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March 7, 2011

The Honorable Joseph A. Main
Assistant Secretary
Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, VA 22209-3939

Dear Assistant Secretary Main:

Thank you for your recent testimony before the Subcommittee on Workforce Protections. Our members recognize the importance of improving mine safety; accordingly, we made this topic the focus of one of the earliest oversight hearings undertaken by the Committee on Education and the Workforce in the 112th Congress. As this Congress proceeds, I look forward to continuing our ongoing efforts to improve miner safety and health.

As you know, I have been concerned for some time by numerous reports of management problems plaguing the Mine Safety and Health Administration (MSHA).¹ Immediately prior to the hearing, I learned of yet another troubling account of MSHA mismanagement in a report issued by MSHA's Office of Accountability to the Senate Appropriations Committee last year.² This previously unreleased report brought to light a host of additional management and training problems at MSHA. The Charleston Gazette, which broke the story, summarized the findings as follows:

- Inspectors in 20 of 25 field offices reviewed did not properly evaluate the gravity and negligence of mine operator safety and health violations.
- Supervisors in 21 of those 25 field offices did not perform in-depth reviews to ensure that inspectors took appropriate enforcement actions in accordance with MSHA policies.

¹ See e.g. Department of Labor Inspector General Report: Journeyman Mine Inspectors Do Not Receive Required Periodic Retraining Report No. 05-10-001-06-001 (March 30, 2010); Department of Labor Inspector General Alert Memorandum: MSHA Set Limits on the Number of Potential Pattern of Violation Mines to be Monitored Report No. 05-10-004-06-001 (June 23, 2010); Department of Labor Inspector General Report: MSHA's Controls Over Contract Awards Need Strengthening Report No. 05-11-001-06-001 (February 16, 2011).

² Mine Safety and Health Administration Office of Accountability Report to the Senate Appropriations Committee (March 25, 2010) available at http://wvgazette.com/static/coal%20tattoo/MSHA_Account_Report.pdf.

- MSHA officials in 15 of the 25 field offices audited did not adequately document inspections so that any enforcement actions taken would stand up in court.
- Inspectors in four of the field offices did not complete mandatory spot inspections for mines that generated large amounts of explosive methane gas.
- At an unspecified number of field offices, there was a ‘lack of comprehensive inspections of all areas of the mining operation’ and inappropriate ‘levels of enforcement issuances.’³

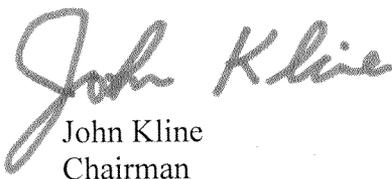
In light of these and other problems previously identified by the Department of Labor’s Inspector General, I was pleased to hear you are willing to consider internal reforms at MSHA to improve the efficiency and performance of the agency. In a press conference following the hearing, you stated, “We have an agency that has been in place since 1970 that deserves to have an updated evaluation of the way we do business and one of those pieces is how we’re auditing everything. So it’s not something you can do overnight, it’s a pretty thorough job, and I have folks that are tasked with that responsibility to look at it and figure out where we go from here.”⁴

To give the Committee a comprehensive overview of the management challenges currently facing MSHA and your plans to address those challenges, please provide the following information no later than March 21, 2011:

1. A copy of all reports, audits, and post-audit reports generated by the Office of Accountability since the office was established in 2007.
2. A description and explanation of MSHA’s policy related to the public availability of audits and post-audit reports generated by the Office of Accountability.
3. A description of the planning process currently underway at the Department of Labor to restructure MSHA and/or systemically remedy and improve MSHA’s internal management, including, but not limited to, a description of the personnel involved in such planning, the timeline for the planning process, and any interim conclusions reached during the planning process.
4. All documents related to or referencing plans to restructure MSHA and/or systemically remedy or improve MSHA’s internal management during your tenure.

If you have any questions regarding this request, please contact Loren Sweatt at 202-225-7101. Thank you again for your participation in the subcommittee’s hearing and for your time and attention to this very important matter.

Sincerely,



John Kline
Chairman

³Ken Ward Jr., *Report details MSHA lapses prior to disaster*, CHARLESTOWN GAZETTE, March 2, 2011.

⁴The Honorable Joseph A. Main, Assistant Secretary of Labor for Mine Safety and Health, Press Conference Call (March 3, 2011) (audio available at <http://www.msha.gov/Media/MyMeetings/JMain03032011.wav>).