

TRANSCRIPT OF PROCEEDINGS

In the Matter of:)
)
PROPOSED RULE: DIESEL PARTICULATE)
MATTER EXPOSURE OF UNDERGROUND)
COAL MINERS)

Pages: 1 through 165

Place: Mount Vernon, Illinois

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Date: December 15, 1998

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UNITED STATES DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

PROPOSED RULE: DIESEL)
PARTICULATE MATTER EXPOSURE OF)
UNDERGROUND COAL MINERS)

Ramada Inn
Mt. Vernon, Illinois

Tuesday,
December 15, 1998

The hearing began, pursuant to notice, at 9:05
a.m.

BEFORE: THOMAS TOMB, Moderator

APPEARANCES:

PAMELA KING
SANDRA WESDOCK
JON KOGUT
ROBERT HANEY
GEORGE SASEEN
RONALD FORD
WILLIAM MC KINNEY

1 P R O C E E D I N G S

2 MR. TOMB: Before we get started, I have an
3 opening statement that I'd like to read for the record. My
4 name is Thomas Tomb. I am the Chief, Dust Division, at
5 MSHA's Pittsburgh Safety and Health Technology Center,
6 Pittsburgh, Pennsylvania. I will be the moderator at this
7 public hearing on MSHA's proposed rule addressing diesel
8 particulate matters in underground coal mines.

9 Personally, and on behalf of Assistant Secretary
10 J. Davitt McAteer, I would like to take this opportunity to
11 express our appreciation to each of you for being here today
12 and for your input.

13 With me on the panel today from MSHA are Jon Kogut
14 from the Office of Program Evaluation & Information
15 Resources, George Saseen from the Approval Certification
16 Center, Robert Haney from the Environmental Assessment and
17 Contaminate Control Branch of the Dust Division, Sandra
18 Wesdock from the Office of the Solicitor and William
19 McKinney from the Mine Safety and Health Academy. We have
20 Ronald Ford and Pamela King from the Office of Standards,
21 Regulations and Variances.

22 This hearing is being held in accordance with
23 Section 101 of the Federal Mine Safety & Health Act of 1977.

1 As is the practice of this agency, formal rules of evidence
2 will not apply. We are making a verbatim transcript of this
3 hearing. It will be made an official part of the rulemaking
4 record.

5 The hearing transcript, along with all of the
6 comments that MSHA has received to date on the proposed rule
7 will be available to you for review. If you want to get a
8 copy of the hearing transcript, you have to get it on your
9 own by making arrangements with the court reporter.

10 We value your comments. MSHA will accept -- are
11 there enough chairs? Would you see about getting some
12 additional chairs, maybe, brought in? Just in case.
13 Thanks.

14 We value your comments. MSHA will accept written
15 comment and other data from anyone, including those of you
16 who do not present an oral statement. You may present
17 written comments to Pamela King during the hearing or send
18 them to Carol Jones, Acting Director of Office of Standards,
19 Regulations & Variances at the address that has been listed
20 in the hearing notice. We will include them in the
21 rulemaking record. If you feel you need to modify your
22 comments or wish to submit additional comments following the
23 hearing, the record will stay open until February 16, 1999.

1 You are encouraged to submit to MSHA a copy of your comments
2 on computer disk. Your comments are essential in helping
3 MSHA develop the most appropriate rule to foster safety and
4 health in our nation's mines. We appreciate your views on
5 this rulemaking and assure you that your comments, whether
6 written or oral, will be considered by MSHA in finalizing
7 this rule.

8 In another rulemaking on October 29, 1998, we
9 published the proposed rule to address diesel particulate
10 matter exposure of underground metal and non-metal miners.
11 The comment period for that proposed rule will close on
12 February 26, 1999. Hearings for the metal and non-metal
13 proposal will be announced in a future Federal Register
14 notice. You may obtain copies of that proposal by
15 downloading it from MSHA's web site at www.msha.gov or by
16 calling the Office of Standards, Regulations & Variances at
17 (703) 235-1910.

18 However, the scope of this hearing today is
19 limited to the April 9, 1998 proposed rule addressing diesel
20 particulate matter, exposure of underground miners. This is
21 the third of four public hearings to be held on this
22 proposed rule. The first was held in Salt Lake City on
23 November 17, 1998, the second was held in Beckley, West

1 Virginia on November 19, 1998 and the fourth will be held in
2 Birmingham on December 17, 1998.

3 Information regarding these hearings is published
4 in the Federal Register on October 19. It can also be
5 obtained from MSHA's web site on the Internet and there are
6 a few copies of that notice available here today if you want
7 to pick one up.

8 On April 9, 1998, MSHA published a proposed rule
9 that would reduce the risk to underground coal miners of
10 serious health hazards that are associated with exposures to
11 high concentrations of diesel particulate material. Diesel
12 particulate matter is a very small particle in diesel
13 exhaust. Underground miners are exposed to far higher
14 concentrations of this fine particulate than any other group
15 of workers. The best available evidence indicates that such
16 high exposures put these miners at excess risk of a variety
17 of adverse health effects, including lung cancer. The
18 comment period for the proposed rule is scheduled to close
19 on August 7, 1998. However, due to requests from the mining
20 community, the Agency extended the comment period for an
21 additional 60 days until October 9, 1998.

22 The proposed rule would require the following:
23 Proposed Paragraph 72.500 would require the installation and

1 maintenance of high efficiency particulate filters on the
2 most polluting types of diesel equipment and underground
3 coal mines. It would require that, beginning 18 months
4 after the date the rule is promulgated, any piece of
5 permissible diesel-powered equipment operated in an
6 underground coal mine must be equipped with a system capable
7 of removing, on average, at least 95 percent of the mass of
8 the DPM emitted from the engine. Additionally, 30 months
9 after the rule is promulgated, any non-permissible piece of
10 heavy duty, and I stress heavy duty diesel powered equipment
11 operated in underground coal mines be equipped with a system
12 capable of removing, on average, at least 95 percent of the
13 mass of the diesel particulate material emitted from the
14 engine.

15 Any exhaust after-treatment device installed to
16 reduce the emissions of diesel particulate matter would be
17 required to be maintained in accordance with manufacturer's
18 specifications. The proposal also sets forth the Agency's
19 requirements for determining whether a system is capable of
20 removing, on average, at least 95 percent of diesel
21 particulate matter by mass. It states that a filtration
22 system must be tested by comparing the results of emission
23 test of an engine with and without the filtration system in

1 place.

2 Proposed Paragraph 72.510 is a training
3 requirement which lists the pertinent areas in which
4 instructions must occur. The training is to be provided
5 annually in all mines using diesel-powered equipment and is
6 to provide without charge to the miner the training. It
7 also includes provisions on record retention, access and
8 transfer.

9 And, finally, proposed amendment to Paragraph
10 75.371 would amend existing Paragraph 75.371, which is the
11 mine ventilation plan contents to add one new requirement to
12 an underground coal mine's ventilation control plant. The
13 additional information is limited, but is critical to the
14 control of diesel particulate matter. The proposal would
15 require the ventilation plant to contain a list of the
16 diesel-powered units used by the mine operator, together
17 with information about each unit's emission control or
18 filtration system.

19 Details relative to the efficiency of this system
20 and the methods used to establish the efficiency of this
21 system for removing diesel particulate matter must be
22 included. Any amendments to a mine's ventilation plan must,
23 of course, also follow requirements of 30 CFR 75.370, which

1 is the mine's ventilation plan submission approval
2 requirements.

3 MSHA received comments from various sectors of the
4 mining community and has preliminarily reviewed the comments
5 it has received thus far. MSHA would particularly like
6 additional input from the mining community regarding
7 specific alternative approaches discussed in the economic
8 feasibility section of the preamble. As you might recall,
9 the options discussed include establishing a concentration
10 limit for DPM in this section, requiring filters on some
11 light duty equipment and looking at the filter and the
12 engine as a package that has to meet a particular emission
13 standard, instead of requiring that all engines be equipped
14 with a high-efficiency filter.

15 The Agency is also interested in obtaining as many
16 examples as possible of the specific situation in individual
17 mines. This could include the composition of the diesel
18 plate, what controls cannot be utilized due to special
19 conditions and any studies of alternative controls you might
20 have used for the computer work sheet.

21 We also seek information about the availability
22 and cost of various control technologies that are being
23 developed. In other words, such things as high-efficiency

1 ceramic filters. Also, experience with the use of available
2 controls and information that would help us evaluate
3 alternative approaches for underground coal mines.

4 We would also like to hear about any unusual
5 situations that might warrant the application of special
6 provisions. The Agency welcomes comments on any topics on
7 which we should provide initial guidance, as well as any
8 alternative practices which MSHA should accept for
9 compliance before various provisions of the rule go into
10 effect.

11 Additionally, the National Environmental Policy
12 Act of 1969 requires each Federal agency to consider the
13 environmental effects of proposed actions and to prepare an
14 environmental impact statement on major actions
15 significantly affecting the quality of the human
16 environment. On July 14, 1998, MSHA published notice in the
17 Federal Register that announced its preliminary
18 determination that the proposed rule would have no
19 significant environmental impact. The comment period was
20 scheduled to close on August 10, 1998, however, MSHA
21 extended that comment period until October 9, 1998. The
22 record will remain open as stated in the Public Hearing
23 Notice until February 16, 1999, to allow proposed hearing

1 comments and data submissions.

2 MSHA views these rulemaking activities as
3 extremely important and knows that your participation is
4 also a reflection of the importance you associate with the
5 rulemaking. To insure that an adequate record is made
6 during this proceeding, when you present your oral
7 statements or otherwise address the panel, I ask that you
8 come to the podium and clearly state your name, spell your
9 name and state the name of the organization that you
10 represent.

11 It is my intent that during this hearing, anyone
12 who wishes to speak will be given an opportunity. Anyone
13 who has not previously asked for time to speak needs to tell
14 us of their intention to do so by signing the request to
15 speak sheet and let us know how much time you need. And, I
16 he the sheet up here now, so when we have a break or at
17 lunchtime, if anybody knows they want to make a
18 presentation, see me and you can put your name of the sheet.

19 I will attempt to recognize all speakers in the
20 order in which they have requested to speak. As the
21 moderator, if necessary, I reserve the right to modify the
22 order of presentation in the interest of fairness. I doubt
23 that will be necessary, but I also may exercise discretion

1 to exclude irrelevant or unduly repetitious material. And,
2 in order to clarify certain points, the panel may ask
3 questions of the speakers.

4 Before we get started, we'll get some more chairs
5 brought in, in case people show up.

6 (Pause.)

7 MR. TOMB: Let me remind you, if anybody is
8 leaving the room, you better be careful getting out of
9 there. Okay, to get started, the first person I have signed
10 up to make a presentation is Joe Urban, is that correct,
11 sir?

12 MR. URBAN: Yes. First of all, my name is Joe
13 Urban, U-R-B-A-N. I'm with the United Mine Workers. Mr.
14 Chairman, I appreciate the opportunity to come and address
15 this distinguished committee on an issue that I feel that
16 United Mine Workers should give testimony today to influence
17 you to the fact that they are dead serious about what
18 they're talking about today.

19 I appreciate the opportunity to come here, on
20 behalf of the mine workers in the Midwest Region. The
21 Midwest Region comprises some 12 states here in the
22 Midwestern United States. Mainly we have miners here today
23 from the states of Kentucky, Indiana and Illinois. I thank

1 you for their opportunity to articulate to you some of the
2 first hand problems of which most of them have been facing,
3 especially here in the state of Illinois, since 1989.

4 On October 19, 1998, the Department of Labor
5 published in the Federal Register, Volume 63, Number 201,
6 Proposed Rules, 30 CFR Parts 72 and 75, Diesel Particulate
7 Matter Exposure of Underground Coal Miners.

8 MSHA published a proposed rule to reduce the risk
9 to underground coal miners of serious health hazards that
10 are associated with exposure to high concentrations of
11 diesel particulate matter or DPM. DPM is a very small,
12 small particles in diesel exhaust. Underground miners are
13 exposed to far higher concentrations of this fine
14 particulate than any other group of workers. The best
15 available evidence indicates that such high exposures put
16 these miners at excess risk of a variety of adverse health
17 effects, including lung cancer.

