senator Byrd's concern, which he expressed last week, that MSHA today may be "under-staffed, under-funded, and under-equipped." If that is true, it will be incumbent upon Congress to help fix the problem, so that MSHA can guide the mining industry in creating a truly modern model of mine safety.

I want to mention one initiative that deserves our immediate attention and support regardless of the findings and recommendations that may emerge from the various investigations.

It appears that precious time was lost on the morning of January 2 while company officials attempted to contact MSHA, and perhaps while MSHA organized its response. That remains to be determined, but it is clear that MSHA's emergency response system is outmoded. Mine emergency communications need to be brought into this century, in part by establishing, perhaps at MSHA's National Mine Health and Safety Academy facilities, the equivalent of the nationwide 911 emergency system that is used to rapidly dispatch emergency personnel and other first responders. We should begin immediately to develop plans for such a nationwide system and to set target dates for implementing it.

Governor Manchin is today introducing legislation to develop such a system for West Virginia. I want to commend him for his leadership in launching this initiative, and I hope that we will soon be able to expand the 911 system to protect miners nationwide.

Again, I do not want to anticipate our investigation's findings and recommendations, but I think it is already clear that certain other safety improvements deserve priority consideration. These include:

- **Technological advances in mine communications:** If the technology can be developed to facilitate space exploration and to equip consumers with the ability to instantaneously transmit and receive information worldwide from their laptops, cellphones, and BlackBerries, there is no question that mine communications technologies can be brought out of the dark ages. The only question is whether we have the will to make the necessary commitment to research and development. It is imperative that we make that commitment and find the funds to fulfill it.
- **Improved mine safety equipment:** The Self-Contained Self-Rescuer (SCSR), which provides an oxygen supply for at least one hour, is a technology developed more than 50 years ago. The fight to make the government require SCSRs took more than twelve years, ending with the adoption of SCSR regulations in 1981, and the sad fact is that there has been little industry support since then for efforts to improve the SCSR so that it can sustain life for longer periods of time. What is true of the SCSR is true of mine safety technology in general. In the wake of the Sago Mine Disaster an industry spokesman was quoted as saying that it was not the industry's responsibility to develop new safety equipment. "We're not in the self-rescuer manufacturing business," he reportedly said. That attitude harks back to the 19th century and has no place in the 21st. The industry may not manufacture safety equipment, but going forward it has an obligation to support accelerated research and development so that technologies available elsewhere can be transferred to the protection of miners with all deliberate speed.
- **Improved mine emergency training:** There are fewer mine disasters today than in the past. That is the good news. The bad news is that in such a situation it is difficult for all involved in mine safety to maintain a constant state of high readiness. Mine safety officials and mine rescue teams are generally well trained, but there are few opportunities for them to test their training and proficiency in real-world situations. Among other things, we need to look into the feasibility of augmenting today's training systems and improving response times by conducting emergency rescue drills at operating mines on a surprise, unannounced basis. Doing so would, of course, involve considerable expense and inconvenience in temporarily halting production, simulating emergency conditions, and deploying mine rescue teams and support personnel. But we need to consider the trade-offs in improving emergency readiness. The paradox is that the safer we can make mining, the more we need to be fully prepared for something to go terribly wrong anyway. If, for example, the explosion at the Sago Mine turns out to have been triggered by an abnormally severe lightning strike, it will underscore the probability that we can anticipate but not entirely eliminate all hazards and must be ready — totally ready — when they suddenly put miners' lives in peril. Given the importance of those lives and our reliance on the coal they mine for our use, anything less than state-of-the-art training

should not be acceptable.

I would add that there is also a need to address the issue of information control at the mine site. The Sago Mine Disaster was the first such emergency to occur in the cellphone era. While cellphones may or may not prove to be implicated in the miscommunication that occurred between the command center and the families waiting at the Sago Baptist Church, the presence of numerous cellphones at the site and the difficulty of controlling their use underscores the need to ensure that rescue and recovery information is strictly confined to the command center until it has been verified. This is not to suggest that there should be an information blackout during future rescue and recovery operations, but that only authenticated information about the progress of such operations should be released, by authority of the responsible official in charge of the command center.

Governor Manchin has repeatedly pledged that the miners who died in the Sago Mine will not have died in vain. We can fulfill that pledge only by diligently working to identify what went wrong and then by taking every necessary step to fix what went wrong by improving the safety and health protection of miners. Your decision to convene this hearing reflects your commitment to this goal and should be applauded. I look forward to sharing our investigative findings and to working together in the months ahead to make America's mines safe.

I would be glad to answer any questions and to provide any additional information that may be helpful to you. Thank you.