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May 14, 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) injury and illness rates for MSHA personnel. The safety and health of MSHA personnel, as well as all workers, is of the utmost importance.

Unfortunately, MSHA's injury and illness rate is alarmingly high, raising serious concerns about the effectiveness of MSHA's internal illness and injury prevention activities. In the last five years, MSHA had an average of 5.69 injuries/illnesses per 100 employees.¹ In Fiscal Year (FY) 2011, MSHA had 121 total recordable injuries or illnesses or 5.2 injuries/illnesses per 100 employees.² MSHA experienced 35 lost time cases for a rate of 1.5 per 100 employees and nearly three times the number of total injury and illness cases as the Occupational Safety and Health Administration.^{3, 4, 5} Further, the most recent data available suggest the mining industry injury rate was 2.81 per 100 employees.⁴

¹ U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), Federal Injury and Illness Statistics per year from Fiscal Years 2007 to 2011. (Extracted April 19, 2012) <http://www.osha.gov/dep/fap/fap-inj-ill-stats.html>

² U.S. Department of Labor, OSHA, *Federal Injury and Illness Statistics for Fiscal Year 2011* (Extracted April 19, 2012) http://www.osha.gov/dep/fap/statistics/fedprgms_stats11_final.html.

³ *Id.*

⁴ MSHA, *supra* note 1. This report reflects injury and illness data for each calendar year.

The Honorable Joe Main

May 14, 2012

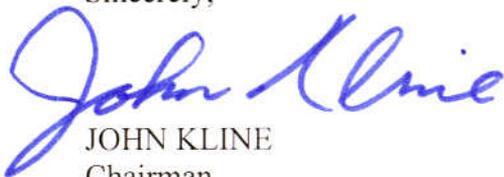
Page 2

MSHA has stated its “culture of prevention embeds safety and health as core values in all initiatives and ongoing activities.”⁵ However, it appears this core value is not being instilled in MSHA’s own safety and health initiatives. As MSHA continues to address shortcomings in enforcement, training, and management in the wake of the Upper Big Branch Mine disaster, I want to ensure the agency includes a review of internal safety and health programs. As such, I ask you to provide the Committee on Education and the Workforce the following documents and information by May 28, 2012:

1. A list and description of all MSHA personnel injuries and illnesses since FY 2007, including the site of the injury and the job title of the injured party;
2. Any and all evaluations of MSHA’s safety and health program and its effectiveness in addressing the high injury and illness rates;
3. Any and all communication to MSHA employees regarding their own safety and health in the field; and
4. A list and description of all management initiatives to reduce the injury and illness rate of MSHA employees.

Thank you for your attention to this matter. If you are unable to provide the requested information and materials by the date specified, please inform the committee in writing why the deadline cannot be met, and the date by which you will provide the requested information. 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

Committee on Education and the Workforce

⁵ U.S. Department of Labor, MSHA, *Mine Safety and Health At A Glance*. (January 27, 2012)
<http://www.msha.gov/mshainfo/factsheets/mshafct10.pdf>

Responding to Committee Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i. e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.
8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents should be delivered, one set to the Majority Staff in Room 2181 of the Rayburn House Office Building and one set to the Minority Staff in Room 2101 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.