18 The proposed rule for underground coal mines would
19 require that mine operators install and maintain high-
20 efficiency filtration systems on certain types of diesel-
21 powered equipment. Underground coal mine operators would
22 also be required to train miners about the hazards of DPM
23 exposure.

1 According to my understanding of the proposed
2 rule, it would require all permissible or inby and heavy-
3 duty non-permissible, outby, diesel-powered equipment to be
4 equipped with a filtration system capable of removing, on
5 average, at least 95 percent diesel particulate matter by
6 mass.

7 Now, according to my information, there is
8 approximately 3,000 pieces of diesel-powered equipment in
9 the underground coal mines in the United States. Of that
10 total of 3,000, the rule would only impact approximately
11 1,000 pieces of diesel-powered equipment. That being 500
12 pieces of permissible equipment used inby and 500 pieces of
13 non-permissible, heavy-duty equipment used outby. This only
14 represents 33 1/3 percent of the total diesel-powered
15 equipment used in the underground coal mines.

16 In MSHA's introductory paragraph, for the reason
17 of going to the rulemaking process, MSHA suggests that there
18 are necessary and sufficient reasons to control miner's
19 exposure to DPM. It refers to the "best available
20 evidence," a key provision in Section 101(a)(6)(A) of the
21 Mine Act. This portion of the Mine Act does not say the
22 best possible evidence. It refers to the best available
23 evidence, an implicit recognition that there are limits on

1 all scientific information.

2 It goes on to refer to "...lifetime of DPM
3 exposures at concentrations we presently find in underground
4 mines face a significant risk of material impairment of
5 their health." The objective of MSHA's standards-setting
6 authority is to ensure that miners can work for the
7 "...period of their entire working life..." without material
8 impairment of their health or functional capacity. This
9 objection is addressed in the opening paragraph.

10 According to recent reports on the health effects
11 from diesel exhaust, in March, 1998, the National Institute
12 of Occupational Safety and Health Report's heading stated,
13 Predicted lung cancer risk among miners exposed to diesel
14 exhaust particles, and I've included that in your packet as
15 Exhibit 5.

16 After analyzing several studies on the health
17 effects of diesel exhaust, the NIOSH report found the risk
18 of miners developing and dying from lung cancer from
19 exposure to diesel particulate matter, DPM, extremely high.
20 The study cites that upwards of nearly 900 in 1,000 miners
21 exposed to small doses, 1 mg. per cubic meter of DPM over a
22 working lifetime, has a risk of lung cancer. The NIOSH
23 study noted the U.S. Supreme Court, in a decision on health

1 standard case, cited that one death in 1,000 as being a
2 significant level of risk. The NIOSH study estimated that
3 reducing the miner's risk to one in 1,000, using the highest
4 risk levels, would have an associated DPM exposure level of
5 about .001 mg. per cubic meter.

6 Here in Illinois, diesel-powered equipment used in
7 underground coal mines have been present from approximately
8 1989 till present. We are still here today on the eve of
9 the first decade of using diesel-powered equipment
10 underground and we still have not seen sufficient light of
11 day to realize the vitally needed protection the miners
12 need.

13 I recall when the first piece of diesel-powered
14 equipment went underground in a UMWA-represented coal mine.
15 I made the statement then and it appears as though that
16 statement will hold true, "That diesel-powered equipment
17 used underground in coal mines, unregulated, would
18 ultimately end up being the coal miners' 'asbestos' of the
19 year 2000."

20 On April 22 and 23, 1998, there was a news article
21 from the California Scientific Review Panel. Their report
22 on diesel exhaust stated, the scientific panel found after
23 nine years of review that diesel exhaust is a serious cancer

1 danger, with estimates of thousands dying from the disease.
2 A high rate of lung cancer was cited. The scientific panel
3 chairman said diesel exhaust contains to the most toxic set
4 of constituents that you could ever find. The article notes
5 that diesel exhaust contains more than 40 compounds that
6 have been declared carcinogenic. The report cites other
7 health effects from diesel exhaust. Well, imagine that.

8 And another news article dated April 10, 1998, an
9 Environmental Protection Agency (EPA) draft report released
10 April 9, 1998, stating that diesel exhaust, even at low
11 levels, are likely to cause a risk of cancer and other
12 respiratory diseases.

13 Now, normally, I try to be a reasonable
14 professional individual, but it would appear to me that if
15 the United States of America can create a "Clean Air Act"
16 and an "Environmental Protection Agency" for everybody
17 working above ground, then I believe that it is time to
18 create those entities for underground coal mines. That way,
19 at least coal miners would have a fighting chance of
20 surviving.

21 Now, the operators are going to tell you they will
22 not have any problems keeping exposure to a minimum, because
23 they will have all the air that they want to utilize in

1 order to keep the exhaust diluted. You will hear today
2 testimony from the miners themselves, concerning how well
3 the operators keep ventilation intact. You will also hear
4 how there are numerous places within a coal mine where it is
5 impossible, if not impracticable, to try and maintain
6 ventilation everywhere there is a piece of non-permissible
7 equipment.

8 In order to have air continuously going over a
9 piece of diesel-powered, non-permissible heavy-duty
10 equipment is totally absurd. There is no way imaginable
11 that that can be accomplished. How would you control,
12 direct, regulate any of the ventilation? If MSHA truly
13 believes that the operators indeed can achieve this, then I
14 want to be the one that sells you one of those cars that
15 perhaps maybe even some of you may already own, that has the
16 capabilities of the driver and passenger having a means of
17 controlling their own temperature environment from where
18 they sit. Give me a break, they're only five feet apart.
19 And, if you believe that, then I'll throw in some seaside
20 property in Arizona.

21 In order to keep the record straight, I wish to
22 submit to the committee as an exhibit a copy of citations of
23 which I had requested from MSHA, and this will be Exhibit 2.

1 The citations are for the MSHA fiscal years of 1996, 1997
2 and the first quarter of 1998. The citations cover nine
3 underground coal mines in the state of Illinois. There were
4 443 citations issued concerning ventilation quantity and/or
5 quality. Of the 443 citations issued for the approximately
6 two-year period, 414 of the those citations were violations
7 of 30 CFR 75.370(a)(1), which requires the operators to have
8 and follow and approved ventilation for their specific mine.

9 We're talking about out of a total of 443
10 citations, 93 percent of the citations issued in those two
11 categories alone were for violations of the ventilation
12 plan. In the exhibit, you will find a breakdown of each of
13 the categories the citations fall under. Also, you will
14 find a breakdown by mine MSHA ID number of each of the
15 citations issued at each of the nine mines. The miners of
16 whom will speak today will be sharing these citations with
17 you as they speak. It is important that MSHA review all the
18 citations to "know" how well the operators maintain their
19 ventilation in their coal mines.

20 It is very difficult for me to understand why MSHA
21 would go to all the trouble it has in order to promulgate
22 regulations and not at least make an attempt to reduce
23 exposure for all miners. It is strange, though, how just a

1 year ago, here in District 8 of MSHA, MSHA was doing all it
2 could to help the operators come into compliance with the
3 diesel-powered permissible equipment base requirements. It
4 even went to the extent to offer operators the option of
5 removing the diesel-powered permissible equipment, inby,
6 away from the face by removing those items of which made it
7 permissible. Therefore, it did not have to meet the
8 criteria of being permissible anymore, because the operators
9 removed whatever it was that was required and made it a
10 piece of diesel-powered non-permissible equipment, heavy
11 duty equipment, so as to keep the operators from being
12 required to add additional ventilation to the last open
13 cross cut of the working sector.

14 Now, the Agency is only addressing one third of
15 the total problem. On what does MSHA base its reasoning
16 that by providing additional protection to only one third of
17 the equipment, that that will provide any additional
18 protection to miners? Does MSHA need to be reminded that in
19 an underground coal mine, the people are working in an
20 enclosed atmosphere, to a great extent? Where does MSHA
21 think most of the diesel-powered equipment is used at? It
22 certainly is not at the working face.

23 Please do not misunderstand me. I appreciate the

1 fact that MSHA is making an attempt to fix the problem.
2 But, in this case, you cannot fix only a portion of the
3 problem. Ask anyone who has been in a coma where there were
4 not any diesel-powered equipment in the mine and has gone to
5 a coal mine where the diesel is used, and they will tell you
6 that they can smell it as soon as they get on the immediate
7 bottom area of the mine. Why?

8 If you have diesel-powered equipment that does not
9 have filtration systems that we're talking about, especially
10 with the proposed rule, we're going to have the continuous
11 presence of exhaust residue and particulate matter lingering
12 and floating around in the atmosphere, and especially in
13 those areas that we call dead air space.

14 I can't believe that we're here, almost ten years
15 after we began using diesel-powered equipment in underground
16 coal mines, and still we have to argue over what the
17 necessary remedies should be. And, even after studying the
18 scientific studies for nine years. I testified before a
19 committee in Chicago, Illinois whenever the first diesel
20 regulations were being formulated. At that hearing, I told
21 the committee of which Mrs. Pat Silvey was the chairperson,
22 that it appeared that MSHA was more interested in trying to
23 be a buffer between the operators and the mine workers.

1 That same theology appears prevalent today, as
2 well. We must have the necessary protection uniformly
3 applied throughout the entire coal mine. It does little
4 good to only fix a small portion of the problem. A Band-Aid
5 will not take care of the larger problem. If MSHA does not
6 hear the cries of the coal miners this time concerning all
7 the problems associated with the use of diesel-powered
8 equipment used in the underground coal mines, then the
9 miners themselves will have to go out and purchase something
10 that will help them, such as this right here, gentlemen.

11 Another subject for us to discuss is the issue of
12 economics. I know that you have a responsibility to insure
13 that you do not create burdensome requirements on the
14 operators. But, if this committee allows operators to use
15 the economic crutch that they are so fond of, then shame on
16 you. Because I know there are several miners of whom are
17 here today, even in this crowd, that will testify to you
18 that even though they are close to being out of a job, that
19 if they were given a choice to have the protection they need
20 from the diesel exhaust, or to lose their job, I am
21 confident that they will tell you that at least if they lose
22 their job due to the economic hardship created by having to
23 comply with the requirement of providing the necessary

1 filtration systems for all mines, that at least they would
2 still be alive and hopefully have their health and be
3 capable of looking for another job somewhere else.

4 The union wishes to share with the committee a
5 report conducted by NIOSH on Predicted Lung Cancer Risk
6 Among Miners Exposed to Diesel Exhaust Particles. Once the
7 committee reads the report, I'm sure that the final
8 conclusion of which should be unanimous, is one that the
9 committee will totally agree that the proposed rule making
10 being conducted here today definitely does not even provide
11 a minimal decrease in the risk potential of deadly diesel
12 particulate matter to the miners.

13 I strongly believe that the Department of Labor,
14 of which is a Federal Government Agency, and MSHA, being a
15 branch of that Agency, has the responsibility of being the
16 point guard in providing essential protection to the working
17 men and women of this great country. The Federal Government
18 should be setting the highest standard of providing
19 protection in order to guide individual states in adopting
20 similar protection. But, instead we find that the Federal
21 Government is more concerned with creating only minimal
22 standards for our nation.

23 Fortunately, we do have some states in our great

1 nation that will not settle with providing only minimal
2 protection. One such state is the great state of
3 Pennsylvania. They have at least had the foresight to know
4 that providing minimal protection does nothing at all other
5 than to pacify business interest groups. I wish to refer
6 you to the Bituminous Coal Mining Laws of Pennsylvania for
7 Underground Mines, which is Exhibit 6 in your packet.
8 Article II-A, Diesel Powered Equipment, Section 201-A,
9 Underground Use (a), which states: "Underground use of inby
10 and outby diesel-powered equipment, including mobile
11 equipment, stationary equipment and equipment of all
12 horsepower ratings may only be approved, operated and
13 maintained as provided in this article, except for emergency
14 fire fighting equipment to be used specifically for that
15 purpose."

