

MAJORITY MEMBERS:

JOHN KLINE, MINNESOTA, Chairman
THOMAS E. PETRI, WISCONSIN
HOWARD P. "BUCK" McKEON, CALIFORNIA
JUDY BIGGERT, ILLINOIS
TODD RUSSELL PLATTS, PENNSYLVANIA
JOE WILSON, SOUTH CAROLINA
VIRGINIA FOXX, NORTH CAROLINA
BOB GOODLATTE, VIRGINIA
DUNCAN HUNTER, CALIFORNIA
DAVID P. ROE, TENNESSEE
GLENN THOMPSON, PENNSYLVANIA
TIM WALBERG, MICHIGAN
SCOTT DESJARLAIS, TENNESSEE
RICHARD L. HANNA, NEW YORK
TODD ROKITA, INDIANA
LARRY BUCSHON, INDIANA
TREY GOWDY, SOUTH CAROLINA
LOU BARLETTA, PENNSYLVANIA
KRISTI L. NOEM, SOUTH DAKOTA
MARTHA ROBY, ALABAMA
JOSEPH J. HECK, NEVADA
DENNIS A. ROSS, FLORIDA
MIKE KELLY, PENNSYLVANIA



COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

MINORITY MEMBERS:

GEORGE MILLER, CALIFORNIA
Senior Democratic Member
DALE E. KILDEE, MICHIGAN, Vice Chairman
ROBERT E. ANDREWS, NEW JERSEY
ROBERT C. "BOBBY" SCOTT, VIRGINIA
LYNN C. WOOLSEY, CALIFORNIA
RUBEN HINOJOSA, TEXAS
CAROLYN Mc CARTHY, NEW YORK
JOHN F. TIERNEY, MASSACHUSETTS
DENNIS J. KUCINICH, OHIO
RUSH D. HOLT, NEW JERSEY
SUSAN A. DAVIS, CALIFORNIA
RAUL M. GRIJALVA, ARIZONA
TIMOTHY H. BISHOP, NEW YORK
DAVID LOEBSACK, IOWA
MAZIE HIRONO, HAWAII
JASON ALTMIRE, PENNSYLVANIA
MARCIA L. FUDGE, OHIO

April 27, 2012

The Honorable Joe Main
Assistant Secretary
Mine Safety and Health Administration
United States Department of Labor
1100 Wilson Boulevard
Arlington, VA 22209-3939

Dear Assistant Secretary Main:

I respectfully request information and documents relating to the Department of Labor's Mine Safety and Health Administration's (MSHA) efforts to stop advanced notice of a mine inspection.

Under the Mine Act, "any person who gives advance notice of any inspection to be conducted under [the Mine Safety Act] shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or both."¹ Similarly, under section 813(a) of the Mine Act, MSHA inspectors are forbidden from giving advance notice of an inspection. Unfortunately, advanced notice of mine inspections continues to be a problem.

On March 27, 2012, the House Education and the Workforce Committee held a hearing to examine the findings of investigations related to the Upper Big Branch (UBB) tragedy. In that case, mine operator Massey Energy unlawfully provided advanced notice of safety and health inspections. While Massey's actions are deplorable, recent testimony provided by former UBB mine supervisor Gary May alleges MSHA personnel also provided advanced notice of inspections. Specifically, May stated that "sometimes they [MSHA] would tell us...they'd be back tomorrow or where they were going."

I recognize that MSHA has made the eradication of advanced notice by mine operators an enforcement priority. Since April 1, 2010, MSHA has issued 35 citations related to an operator or contractor providing advanced notice of an inspection. However, it is unclear whether you

¹ 30 U.S.C. 820(e)

The Honorable Joe Main

April 27, 2012

Page 2

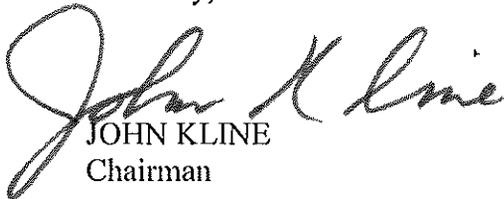
have made an equal effort to ensure MSHA personnel are not – even inadvertently – providing advanced notice of inspections.

To better understand how MSHA is working to identify and eliminate advanced notice of mine safety inspections, I ask that you provide the Committee on Education and the Workforce the following information and documents by May 11, 2012:

1. Documents and communications relating to MSHA's guidance regarding the agency's enforcement of advanced notice of a mine inspection.
2. A list of the 35 advanced notice citations issued to mine operators and contractors since April 1, 2010; include the status of the citation, whether the citation has been contested, and the status of contested citations before the Mine Safety and Health Review Commission.
3. A list of all instances in which MSHA personnel provided, or allegedly provided, advanced notice of a mine inspection; include the date, the nature of the incident, the name of the inspector, any personnel action, and documents and communications related to each instance.
4. Documents and communications between MSHA and the Solicitor of Labor's office relating to the prosecution of incidents of advanced notice by mine operators, contractors, and MSHA personnel.
5. Documents and communications related to MSHA's efforts to inform mine operators, contractors, and MSHA personnel that advanced notice of an inspection is unlawful.
6. A list of all training programs provided to MSHA's special investigators related to advanced notice; include a description of the training, the source of the training, the cost of the training, and all documents and communications related to the training.

If your staff has any questions regarding this request, please contact Loren Sweatt of the committee staff at 202-225-7101.

Sincerely,



JOHN KLINE
Chairman