16 And, under Section 203-A, Exhaust Emissions
17 Control, (b) states: "The exhaust emissions control and
18 conditioning system shall include the following: 1) a
19 diesel particulate matter filter capable of an average of 95
20 percent or greater reduction of DPM emissions."

21 MSHA, with this proposed rule making, has an
22 opportunity, at the least, to follow the guidance of the
23 state of Pennsylvania in promulgating rules that will be in

1 conformity with the state of Pennsylvania and create a
2 uniformity for all the other states. And, if you still wish
3 to debate the economics of the issue, if Pennsylvania can
4 provide this type of protection and stay in business, then
5 so can the rest of the United States.

6 MSHA has a redemptory opportunity here. Do not
7 ignore it nor let it slip away. MSHA needs to take full
8 advantage of this opportunity.

9 I wish to submit to the committee several
10 manufacturers of whom have a wide range of DPM filters and
11 filtration systems available on the market today. That's in
12 your packet as Exhibit 7. I feel that if MSHA would take a
13 close look at what these manufacturers have to offer the
14 mining community, MSHA will determine that the relatively
15 low cost of these products far outweighs the sky-rocketing
16 costs associated in providing medical treatment after
17 someone has been debilitated due to the excessive exposure
18 to DPM.

19 I sincerely appreciate your undivided attention
20 during my presentation. Before I close and turn it over to
21 the other miners, I have a personal story that I want to
22 relate to the committee and this is a true story. There was
23 this little boy that used to get up early in the morning and

1 this little boy couldn't tell time yet. And, he would go to
2 the couch and he would climb up on the back of the couch and
3 he would look out the picture window and he would wait.
4 And, eh would wait for dad to come home. His dad worked
5 third shift at the mines. Although he couldn't tell time,
6 he could tell by the position of the hands on the face about
7 what time dad was supposed to be home, and sure enough, as
8 soon as that car would pull up, the little boy would jump
9 down off the couch, open the door and run out on the porch,
10 run down that sidewalk and he would grab daddy's hand and he
11 would grab that bucket, cause he knew there was something in
12 that bucket for him.

13 Now, it didn't matter if it was an apple or an
14 orange, half a sandwich, half a cake. Whatever was in that
15 bucket was the greatest thing that he had ever had. One
16 day, that little boy was waiting there for dad to come home.
17 Mom was in the kitchen and the phone rang, and the little
18 boy didn't think too much about it, because sometimes dad
19 worked over. And, just was thinking that maybe today dad
20 was working over. So, he waited a few minutes longer, and
21 he heard a noise come from the kitchen. And, he turned to
22 look and mom was sitting in the chair crying. And, he went
23 to mom and he said, mom, don't worry. Dad will be home.

1 He's just working over.

2 And, she had to pick her little boy up, put him on
3 her lap and say, son, Daddy's not coming home today.
4 Daddy's been killed in the mine. Now, I tell you committee
5 this story for two reasons. One, that story is true, cause
6 the dad that was killed was mine and I was that little boy.
7 And, the second thing, you have the responsibility, you have
8 the position that you have today because of people's lives.
9 I pray that you do the right thing. Thank you.

10 MR. TOMB: Thank you, Mr. Urban. Are there any
11 questions?

12 (Pause.)

13 MR. TOMB: Okay, thank you very much. The next
14 speaker will be Mr. Hicks.

15 MR. HICKS: Good morning. My name is Bob Hicks,
16 H-I-C-K-S. I'm a safety committeeman with the United Mine
17 Workers Local 2412 at the Peabody Coal Company, Marissa
18 Mine, here in the state of Illinois. I guess the first
19 thing I need to do is thank you, Mr. Chairman, and members
20 of the committee, for allowing us to gather today to be able
21 to tell you some of the things that are near and dear to our
22 hearts and a real problem we feel like that we need to do
23 all we can do to try and get rectified.

1 I've got to tell you, I'm not very comfortable
2 doing this.

3 MR. TOMB: That makes too of us.

4 MR. HICKS: I'm scared shiftless, you know, but as
5 uncomfortable as it is, I know that it's very important and
6 I understand that it's something that needs to be done, so
7 I'll try to suck it up. I can guarantee you I'll be real
8 quick here.

9 I guess first of all, the one thing like I said
10 before, I am a safety committeeman, and I'd like to think
11 that I'm an expert in some of the health and safety facets
12 of my job as a committeeman and with the contract and with
13 different things. But, I've got to tell you that when it
14 comes to diesel and diesel regulations and diesel
15 particulates and things of that matter, I feel real
16 inadequate.

17 Actually, I've got some stuff back there about
18 this thick that's just totally overwhelming to me. There's
19 so much information that's available, and at the same time,
20 with the feeling of being overwhelmed by information, I also
21 feel real confused because of a lack of -- I won't say a
22 lack of action, but maybe a postponing of some action on
23 some part by something as strong and as demanding as the

1 Federal Government.

2 Along with the idea of being overwhelmed and
3 confused, I also know that I don't have a lot of expertise
4 in this, but I do have, I think, and I think the people that
5 know me will tell you that I have a lot of common sense and
6 knowing some of the things that I do know, it's real hard
7 for me to try and apply my common sense to the problems that
8 we're facing. It would just on the fact that the timeline
9 has been so long and nothing seems to be set in concrete and
10 so many people are at risk because of the situation that
11 we're in.

12 Okay, let me start a little bit with our mine.
13 I've got a list here of the, a total list of the diesel
14 equipment that we use at our mine, and according to this
15 list, we have 55 pieces of diesel equipment in our mine on
16 the underground, that we use in the underground. We have
17 nine pieces that we use on the surface. Of those 55 pieces
18 we use underground, we have 15 different uses for them in
19 all kinds of different areas.

20 According to my figures, anyhow, only three of
21 those are what can be termed as permissible equipment. The
22 rest of it is to be used strictly outby, and it ranges from
23 everything from a diesel scoop to forklifts to pick up

1 trucks, mantrips. We've even got a little diesel-powered
2 shovel that we clean the belt line with. Kind of a cute
3 thing, but different things that we do.

4 Okay, and in those different pieces of equipment,
5 we have seven different manufacturers, of which they use
6 four different engine makers in sum totalling the different
7 types of machines. You know, that's a lot of things to try
8 to keep up with. I would think that would require, again,
9 my common sense kicks in and says, we've got all these
10 different machines with different uses and they've all got
11 special requirements and they using different places,
12 different things. So, I'm sure we've got a lot of training
13 for the guys that keep this in working condition, or the
14 best working condition they can. And, I don't feel like
15 that's the case, either. We've got some diesel training for
16 people that do that type of stuff, but any one of them will
17 tell you that they don't feel like it's very adequate,
18 either.

19 We also have -- I've got a stack here and this is
20 from 1996, '97 and '98. They have citations issued at our
21 mine, a total of 67 citations that were in violation of the
22 ventilation plan. Of those 67, 19 of them are for calendar
23 year 1998, as of the first of this month. So, I don't know

1 what's been happening since then, but that's a substantial
2 amount, that's 19 of 67 in this year alone.

3 So, that again, that tells me, my common sense
4 kicks in and says, you know, if we're depending so heavily
5 under the new proposed regulations that the mine atmosphere
6 will ventilate in a proper way to use that as a control for
7 the contaminants and the particulates in the diesel exhaust,
8 and we're having that much trouble just keeping air at the
9 face, which everybody knows in a coal mine, that's your main
10 concern, then we might have a problem doing that on an outby
11 situation.

12 With some of the different things, like I said
13 before that we have, the 15 different uses of our equipment,
14 one of them is something we call a nurse truck or it's
15 actually it's a diesel tank truck. What is it? It's a
16 delivery truck for hydraulic oil and gear oil that we use
17 for lubrication purposes and hydraulic purposes in the
18 actual production units at our mine.

19 And, the truck itself is used in a, always in a
20 situation, it being non-permissible, of course, it's out by
21 the face, but it's always used in the outby areas of the
22 production units or in the outby areas of the mine, and that
23 being basically either dead air or minimal amount of

1 movement in the air. And, we've always had problems with
2 the truck and people being, complaining about the fact that
3 they didn't think the truck was right. That any time they
4 used it in outby, the areas of a production unit, that there
5 was always a visible haze in the air, a pretty bad smell in
6 that area. People were getting headaches, they were feeling
7 dizzy, and the complaints, we finally did some checks and
8 eventually -- well, it kind of took a little bit of time,
9 but it got to the point where it was out of compliance.
10 They worked on the truck, got it back into compliance and I
11 guess the truck to this day is probably still legal, but we
12 still have the same concerns about the haze, about the
13 smell. People in the area still get headaches and still
14 feel dizzy, nauseated, things like that, and we're to the
15 point now where we're seeing a lot of problems with people
16 developing respiratory problems. Not necessarily asthma,
17 not necessarily bronchitis, but at least asthma-like
18 symptoms, bronchitis-like symptoms, and things even as
19 serious as nosebleeds and such.

20 And, the problem that we're having is that not
21 only are they developing, but they're getting to the point
22 where they're almost becoming chronic problems. And, we
23 have not had diesel equipment at our mine that long.

1 One of the real things, I guess, that's puzzling
2 to me is that I can remember back in -- maybe someone might
3 know -- I don't actually know the date, but I know it was at
4 least mid or late '70s that we were doing studies on diesels
5 and talking about, you know, the health hazards involved and
6 things like that in a mine environment. And, after this
7 lengthy study, you know, 20 years almost, of trying to
8 determine the health risk that miners were put into every
9 day, I believe Joe said that we have been using it in the
10 state of Illinois since 1989, but with basically no
11 regulations in place at all, or very little.

12 We had the opportunity at our mine to kind of be a
13 pioneer and I was involved in it, so I can personally relay
14 it to you, but we were the first mine in the country to
15 apply for and receive approval for the 1227 2,400 volt Joy
16 miners to be used at the face, the high voltage miners to be
17 used at the face.

18 And, it was a lengthy process. I think we moved
19 through the process pretty quickly, with maybe six or seven
20 months that it took for the actual approval, but the thing
21 that kept sticking in my mind and again, I don't know a
22 whole lot about technical stuff, but my common sense kept
23 telling me, you know, and I realize this is probably a

1 little bit different but not really that much different, the
2 fact that we couldn't -- why can't we just take and buy a
3 2,400 volt miner from Joy Manufacturing and bring it to the
4 mines, bring it on the face and start loading coal with it
5 and then figure out what the problems are, and then maybe we
6 can write some regulations and guidelines for a few, some
7 things like that and that would be fine.

8 But, we couldn't do that because we had to get
9 prior approval. But, basically, that's what we've done with
10 our diesel equipment, at least in my opinion, is that
11 somebody decided, you know, that this was a good thing for
12 us to use and I'm not knocking diesels. Probably it's their
13 life savers in present situations.

14 But, we decided, someone decided that we're going
15 to use them. We decided to use them, we're bringing them
16 in, we've been using them for years, and to this date, we
17 still don't have any significant regulations or guidelines
18 so far as the diesel particulates. And, the problem that
19 we've got is that people that have been using the equipment
20 or even just been working in the environment, the captive
21 environment of the underground coal mines, have been exposed
22 to it every shift of every day that they've worked.

23 And, again, I apologize for -- I wish I could

1 quote you CFR Part such and such, paragraph, but I can't do
2 that. But, I know for a fact that with the evidence that
3 can be produced, that has been done with different states
4 and stuff, that there are definite health risks. We've been
5 using the machinery for a long time. We haven't basically
6 done, we've done nothing to this point, and we don't want to
7 see anybody drop the ball because we're closer now than we
8 ever have been, but at the same time, you know, it's not a
9 done deal yet, so we've got problems that we still need to
10 face.

11 So, I guess what I'm trying to say in summing
12 everything up is that if you can paraphrase the
13 advertisement for the Army on TV, you know, not necessarily
14 be all you can be, but at least in this case, we're begging
15 you, do all you can do. That's all we ask. Thank you.

16 MR. TOMB: Thank you, Mr. Hicks. Does anybody
17 have any questions? Jon?

18 MR. KOGUT: First, are all the sections of your
19 mine continuous sections?

20 MR. HICKS: Yes, yes.

21 MR. KOGUT: You said that diesel equipment, in
22 some cases, could be a life saver. Could you explain what
23 you meant by that?

1 MR. HICKS: Well, I don't necessarily mean life so
2 far as actual work, but getting a job done. For example,
3 instead of, in a new development area, where a production
4 unit is going to go in, you develop like a stud panel where
5 that machinery is going to be going.

6 And, instead of coming in and having to bring a
7 miner across the mine and grade off for ventilation
8 purposes, overcast and things like that, lots of times, they
9 can come in with a big permissible diesel scoop and work in
10 that area, and that's a heavy-duty enough, powerful enough
11 machine that it can do the work and save a lot of man hours
12 and a lot of effort by using that machine rather than
13 something else that's less affordable.

14 MR. TOMB: Sandra?

15 MS. WESDOCK: Mr. Hicks, do know approximately
16 your mine has been using diesel equipment?

17 MR. HICKS: About five years.

18 AUDIENCE VOICE: Since '91.

19 MS. WESDOCK: Since 1991.

20 MR. HICKS: Since 1991, so about five years.

21 MS. WESDOCK: Thank you.

22 MR. HICKS: That doesn't add up, though. I guess
23 it must be about seven years.

1 MR. SASEEN: Mr. Hicks, the three permissible
2 units you said you have, what sort of work do they do? What
3 type of machine are they?

4 MR. HICKS: They're Wagner diesel scoops.

5 MR. SASEEN: They're scoops?

6 MR. HICKS: And, the reason they -- I believe the
7 reason, the theory for having them there is for like if
8 you've got falls in the intakes and things. It's
9 permissible to take them up into that area, or in, like I
10 was speaking about, like the development of the new areas,
11 you can actually go, you know, to the space, through the
12 isolation curtain, into the actual intake air with them and
13 use them in that fashion.

14 MR. SASEEN: So, they're not continuously used?

15 MR. HICKS: No.

16 MR. SASEEN: On a workday?

17 MR. HICKS: No, not in that situation. But, they
18 are outby, using them in the same thing, to clean up falls,
19 to clean up roadways, to haul material, to just about
20 everything. They're a very versatile, very useful piece of
21 machine.

22 MR. SASEEN: Your inventory, could you provide us
23 with that, a copy of that? I mean, I'd like you to submit

1 it?

2 MR. HICKS: Yes, I can do that. This is the only
3 one I've got. I got it from, borrowed it from somebody, so
4 it's not, you know, it's not a secret list here.

5 MR. SASEEN: Okay, thank you, sir.

6 MR. MC KINNEY: Do you know if any -- you
7 mentioned earlier, guys coming down what appeared like a
8 pneumonia type of an illness or something. Are they
9 reporting these at the mines on the 7001 for occupational
10 illnesses? Are miners losing work from these types of
11 conditions or is it just something that they're coming down
12 with and then not missing any work days?

13 MR. HICKS: I really don't know, to be honest with
14 you. So far as my personal knowledge, I don't know of
15 anyone that's done that. I really didn't know that that was
16 -- the problem, I think, if you decide to do something like
17 that, then there's kind of a burden of proof and, you know,
18 sometimes that's a problem.

19 MR. TOMB: Ron, did you have a question?

20 MR. FORD: Just one question. It seems like, Mr.
21 Hicks, you're saying that most of the problems with diesels
22 in your particular mine, your situation, is from outbys?

23 MR. HICKS: Yeah, basically, because we don't have

1 anything that we use on a regular basis, inby, that's
2 correct. You know, and the problem is, with the outby
3 areas, if you're out on the main line, quality roads, we've
4 got all kinds of air up there. That's the way things are
5 designed.

6 But, when you get into areas that are off the
7 beaten path, so to speak, or back into developmental areas
8 and things, they're not ventilated nearly as well.

9 MR. FORD: So, the problem in the outby is that
10 the reason is just because you don't have enough air? But,
11 if you were getting enough air, would things be okay?

12 MR. HICKS: I doubt it. I don't know that you can
13 -- when I say that we've got all kinds of air on the main
14 haulage roads, I guess what I'm saying is that so far as
15 being able to dilute and move the exhaust away, yeah, I'd
16 say that in itself probably works, but so far as actually
17 being safe, I don't have any idea.

18 But, at least it's better than the dead air areas,
19 where there is no, you know, or little movement, and
20 everything just kind of hangs in like a ball.

21 MR. FORD: Sure.

22 MR. TOMB: I have a couple of questions. You
23 mentioned something in your presentation about the training

1 being inadequate. Are you talking about the mechanics that
2 service the equipment?

3 MR. HICKS: Yeah.

4 MR. TOMB: These mechanics that you're
5 specifically talking about, they don't feel their training
6 is really good for servicing the equipment?

7 MR. HICKS: Right.

8 MR. TOMB: And, I know Mr. Saseen has asked you
9 for your list of equipment. It looks like you really have a
10 good list. I don't know whether you can do this for us, but
11 I think it would really be helpful if you could take each
12 one of those pieces of equipment and tell us what it's used
13 for, whether you feel that it would come under the listing
14 of heavy duty equipment or not heavy duty equipment, and
15 give us sort of a time that the equipment is actually in
16 use. For instance, I was just in a mine the other day.
17 They had a diesel personnel carrier took us in and out of
18 the mine. The thing sat the rest of the day. Okay, that's
19 the type of data we're looking for.

20 So, if you could sort of approximate the time the
21 equipment is used and whether you would think it would come
22 under or not under the heavy duty classification. I hope
23 you could do that, you know, if you can.

1 MR. HICKS: I don't see a big problem. If I'm not
2 familiar, I'll just, you know, get information from others
3 that are.

4 MR. TOMB: It really would help us to have the
5 information, if you could give it to us.

6 MR. HICKS: You bet. Be glad to.

7 MR. HANEY: On your sections, typically how many
8 entries are they developed with?

9 MR. HICKS: I think like if you're in rooms or
10 non-mainlines, I think it's seven is the normal.

11 MR. HANEY: How many of those would be intakes and
12 how many of those entries --

13 MR. HICKS: Usually one intake, one return.

14 MR. HANEY: So, you'd have five neutral entries?

15 MR. HICKS: Five neutral entries, yeah.

16 MR. HANEY: Is that belt air used to ventilate the
17 face of your mine?

18 MR. HICKS: No.

19 MR. TOMB: Okay, thank you very much. Very good
20 presentation.

21 The next speaker will be Mr. Goodwin.

22 MR. GOODWIN: Good morning, Tom. My name is James
23 Goodwin and I'm a miner's rep from Western Kentucky.

1 MR. TOMB: Would you spell that, sir?

2 MR. GOODWIN: G-O-O-D-W-I-N.

3 MR. TOMB: Thank you.

4 MR. GOODWIN: I'm a miner's rep at Ohio 11 Mine.
5 Ohio 11 Mine is owned by Island Creek Coal Company, Consol,
6 Inc. It's an underground coal mine. And, I'm deeply
7 concerned for the miner's health. I feel that we need laws
8 that would require all diesel-powered equipment used in coal
9 mines to be filtered to provide miners with adequate
10 protection from exposure to diesel particulate matter.

11 I have with me here approximately 200 citations
12 which were issued for Ohio 11 Mine in the last 22 months,
13 and all of these are on ventilation. With this amount of
14 citations, there's no way to expect that ventilation would
15 remove enough of the diesel particulate matters in the mine
16 air.

17 On one occasion recently, myself and two other
18 miners were installing a high voltage cable using a low
19 track. The exhaust was so strong that all of us got a real
20 bad headache, even though we were only exposed for like 15
21 to 20 minutes. But, it stayed with us for the rest of the
22 shift. Then, once we got outside and got into some good
23 air, then, of course, we got to feeling better.

1 But, I feel that, you know, we need protection
2 from diesel particulate matter. I thank you.

3 MR. TOMB: Thank you. Any questions? Mr.
4 Goodwin, how many pieces of diesel equipment do you have in
5 your mine?

6 MR. GOODWIN: I believe we have something like 30,
7 close to 30.

8 MR. TOMB: That's all used outby?

9 MR. GOODWIN: Yeah. We have two Wagner diesel
10 scoops that are permissible, but there again, they're used
11 only for supplying. We don't have tracks. We use the
12 diesels to pull the flat cars in and out.

13 A lot of our equipment is the small rib-runners,
14 as we call them, where the mechanics use to travel to and
15 from, and then we have, I think, eight personnel carriers
16 that haul about 11 men. And, like he said a few moments
17 ago, they were only used to haul the men in and sat for the
18 day and then bring the men out.

19 MR. TOMB: Could you provide us with a list of the
20 type of equipment you have in the mine and also what, in
21 your opinion, you know, from its use, whether it be
22 considered heavy-duty equipment or not and the time it would
23 operate? Is that too much of a problem?

1 MR. GOODWIN: Not at all.

2 MR. TOMB: Okay, if you could send that to us, it
3 sure would help.

4 MR. GOODWIN: And, also, I'd like to give you
5 these citations, too.

6 MR. TOMB: All right, thank you.

7 MR. GOODWIN: To review.

8 MR. TOMB: Thank you very much. Thank you. If
9 you can't have it today, you could mail it to us. Thank
10 you.

11 Our next speaker will be Mr. Mann.

12 MR. MANN: Good morning. My name is James Mann.
13 I'm a safety committeeman from Local Union 1071 in the same
14 mine, Ohio No. 11, Nortonville, Kentucky. I work in the
15 same mine that Mr. Goodwin works, and as he stated, in less
16 than two years, we've received approximately 200 citations
17 on our ventilation.

18 If we can't maintain our ventilation for our units
19 or our belts, how can we ever maintain our ventilation to
20 render these gases harmless from the exhaust, gases from our
21 pieces of equipment? I'm an electrician. I work with the
22 mechanics at the mine that perform the maintenance and does
23 the servicing on the diesel equipment. We have no one

1 certain person whose job it is to service the diesel
2 equipment.

3 Thus, it gets done when we can work it in, when
4 there's nothing else that is pressing. Servicing and
5 regularly scheduled maintenance is pretty well on the
6 priority list at our mine. As Jim said, we have
7 approximately 30 pieces of underground equipment. He stated
8 we have two permissible diesel scoops. We have only one
9 that is permissible, but it's used outby.

10 Most of our present testing that's done is done
11 with the engine idling. Of course, we check for seals, you
12 know, too. But, the largest or the biggest majority of your
13 exhaust things come when the equipment is accelerating.
14 That, to me, needs to be tested or some way of testing that.
15 Possibly with the DPM filtration system, it would render
16 that problem or just take it away, you know, if we could
17 remove the DPM's.

18 And, I strongly urge you to require a DPM
19 filtration system on all the equipment, not just the face
20 equipment, the inby, the permissible or the heavy duty.
21 But, we have some equipment down there that probably has 20,
22 25 horsepower that's considered heavy duty. It's a small,
23 low track. We have some that's much larger than that, that

1 is all light duty. I don't know where the justice is in the
2 rating of the heavy duty and light duty, but I thank you for
3 your time. If you have any questions?

4 MR. TOMB: Thank you. Any questions? Okay, thank
5 you very much.

6 Our next speaker will be a Mr. Dunn.

7 MR. DUNN: Good morning, Mr. Chairman. My name is
8 Jim Dunn. That's D-U-N-N. I work for Peabody Coal Company,
9 Camp No. 1. I'm chairman of the Safety Committee, Local
10 1798. At Camp 1, we have 53 pieces of underground diesel
11 equipment. Six are heavy duty and the rest are considered
12 light duty equipment.

13 Peabody started using diesel equipment around 1988
14 and some of that diesel equipment is still in use today and
15 requires a lot of maintenance. The local union worked with
16 Peabody and Camp 1 management to develop a maintenance
17 program for our mantrips. These are eight diesel buckets
18 and we -- when we go back and check these maintenance
19 records, we still find that these mantrips are not being
20 maintained properly and operating conditions, because of
21 lack of maintenance and the training of people that are
22 working on this equipment. It's a big problem, this
23 equipment. It's old and it takes a lot of maintenance, and

1 we don't have anybody at our mine trained to maintain this
2 equipment properly.

3 And, for the remaining equipment, there's no
4 maintenance program whatsoever. Our regular maintenance
5 program for like changing oil, requiring filter change,
6 which is -- we're still working on that. We can't give that
7 today.

8 Some of the problems that we found with our diesel
9 equipment are high emissions. We found exhaust systems have
10 been altered, so accurate readings can't be taken. This is
11 done by drilling holes in exhaust pipes. We don't get an
12 exact reading of the flow of the exhaust. We found
13 defusures, a place on the end of the exhaust pipes where
14 your emissions are, instead of getting a direct flow, they
15 go every which way. You can't get an accurate reading on
16 those.

17 We found that we've got one piece of equipment
18 where the exhaust is run through the bumper and the drilled
19 holes all across the bumper. One side would have larger
20 holes and the other side would be real small. When the man
21 took his readings, you know, you weren't getting an accurate
22 reading of what was going on.

23 At one time, we had welders on diesel equipment,

1 and this equipment would be taken into areas of the mine
2 where the ventilation would be less, like you were talking
3 about on your main lines, and on your tracking, you have a
4 lot of ventilation. But, in areas where you have to do work
5 on headers, there's not that much air. And, these welders
6 had to be, the engines had to be revved at real high RPM's.
7 You're getting a lot of emissions out of those motors.
8 They're in low ventilated areas and they're exposed. We
9 have a lot of people that have had headaches with those,
10 make them sick. It's just, you know, with ventilation, you
11 can't control it everywhere. I mean, you're going to get
12 into areas of the mine where the ventilation is just not as
13 great and it's not something that you turn a switch on and
14 turn a lot of air in there.

15 At one time, we had a diesel generator and this
16 was used to move equipment down our tracks, our main lines.
17 And, this was an area where there was a lot of air. This
18 generator put out so much emission that one man was made so
19 sick that he had missed a day's work, gone to the doctor and
20 missed a day's work, and the company paid him for that day.
21 So, they knew that this made him sick.

22 All the equipment that I'm referring to is light
23 duty equipment. We have no, we have six pieces of heavy

1 equipment in our mine, heavy duty, that's classified as
2 heavy duty equipment. The rest is light duty.

3 Two-thirds of the 53 pieces are run 90 percent of
4 the time at the mine outby. So, all this equipment --

5 MR. TOMB: During the shift, timewise, 90 percent
6 of those total --

7 MR. DUNN: We have diesel mantrips that bring the
8 people back and forth from the face, but there are six units
9 and there's six pieces of equipment. The rest of it is run.

10 I don't understand the reasoning for light duty
11 and heavy duty equipment. If one of the reasons is
12 ventilation for controlling these emissions. Ventilation is
13 a variable and can change and in the past two years, we've
14 had 64 violations on our ventilation plan. I'd like to give
15 these to you.

16 MR. TOMB: Thank you.

17 MR. DUNN: I believe that this shows that at
18 times, we had problems with ventilation. You know, it's not
19 a continuous problem, but at times, it does occur. If the
20 light duty equipment was required a particulate, designed to
21 reduce particulate emission to an average of 95 percent, I
22 think it would better protect the miners and the risk of
23 exposure and the possible lung cancer causing particulates.

1 In closing, I'd like to commend MSHA for holding
2 these hearings and to give coal miners who are exposed to
3 these hazards a chance to give their opinions on these
4 problems. I'd like to say that we're not opposed to diesel
5 equipment in the mines. As a matter of fact, I believe that
6 one of the reasons that we're working today is because of
7 diesel equipment. But, it has to be regulated. It's a
8 tool, but we must protect the miners who use it, and in my
9 opinion, there should be one standard that requires the
10 diesel particulate filter that will reduce the particulate
11 emissions by an average of 95 percent to protect the miners
12 from those hazards. Thank you.

13 MR. TOMB: Thank you.

14 MR. DUNN: Also, I have a copy of the equipment.
15 Do you want that?

16 MR. TOMB: Any questions? Are you familiar enough
17 with the use of this equipment that you could put that on
18 this list for it? The use of it?

19 MR. DUNN: Yes.

20 MR. TOMB: In other words, actually, you have
21 about 47 piece of equipment here that you said are all light
22 duty.

23 MR. DUNN: Right, we have six locomotives -- and

1 we have locomotives and they're listed on there. It's
2 listed on there.

3 MR. TOMB: You have mantrips?

4 MR. DUNN: Mantrips, right. All these are light
5 duty, except for locomotives.

6 MR. TOMB: Looks like you have more than six
7 locomotives on there, though?

8 MR. DUNN: No, here they are, locomotives. One,
9 two, three, four, five and then most of these are all
10 mantrips. But, see, some of these mantrips are not actual
11 mantrips that's used for hauling people back and forth to
12 the face. They're used by mechanics all through the mines,
13 used by belt mechanics, they're used by foremen to travel
14 back and forth in the mines. Of the mines --

15 MR. TOMB: It would help if you only speak from
16 the podium so that we get it on the record, okay.

17 MR. DUNN: The mine I work at is some slope to the
18 furthest unit is 13 miles. So, we have 13 miles of conveyor
19 and that's a lot of -- you know, that's a lot of area to
20 cover. And, when you have problems throughout the mine, you
21 have to be able to get there and get there quickly.
22 Sometimes if your belts go down, you have a piece of
23 equipment down, you're running back and forth for parts to

1 fix that equipment. Coming and going out at different
2 times. It's, that equipment is used all throughout the
3 shift.

4 Sometimes, you know, welders run it. But, that's
5 what, the locomotives are considered heavy, but two-thirds
6 of that equipment is run all during the shift.

7 MR. TOMB: Okay, I just need what's on here. You
8 don't need to supply anything else. Thank you very much.

9 Our next speaker will be Mr. Becker. Was that
10 right, sir?

11 MR. BECKER: Yes, sir. My name is Clyde Becker,
12 B-E-C-K-E-R. I'm Local President at Peabody Marissa Mine,
13 United Mine Workers Local 2412. I'm from the same mine that
14 Mr. Hicks is from. I will not repeat a lot of the things
15 that he did, although I agreed with all of the statements
16 that he has mentioned. But, one of the issues that, and I
17 will answer one of the questions that the panel asked Mr.
18 Hicks, and that was, for the people that have respiratory
19 problems, how do they go about being compensated or how do
20 they fill out a form?

21 Respiratory problems and we have, in the last two
22 months, two gentlemen that have missed work due to
23 respiratory problems. Very difficult and it's not like a

1 piece of rock falling on you and hitting you, something
2 happens immediately, and that is an accident and causes you
3 to miss work.

4 Respiratory problems in the coal mines from black
5 lung or from diesel emissions come over a period of time.
6 It's something that doesn't occur in a moment. And, those
7 are very difficult in management and insurance companies
8 fight those with everything they possibly can. It's very
9 difficult for the individual to prove those things have
10 occurred, because there's not one single occurrence that
11 caused that problem for you to have. It comes over a period
12 of time, different symptoms, many symptoms from nose bleeds,
13 coughing, irritations in the eyes, throat and breathing
14 problems. Those are very difficult to tie together all
15 those symptoms to tie together, to say that they came from
16 that one sort of issue.

17 MR. BECKER: -- occurrence that caused that
18 problem for you to have that comes over a period of time.
19 Different symptoms, many symptoms from nose bleeds,
20 coughing, irritations in the eyes, throat and breathing
21 problems. Those are very difficult to tie together. All
22 those symptoms to tie together to say that they came from
23 that one certain issue. And that is diesel emission.

1 But the single thing that is very alarming us that
2 the people that has these symptoms are people that are
3 actually operating that equipment maintaining are working in
4 that area where diesel equipment is being operated. Our
5 mechanics and our operators of our diesel equipment at the
6 mines are the ones, and seems to be the only ones that has
7 these respiratory problems, the eye problems, migraine
8 headaches and things of that nature.

9 So, what we feel is very important is some type of
10 filtering system on all equipment used in underground coal
11 mines. Do not separate and think that heavy equipment emits
12 more of those particulates than light equipment. In Marisa
13 Mine of all the -- of the 55 pieces of equipment, I can
14 assure you that the light duty equipment is maintained and
15 ran and used 95 to 96 percent of the entire shift. And that
16 those are the equipment that is actually producing all the
17 haze, the smell, the odor, the problems that we have at
18 Marisa Mine.

19 We still have one other gentleman from the mine
20 that will address some of the other issues, but those are
21 the problems that as far as health problems that we see
22 dealing with diesel equipment.

23 With that, I will close and answer any questions.

1 MR. TOMB: Thank you, Mr. Becker. Any questions?
2 Okay. Thank you very much.

3 MR. BECKER: Thank you.

4 MR. TOMB: Our next speaker will be Mr. Williams.

5 MR. WILLIAMS: I'm David Williams,
6 W-I-L-L-I-A-M-S. I'm from Local 5179 in -- Mine over in
7 Southern Indiana. It's a surface mine.

8 I just want to come to ask you, don't take surface
9 mining lightly. We've had diesel equipment for years. And
10 the problems in coming out that's being proven that the
11 diesel is causing lung problems.

12 We would ask you to look at our surface mining
13 more closely to see if we've had -- it would have these
14 problems. And that's all.

15 MR. TOMB: Okay. Anyone, have any questions?

16 MR. HANEY: What do you mean by service mining?

17 MR. WILLIAMS: It's strip mining.

18 MR. HANEY: Surface mining?

19 MR. WILLIAMS: Surface mining, yes.

20 MR. HANEY: I though you said service. Surface,
21 okay.

22 MR. SASEEN: How many pieces of diesel do you
23 have?

1 MR. WILLIAMS: At our mine we probably got close
2 to 50 or 60 tractor, bulldozers, fans, all these trucks and
3 different things.

4 MR. TOMB: Let me just ask a question about that.
5 What areas do you feel are the problems of surface mining?

6 MR. WILLIAMS: Diesel mechanics in their garage
7 areas that haul these trucks. While you're sitting there by
8 the loader getting loaded, your fumes are all around you.
9 It comes in the cab.

10 MR. TOMB: Are the cabs usually conditioned?

11 MR. WILLIAMS: Most of them are, but most of --
12 you know, they'll get leaks around the doors. And they'll
13 come in, you know -- the fumes will come in somehow.

14 Okay. Any other questions? Okay. Thank you very
15 much.

16 MR. WILLIAMS: Thank you.

17 MR. TOMB: Our next presenter will be Mr. Kunkel.

18 MR. KUNKEL: My name is Don Kunkel, K-U-N-K-E-L.
19 I'm with the United Mineworkers, Local 15. I'm chairman of
20 the safety committee. I'm from --

21 UNIDENTIFIED SPEAKER: What mine, sir?

22 MR. KUNKEL: -- to begin with, we've got
23 approximately 25 pieces of diesel equipment. Two of them

1 are permissible and two of them are lube trucks, which is
2 heavy duty. And these lube trucks do have motor part
3 welders on them, which works off of their engine.

4 And we have four other personnel carriers that
5 also have the welders that are powered by the diesel engine.
6 One diesel generator for moving equipment in and out of the
7 mine.

8 And these -- whenever you run these welders and
9 stuff, you know, you've got to have the motor wound up, and
10 it does put out lots of emissions. And if we're using the
11 diesel generator moving equipment in and out, you can get so
12 far in the mine, approximately two miles or so, you have to
13 -- for your neutral air. And -- that you're using for the
14 diesel generator to get enough air across it to -- where you
15 can stand it.

16 In the last approximately two years, we've had
17 approximately 12 citations, and I can get you copies of
18 those if you request them, concerning ventilation. And I
19 would say half of those are in the neutral area, isolation
20 curtain and so forth. Getting torn down and being left like
21 that.

22 And also, people are real bad about coming in on
23 the light duty equipment and personal carriers and stuff

1 like that and they just leave them run. They think they're
2 only going to be there for one or two minutes, but that
3 usually turns into 10 or 15 minutes. They get side-tracked.
4 That equipment's left there running.

5 And if your isolation curtain's got a hole in it,
6 then everything drafting into your work area.

7 And as the other gentlemen have stated, most
8 anyone you can talk to, your light duty equipment gets the
9 least of the maintenance that it really should have. And we
10 feel that all the light duty, especially the lube trucks,
11 need to be 95 percent particulate removable filters on
12 there.

13 Anyone, have any questions?

14 MR. SASEEN: The generator, do you know
15 approximately what size horsepower that generator is?

16 MR. KUNKEL: I can get you the information if you
17 need it.

18 MR. SASEEN: If you would, please.

19 MR. KUNKEL: It's just brand new. We've only had
20 it -- it's only been in service about approximately three
21 months, but they've used it several times.

22 MR. SASEEN: Okay.

23 MR. KUNKEL: But I'll get you the information.

1 MR. SASEEN: Thank you.

2 MR. TOMB: Any other questions? Okay, thank you
3 very much.

4 Mr. Oldham will be our next presenter.

5 MR. OLDHAM: My name is Edgar Oldham, Jr.

6 O-L-D-H-A-M. I'm a representative for the United
7 Mineworkers of America. And Mr. Chairman, and distinguished
8 panel members, I appreciate the opportunity to come here and
9 speak before you today.

10 You know, I was sitting there thinking while we
11 was sitting in this room, you know, the first thing that I'd
12 kind of like to ask the Committee is if someone walked up to
13 you and said, "I want you to enter this room," and there
14 were signs on it that said it was contaminated with known
15 chemicals such as benzine, dioxin, formaldehyde, arsenic,
16 mercury compounds, inorganic lead and styrene, and they had
17 little ventilation fans that you know, you would
18 hopefully -- would pull the air out of the room and supposed
19 to ventilate it.

20 You know, or you have opportunity to put on a
21 filter that you knew would prevent you from getting any of
22 those contaminants in your body, you know, which one would
23 you do? You know, would you walk in there, not knowing how

1 much you were going to be exposed to once the door was
2 closed behind you?

3 You know, this is exactly what you're asking the
4 coal miners all across this country to do, if every piece of
5 diesel equipment that goes underground isn't filtered, and
6 if we don't provide adequate ventilation to operate this
7 equipment in. You know, I know the coal operators are
8 telling you they can provide adequate ventilation to dilute
9 and render harmless the chemicals produced by diesel
10 equipment.

11 But the fact is, they aren't properly ventilating
12 mines today. And as you already have received some copies
13 of ventilations, of violations that prove it's -- you know,
14 ventilation in itself cannot be relied upon to work.

15 We continue to find instances where problems occur
16 with diesel emissions, where the operators try to manipulate
17 the system in attempt to prevent a person from getting an
18 adequate sample off the diesel exhaust. And also, you know,
19 I was involved with this. And it was at the one mine where
20 I was called upon that was having a problem with emissions
21 continually going out of compliance on the diesel mantrip.
22 And like you said, the company couldn't figure out the
23 problem.

1 So, their answer was to install an exhaust pipe
2 across the back of the mantrip and to drill holes all across
3 the pipe and then install the exhaust pipe into the larger
4 pipe where you couldn't find the flow exhaust to obtain an
5 adequate sample. And you know, we raised the issue about
6 that, that it wasn't something that come from the
7 manufacturer. That the company installed it, and it wasn't
8 proper.

9 They ended up removing that pipe, but then they
10 had the manufacturer come back and install pipe on future
11 pieces of equipment that they purchased that's got holes in
12 it. So, you know, it come from the manufacturer now
13 installed with what they call a diffuser. And it's nothing
14 more than an attempt to prevent you from getting a good
15 sample of the exhaust.

16 Another instance, like you said, they drilled
17 holes in the exhaust pipe underneath the diesel mantrip to
18 relieve some of the pressure coming out of the tail of the
19 exhaust. And this was intended to dilute underneath the
20 mantrip, so you couldn't get a bad example. And we had to
21 get the State and Federal involved with that, and they made
22 them install a new exhaust pipe. But you know, that was
23 just something that we couldn't fix the problem, so let's

1 just find another answer.

2 And like you said, another thing they're doing is
3 installing a deflector at the end of the exhaust pipe in
4 order to prevent you from testing emissions in the flow of
5 the exhaust. And now, it seems like, you know, this issue
6 was also raised, and now deflectors are coming out on the
7 ends of exhaust pipes on new pieces of diesel equipment from
8 the manufacturer.

9 So, you know, it's something from the manufacturer
10 now that's just a way and an attempt to keep you from
11 getting an emissions test. You know, with manipulations
12 like this going on, it's no different then it is with the
13 duct sampling program, because someone is always trying to
14 get around the system by not doing what's right, and miners
15 suffer from it.

16 There are filters available, and we suggest that
17 the very least, installing a filter capable of removing at
18 least 80 percent of diesel particulate matter on every new
19 piece of diesel equipment used underground immediately, upon
20 the publication date of the Final Rule. And within one year
21 after the publication date of the Final Rule, each diesel
22 engine used underground should be equipped with a filtration
23 system capable of an 80 percent reduction in diesel

1 particulate matter.

2 And within two years after the publication date of
3 the Final Rule, each new diesel engine that is taken
4 underground should be equipped with a filtration system
5 capable of on an average of 95 percent or greater of diesel
6 particulate matters.

7 Another issue that I'm having a hard time trying
8 to understand is how the Agency came up with the heavy and
9 light duty classifications of diesel-fired engines. As an
10 individual who has done mechanic work all of their life, it
11 would appear to me that it would have been simpler to
12 categorize the equipment by horsepower ratings, combined
13 with its intended use, and not just its intended use.

14 I don't understand how you can have a diesel
15 engine rated at 100 plus horsepower and one rated at 20
16 horsepower, and the 20 horsepower engine would be considered
17 heavy duty, and the 100 plus horsepower engine would be
18 considered light duty. Surely, the Agency doesn't believe
19 the 100 plus horsepower engine emits less emissions than the
20 20 horsepower engine does.

21 Even though it is my belief that everything should
22 be filtered, if the Final Rule doesn't provide this, then
23 the Agency needs to look at the heavy and light duty

1 category because again, your method won't provide the needed
2 protections that miners deserve.

3 Another item I'm having a hard time understanding,
4 is the Proposed Rule 751908. In the definition of heavy
5 duty equipment, it states that: "Machines used to transport
6 portable diesel fuel transportation units or portable lube
7 units would be classified as heavy duty. If, for example, a
8 vehicle such as the diesel Hummer" -- and we know we've got
9 some of them in underground mines down in Alabama and
10 various places, was supposed to be just used to transport
11 people. And under the proposed rule, it will be considered
12 light duty.

13 But if a company decided to use it one time to
14 transport a portable lube unit to a section, would it change
15 its classification, or what would happen? You know, I don't
16 know.

17 In my opinion, the Agency has left too many gray
18 areas when it comes to classifying equipment, which is
19 another reason why all diesel equipment should be filtered
20 and in the timeframe as outlined in the UMWA comments.

21 Another thing that comes to my mind when you talk
22 about the outer areas, was that at the Ohio 11 Mine. -- at
23 the face. A lot of times they have problems keeping -- on

1 the duct lines. And it's common with the roadways. So,
2 what do they do? They hang a curtain up to block the air to
3 force it over to the belt land where they can get their 50
4 feet a minute, which would be in compliance. But what's
5 that doing to the diesel equipment?

6 You know, I believe you're providing and boxing in
7 and having dead areas on your roadway by doing that. It
8 can't be providing good and adequate ventilation up the
9 travelway. So, you know, I think that's a problem and it's
10 one that needs to be looked at and addressed.

11 You know, as the brother from the surface also
12 talked about, I would like to mention the surface miners.
13 You know, if the Agency develops a sampling procedure for
14 diesel particulate matter, then it should apply to all
15 miners, both surface and underground.

16 The surface miners shouldn't be left behind like
17 they have been in the dust sampling.

18 Until recently as the Agency began to focus on the
19 dust problems at surface mines -- and this shouldn't happen
20 -- what's happening for diesel particulate matter or any
21 other diesel legislation that could apply to surface mines.

22 And like you said, MSHA may want to visit some of
23 the diesel shops and especially during the winter months, to

1 see for themselves just what miners in the shops are being
2 exposed to.

3 Another issue that I'd like to just talk about is
4 including the specifications of the diesel engines and
5 listing the diesel equipment in the mine ventilation plans,
6 because I'm hearing you know, that some people are not
7 wanting to list those specifications in the mine ventilation
8 plan or on the equipment list and stuff.

9 So, you know, this should be done so the miners
10 and their -- miners representatives will have a place that
11 they can go to to find out, you know, what these
12 specifications are, what the air readings are or the
13 requirements for the ventilations. And just have somewhere
14 where they can go to find this information out, and to know,
15 you know, just how many pieces of equipment are being
16 utilized at the mines, because that's the only way they'd
17 know.

18 You know, if you go to a job and you work there
19 every day and you go to one section, you don't really know a
20 lot of times how many pieces of equipment at's your mine.
21 So, you know, they need to know, you know, what's being used
22 at the mine.

23 And also, I have copies, which two of the people

1 couldn't make it today, but these are two mines. They're
2 relatively small mines, but in about a two-year period, a
3 total of 87 violations on ventilation at these two
4 operations. And you know, I'd like to submit these to the
5 Committee.

6 MR. TOMB: Are these ventilation violations?

7 MR. OLDHAM: Ventilation only.

8 MR. TOMB: Only.

9 MR. OLDHAM: So, those are totally ventilation
10 violations at operations at the Sebree No. 1 Mine and the
11 Martwick Mine in Kentucky.

12 And you know, in closing, I'd just like to say
13 that I don't read anywhere in the Act where Congress
14 declared a diesel engine of this most precious resource, but
15 it did, in fact, declare our miners. Therefore, if the
16 technology is available to protect miners from the
17 pollutants emitted from diesel exhaust, then I truly feel
18 the Agency is charged with providing that protection.

19 The technology is here. It's available, and it
20 should be utilized because it's the right thing to do, and
21 the miners across this country deserve it. Thank you.

22 MR. TOMB: Thank you.

23 MR. OLDHAM: Now, I'll take any questions that you

1 have.

2 MR. TOMB: Questions? Mr. Ford?

3 MR. FORD: Yes. Concerning the list of diesel-
4 powered equipment, what about if there was a standard that
5 said that that list with all pertinent information should be
6 kept at the mine or a central location, but not in the mine
7 ventilation plans? Do you think there'd be a problem with
8 that kind of a standard?

9 MR. OLDHAM: It may not be as long as it was made
10 available to the represented miners.

11 MR. FORD: Right, with a condition saying that it
12 would be made available to a miner's rep or MSHA personnel.

13 MR. OLDHAM: Yes. But my only problem is -- I
14 mean, in understanding what the big deal, they're providing
15 it in the ventilation plans today. So, you know, why not
16 continue the practice of what they're doing?

17 MR. FORD: Okay, thank you.

18 MR. TOMB: Any other questions? Okay, thank you
19 very much.

20 What I'd like to do is take a -- and I'd ask you
21 for your cooperation in this because we're going to have --
22 I don't know if you're going to eat here or not, but it's
23 going to be a tough day in the restaurant today. And I

1 think they're serving from 11:30 -- 11:00 to 12:30.

2 But what I'd like to do is take a 10-minute break,
3 get a stretch, come back here at 11:00 and then go for
4 another 50 minutes. And then we'll go to lunch, and we'll
5 come back here at 1:00 and go for the rest of the afternoon.

6 Is that okay? Does that make sense to everybody?
7 Let's take a 10-minute break.

8 (Whereupon, a short break was taken.)

9 MR. TOMB: If we can get back to the
10 presentations. Our next presenter will be a Mr. Klausing.

11 MR. KLAUSING: My name is Tom Klausing.
12 K-L-A-U-S-I-N-G, Sr. I work for Old Ben Ziegler Mine No. 11
13 at Corville, Illinois.

14 We have approximately 36 pieces of diesel
15 equipment underground, two service centers, which are
16 considered heavy duty, eight pick-ups, 13 mantrips, two
17 rovers, six flatbed trucks, full scoops and one diesel
18 rockduster.

19 Been in mines approximately since 1989, 1990 till
20 this day. I just entered in as record, 26 ventilation
21 citations and 16 on dust control. And basically entered
22 them to give you some kind of an idea that management can't
23 even control or monitor the ventilation or dust, let alone

1 the diesel problem that we've been having.

2 As far as testing on the equipment, management
3 does the testing. Whether it's done properly or not, we're
4 nine chances out of ten, we're not around there unless MSHA
5 inspectors is around there at the same time that
6 management's doing the testing or the MSHA's inspectors
7 testing.

8 Maintenance on equipment is as needed, basically,
9 changing the filters. If they quit running, they start
10 blowing out black smoke and they only end up changing the
11 filter.

12 Ziegler Old Ben Coal Company is notorious for the
13 lack of maintenance on anything. As far as my
14 understanding, almost every coal mine's that way.

15 The health problems that we've been having at the
16 mine as far as the people complaining about the diesel smoke
17 is where you're in a confined area. The pod duster is a
18 prime example. You're hose dusting, the diesel motor is
19 blowing right back onto the operator, and the pod -- the guy
20 that's running the hose duster, of course, is in on the belt
21 line somewhere.

22 But we have talked to management, tried to get the
23 -- reroute the exhaust on the diesel pod duster. So far,

1 we've not succeeded on that yet.

2 I just kind of bring this up. You can take it
3 however you want to. I know many of you probably either
4 drove here in a truck, car or whatever, and you've seen
5 semis on the road. And you probably followed some of them,
6 and you've seen the black soot that comes out of these semi-
7 trucks.

8 Well, it's similar underground. But you can't
9 really see that black soot underground because of the --
10 either the lighting or whatever, you know. But if you would
11 pull up behind one of them diesel scoops or mantrip or
12 whatever, you'll see a blue haze behind that, usually, with
13 the headlights or something. And that's what we've got to
14 put up with.

15 And that's what we're here today to ask you to do
16 all you can do for us. So, that's all I've got. Any
17 questions?

18 MR. TOMB: Jon?

19 MR. KOGUT: I don't know if I heard you correctly,
20 but did you say that the maintenance procedure was to change
21 filters whenever the black soot became visible?

22 MR. KLAUSING: Maintenance on most of the
23 equipment underground on diesel equipment, as a matter of

1 fact any equipment, is as needed, basically.

2 MR. KOGUT: But do you use filters on some of your
3 equipment?

4 MR. KLAUSING: I'm talking about air filters.

5 MR. KOGUT: Oh, you're talking about air filters?

6 MR. KLAUSING: Yeah. We don't have -- all these
7 are non-permissible equipment. That repeats what I told you
8 about.

9 MR. TOMB: Are any of those pieces of equipment
10 classified as heavy duty?

11 MR. KLAUSING: Yeah, the two service centers that
12 I just told you about.

13 MR. TOMB: Okay. Only the two?

14 MR. KLAUSING: Two service centers. They're in on
15 the units. They're not permissible. They have to --

16 MR. TOMB: Yes. But they're classified as heavy
17 duty?

18 MR. KLAUSING: Yes.

19 MR. TOMB: Any other questions? Okay, thank you
20 very much.

21 MR. KLAUSING: Thank you.

22 MR. TOMB: Our next presenter will be Mr. Todd.

23 MR. TODD: My name's Larry Todd, T-O-D-D, United

1 Mineworkers, Local 2412.

2 I work at the Peabody Marisa Mine. A few of my
3 colleagues already spoke to you, so I won't give you the
4 facts and figures.

5 Put yourself in the position as everybody's been
6 behind the buses in the big city and everything else. You
7 roll your windows up. It doesn't do much good. And that's
8 what we work with eight hours, ten hours, particularly, at
9 our mines. We're on 10-hour shifts.

10 And separate your in-by and out-by. Out-by is
11 past the last couple of -- So, we've got equipment that
12 works in the sections, what you deem as a light duty -- four
13 or five hours. Two or three people run them, so you've got
14 equipment that works in the section itself.

15 And to make another little story, and I've told
16 other people. Since the '93 strike when we tried to get
17 more diesel equipment, we don't have them little mice
18 running around anymore, whether they got out or it's
19 coincidence or what, unless the lab rats told them that they
20 tested.

21 But I just wanted to make a couple of comments,
22 and I appreciate your time.

23 MR. TOMB: Okay, thank you very much. Any

1 questions? Okay, thank you very much, Mr. Todd.

2 Our next presenter will be Mr. Tollston. Okay,
3 Mr. Tollston is not here.

4 Then, we'll go with Mr. Deppe.

5 MR. DEPPE: My name is Dave Deppe, D-E-P-P-E,
6 UMWA. I work at -- well, I worked at 41392 --. Presently
7 laid off. I've been a mechanic for 23 years at the mines.
8 It's a surface mine, and I'd like to address the problems we
9 have at a surface mine.

10 In the winter time when you close the doors, if
11 you have anything in the shop running, it fills the shop
12 full of smoke. You can't hardly even see. And it makes
13 your eyes water, your throat sore. And I don't see how the
14 underground people can stand anything that's not filtered,
15 because I can go outside and get a breath of fresh air if I
16 need to. We have ventilation fans, but nobody wants to turn
17 them on because it sucks all the heat out of the garage.

18 And as far as what I've heard on the testing
19 procedure in the automotive sector, when they test for
20 hydrocarbons and stuff, they run a sniffer up the tailpipe
21 to measure what exhaust gases are. I don't know how you'd
22 get an accurate test by just holding such a thing behind the
23 exhaust.

1 And I want to thank you for your time.

2 MR. TOMB: Okay, thank you very much. Any
3 questions?

4 MR. SASEEN: Yes. How many, in a typical time in
5 the shop, how many pieces of diesel would be in your shop?

6 MR. DEPPE: At one time?

7 MR. SASEEN: Yes.

8 MR. DEPPE: Oh, you might have -- when we were in
9 production, there may be 17 pieces of equipment at one time,
10 not all running, but at least they're there.

11 MR. SASEEN: Okay.

12 MR. DEPPE: It doesn't take very long for say,
13 150-ton hauling truck to fill the shop full a smoke with the
14 door shut.

15 MR. SASEEN: I was going to say these are mostly
16 large haul trucks or loaders that are being serviced?

17 MR. DEPPE: Yes.

18 MR. KOGUT: Okay.

19 MR. TOMB: You had a question?

20 MR. KOGUT: How much of the time do you estimate
21 that the equipment is actually running in the shop?

22 MR. DEPPE: Most of it's for diagnosis time or
23 testing time on something that's -- it wouldn't be very

1 long. But I've seen anywhere from 15 to 30 minutes of time
2 running. But it probably takes about an average of five
3 minutes to fill the shop full of smoke.

4 MR. TOMB: You don't make any provisions for
5 exhausting the exhaust?

6 MR. DEPPE: No. They installed three exhaust
7 fans. They're in the roof of the building. But like I
8 said, in the winter time, you suck every bit of the heat out
9 of the garage if you run that.

10 MR. TOMB: There's no tail pipe exhaust?

11 MR. DEPPE: No, there's nothing, nothing at all.

12 MR. TOMB: Okay, thank you very much, Mr. Deppe.
13 Our next presenter will be Mr. Kellerman.

14 MR. KELLERMAN: I feel my comments have already
15 been addressed.

16 MR. TOMB: Okay. Mr. Miller?

17 MR. MILLER: Good morning. My name is Tim Miller,
18 M-I-L-L-E-R. I'm the local president of Local 5138, Lone
19 Star Energy.

20 You'll notice today here as you have a lot of mine
21 workers here, these mine workers are here because they don't
22 have the fear of speaking out because they have union
23 protection. I work at a mine that was non-union for 50

1 years. We've been union for one year. So, this is our
2 first go-around to have the ability to speak out.

3 And I'm here today to speak out on behalf of all
4 coal miners, because if you didn't have the fear of the non-
5 union miner from losing his job, this room couldn't hold
6 everybody that could be here.

7 So, just please remember that all underground
8 mines have this diesel equipment.

9 And we've had it since 1981 in our mine. We've
10 been exposed to it for years and years and years. We didn't
11 have the ability to speak out until now. But you will
12 notice that your room will have plenty of foremen and
13 company officials from those non-union mines. But again,
14 you won't notice those non-union employees here because of
15 fear of losing their jobs.

16 I'd like to move on. I started in the coal mines
17 in 1979. And when I first started in the mines, I started
18 like I said, in the non-union mines. And safety was pretty
19 lax, but I did notice a steady improvement as MSHA -- like
20 the '69 Safety Health Act. We started following that and
21 getting better, and things were improving. But then we had
22 the diesel equipment, and it come into the mine.

23 And the '69 Health -- Mine Safety Health Act, one

1 thing it insured was that there would be no section that
2 would be on the same -- with another section. I think we
3 all understand that here on the panel is what I'm saying.

4 You would have fresh intake air that would be
5 delivered to each individual section and no -- would go
6 across another section.

7 Our mine is a long wall mine. We have three
8 continuous miner units and a long wall. We have
9 approximately 39 pieces of diesel equipment. A small
10 portion, probably eight, nine, heavy duty, the rest, what
11 you guys consider light duty equipment.

12 Our mine is ventilated through the supply row.
13 The intake air comes right directly down the supply row.
14 Okay? This is where all the diesel equipment motivates out
15 by the units.

16 My point that I'm trying to make is that every
17 piece of diesel equipment that operates on our supply row is
18 all that diesel -- all that diesel fumes and smoke's taken
19 directly to the men. Okay? Every bit of it. So, when I
20 look at the '69 Health Act and think about the individual
21 with fresh intake air, like it was when I started in the
22 mines in '79, we had fresh intake air. It was
23 uncontaminated air. It was fresh air. The intake was

1 timbered all the way, but it was fresh air. But it's not
2 anymore.

3 In this day and age, with the plans that we have
4 in our mine, you have contaminated air from the word go.
5 And every man in that mine that works in that mine is
6 breathing all this diesel. And whether it be close --
7 whether you're close or not, really doesn't matter.

8 I, myself, spent about four hours behind a diesel
9 yesterday, and I have a sore throat today, sore tonsils,
10 runny nose and all the symptoms that everyone has. And
11 there's no way to get away from them.

12 You operate a piece of equipment, close quarters
13 like, that's going to happen. You know, it's like Mr.
14 Oldham said. You know, you just go figure. If you get
15 behind a tailpipe, you know, it's going to kill you
16 eventually, whether slow death or quick death.

17 I'd also like to talk about some of the dilution
18 factors and the height of coals and intake air. We work in
19 a mine that's approximately seven to eight feet in height.
20 And with all this height and with all the air we have, we
21 have plenty of intake air, there's no doubt. But that
22 doesn't dilute the exhaust. You know, that exhaust again,
23 it carries on down the airways and goes to each and every

1 man in the working section.

2 And that's one thing that you heard all the
3 mineworkers here today talk about, is -- you know, you've
4 got light duty and what we call, so-called heavy duty. And
5 I can't understand all of it is going right up our sinuses
6 and down our lungs. So, what's the difference? I just
7 can't see that.

8 I just want to also touch on some personal
9 experiences I've had myself. On our long wall, we have a
10 three entry system. If any of you understand what I'm
11 saying, we maintain three entries. And we basically make
12 territory -- three miner units for the long wall.

13 And when we're setting the long wall up -- and
14 when I say setting it up, you know, when we're moving into a
15 new block of coal, we have basically one travelway in and
16 out that we can take equipment in and out except for near
17 the long wall.

18 I witnessed myself before this instance, 14 pieces
19 of diesel equipment on one section. That's in one air
20 course separated from the other units, 14 pieces. Only two
21 or three may be heavy duty, and the rest again, what's so-
22 called light duty.

23 But the guys come to me -- I didn't announce my

1 position. I'm the local president of 5138. They come to me
2 and tell me of the situations of the burning nose and the
3 burning eyes and problems.

4 We've had the Department of Mines and Minerals
5 come in before and maybe shut everything down but one scoop.
6 But we all know, just like you said, Mr. Chairman, you were
7 at a mine that the bus took you to a section, and it was
8 parked all day. I'm sure it was parked all day while you
9 were there. But when you're not there, it's no different
10 when the MSHA inspectors are not there. We know what goes
11 on. It's business as usual.

12 And these guys come to me to complain about the
13 sensitive areas of breathing this dust. They constantly
14 have lung irritations, but it seems like that you know, we
15 continue to ignore the situation. And that's what we're
16 here today for is to make sure that we understand that we
17 can't -- as coal miners see the difference in heavy duty or
18 light duty, it all emits the noxious gases. We all know
19 that. I think we're all under the understanding of that.
20 We know the CO, the NO, the NO₂. We know what it'll do to
21 you. So, I can't understand why we're even here, like the
22 other gentleman in front of me said.

23 We have basically -- we have diesel equipment in

1 every area of our mines, not just in small areas or
2 undefined areas. Like some of the guys before us have
3 talked about their diesel equipment is in isolated areas
4 where they have neutrals, we don't have them. There's a big
5 problem with that. We have fresh flow intake, and we
6 maintain our well. I can't complain. Our people do a good
7 job at ventilation. We have to. We have a long wall. We
8 have a lot of ventilation.

9 But we still do have those areas where equipment
10 is in areas that are lowly ventilated, but we do have a lot
11 of people there that have been sick with diesel equipment.

12 And as far as what you tell us here today about
13 being able to fill certain forms, that's never been done
14 that I know of at our company. But our company employs
15 about somewhere in the neighborhood of roughly -- our
16 mine -- the Baker Mine is about 350 people. And I've always
17 felt from day one that these 350 people, including myself,
18 were basically guinea pigs. No one knows what this diesel
19 is going to do to us. But some day, I guess my
20 grandchildren will.

21 That's all I have. Thank you.

22 MR. TOMB: Thank you. Any questions? I just have
23 one. Is it possible for you to provide us with a list of

1 the equipment and the time that it operates? This is just
2 data we'd like to have from the mines using diesel
3 equipment.

4 MR. MILLER: What I'd like to request -- I have no
5 problem with that. We have company officials here from my
6 mines, and they're very familiar with that. And when they
7 speak, I'd like for you to ask, you know, where we can
8 compare what they say the application of the equipment is
9 and the time it's used in a day.

10 MR. TOMB: Well, I don't quite understand.

11 MR. MILLER: Okay. We have company officials
12 here.

13 MR. TOMB: Yes, uh-huh.

14 MR. MILLER: Okay. I don't know if they're going
15 to speak or not.

16 MR. TOMB: Oh, okay.

17 MR. MILLER: But if they speak, they're here, they
18 can probably offer you that information.

19 MR. TOMB: Oh, okay. Very good. Thank you very
20 much.

21 MR. MILLER: Thank you.

22 MR. TOMB: I'm not sure of this next name, Mr.
23 Tuttle?

1 MR. TREVIAL: I have no comment.

2 MR. TOMB: Did I get the name right?

3 MR. TREVIAL: Treval. Treval.

4 MR. TOMB: Treval. Okay, I'm sorry. Mr. Steve
5 Bruk.

6 MR. BRUK: My name is Steve Bruk, and I'm a local
7 safety committeeman in Local 15 --

8 MR. TOMB: Would you spell that for the record?

9 MR. BRUK: My last name?

10 MR. TOMB: Yes.

11 MR. BRUK: B-R-U-K.

12 MR. TOMB: Thank you.

13 MR. BRUK: And I just have one question is all I
14 have. Is when these MSHA inspectors start to -- they're
15 provided with a list of all the diesel equipment on a
16 property. Okay? Mysteriously, when it comes time for them
17 to make -- to inspect this diesel equipment, if a company
18 knows that a particular piece of equipment is out of
19 compliance, it disappears.

20 So, my question is to you, why does MSHA allow
21 this condition to exist? Why doesn't the inspector demand
22 to see a particular piece of equipment? Because if he
23 doesn't inspect it, it doesn't get fixed.

1 And that's all I have.

2 MR. TOMB: Okay. I'm not sure I can answer your
3 question at this particular time. I'll ask that question
4 now, and I'm sure it gets back to what an inspector
5 procedure is from that district office. Okay? So, I'd just
6 have to ask that question for you. I'm sorry I can't give
7 you the answer right now to that question.

8 MR. BRUK: Okay. Thank you.

9 MR. TOMB: But I guess your issue is that there is
10 a procedure when inspectors come in to inspect the
11 equipment, but many times, in your opinion, what's polluting
12 equipment -- the equipment that is polluting, okay, is not
13 in operation at the time when needing an inspection,
14 therefore, it doesn't get inspected. Okay. Thank you.

15 Mr. Lumas?

16 MR. LUMAS: My name is Mark Lumas, chairman of the
17 safety committee, Wabash Mine, Local 1791.

18 I do have a list and an average furnished to me by
19 management on the run time on heavy and light duty
20 equipment. On an average weekday on a shift, which is our
21 day shift, we have approximately 36 hours of mantrip
22 planned, which consists of Isuzu pick-up trucks and Wallace
23 diesel mantrips, four-seaters, five-seaters, diesel, which

1 all have the same engine.

2 MR. TOMB: This would be light duty equipment?

3 MR. LUMAS: These would be considered light duty.
4 And there again, I cannot understand how you can
5 differentiate the difference between a light duty and heavy
6 duty. My opinion is they should be all classified as one,
7 and that being heavy duty, because pick-up trucks are used
8 to haul small parts, which can consist of motors off Meyers
9 diesel pump, off of different various equipment.

10 And these pick-ups -- and also may I state that we
11 have -- we went to -- fault. And we have an entry that's on
12 a 17 percent grade. And you have to run these vehicles in
13 low gear in order to make it up this, which in my opinion,
14 puts a full load on your engine.

15 We also have CLAs or -- they're a versatile piece
16 of equipment. They have a set of forks on those that you
17 can use for maintenance, unload supplies, various things.
18 They also come with a scoop bucket.

19 Okay, now, according to MSHA, when you have the
20 scoop bucket on it for cleaning belt lines for cleaning
21 up -- those are considered heavy duty. When you put the
22 forks on those, those are considered light duty.

23 Now, I can take and put those forks on there and I

1 can put that engine under a heavier load with the forks on
2 it, than I can with the bucket on it.

3 Also, that -- also pertains to -- we have --
4 supply tractors. The side scenario falls through there when
5 they're pulling a diesel fuel tank with 500 gallons of
6 diesel fuel, 500 gallons of hydraulic fuel, antifreeze,
7 these are only fifth wheel, they're considered heavy duty.

8 Now, I can take that same tractor, pull its supply
9 car so the roofbolts, roofblades, timbers, crosscars, and
10 that engine is put under the same load, that according to
11 MSHA, heavy duty and light duty.

12 We have Jeffrey diesel ramcars, which are
13 considered heavy duty used on our continuous line sections
14 for hauling coal. Now, the CLAs factor the amount of hours,
15 they'll run on -- I'm talking one shift now. They possibly
16 ran an average of five hours, okay? And so, we have a total
17 of light duty time between the mantrips and the CLAs of
18 approximately 34 percent.

19 Ramcars we run approximately 52 hours. And this
20 is with -- we ran four ram -- we had two continuous mining
21 sections. So, we run eight ramcars. Let's see. At
22 approximately six and a half operating hours.

23 The Gattman tow tractors, we run approximately 14

1 hours. We have diesel Wagner scoops that are ran
2 approximately nine and half hours. And then we have a
3 diesel grader and a diesel roofbolter, which are run
4 approximately five hours.

5 So, we have a total of 80 and a half hours, which
6 is 66 percent heavy duty time in one shift. And I have
7 those broke down. Those are broke down in shifts -- for
8 production shifts and also for idle shifts.

9 I have a total for -- we work idle work on
10 weekends, Saturdays and Sundays, plus our production time.
11 I have a total hours run time for light duty equipment, I
12 have 525 and a half hours or 36 percent. I have 922 and a
13 half hours, total heavy duty time or 64 percent.

14 We have -- but we have the same -- all of us here,
15 we have all repeated -- we have the same problems.
16 Maintenance is a problem. We do have -- some of our
17 equipment does have exhaust filters, particularly exhaust
18 filters. In my opinion, all diesel equipment needs some
19 sort of filtration system, and whether it be considered
20 heavy duty, light duty. They all emit the diesel
21 particulate, which can be cancer-causing and a hazard to our
22 health.

23 So, my plea is that MSHA will consider all the

1 facts presented here today and that we can all come to a
2 compromise for the health and safety of our miners. And we
3 represent all miners, non-union, as well as union. Thank
4 you.

5 MR. TOMB: Thank you, Mr. Lumas. Any questions?
6 George?

7 MR. SASEEN: Yeah. On those Jeffrey permissible
8 units, do they have water scrubbers, or are they just the --
9 system?

10 MR. LUMAS: Water. And we are testing a new DST
11 dry scrubber. We have one ramcar that does have the new dry
12 scrubber, and we have one ramcar that's out for rebuild that
13 will come back with the dry scrubber.

14 MR. SASEEN: Okay. On the one you're using, how
15 much filter life are you getting on the machine?

16 MR. LUMAS: I think approximately 20 hours.

17 MR. SASEEN: Okay. And --

18 MR. LUMAS: Now -- excuse me. Now, with some of
19 our exhaust filters, we have had some problems. We've had
20 some --. In the last two months, there have been I believe
21 about four instances where we've had the exhaust filter
22 catch on fire due to lack of maintenance.

23 MR. SASEEN: Was that on a DST?

1 MR. LUMAS: No, that's on water scrubber.

2 MR. SASEEN: Oh, so you did have some exhaust
3 filters on some water scrubbers?

4 MR. LUMAS: Yes, we do.

5 MR. SASEEN: And how many units?

6 MR. LUMAS: We have approximately eight ramcars,
7 with one --

8 MR. SASEEN: With filters. I'm sorry.

9 MR. LUMAS: All eight of them have the --

10 MR. SASEEN: Filters.

11 MR. LUMAS: -- exhaust filters.

12 MR. SASEEN: And they're all water scrubbers?

13 MR. LUMAS: Except for the one.

14 MR. SASEEN: Except for the one.

15 MR. LUMAS: It still has an exhaust filter.

16 MR. SASEEN: Okay. That's the dry system?

17 MR. LUMAS: Right.

18 MR. SASEEN: Okay. You said about 20 hours. Is
19 that for the wet systems that you're getting an average?

20 MR. LUMAS: Yes.

21 MR. SASEEN: Okay.

22 MR. LUMAS: They are getting some longer life out
23 of the filter on the dry scrubber system. Now,

1 approximately what the difference is right off-hand, I can't
2 tell you that.

3 MR. SASEEN: And they have the CAT engines, do you
4 know, or is it MWM?

5 MR. LUMAS: I honestly don't know.

6 MR. SASEEN: Like 4114s?

7 MR. LUMAS: 4110s.

8 MR. SASEEN: 4110s. I have the MW on there. How
9 long does it take to change the filters? Do you have an
10 idea?

11 MR. LUMAS: I'm going to say 10 minutes, you know,
12 I mean, if you have to go get your filter. If you have the
13 filter readily available.

14 MR. SASEEN: Do you know what the cost for those
15 filters are?

16 MR. LUMAS: No, I do not.

17 MR. SASEEN: Okay, thank you.

18 MR. TOMB: Any other questions?

19 MR. FORD: Yes. Sir, I've got one quick question.
20 Can you tell us what type -- if there was any training that
21 mechanics in the mine received concerning these filters?

22 MR. LUMAS: In the last year, due to MSHA
23 regulations, all of our mechanics have been trained in

1 maintenance of car diesel equipment.

2 MR. FORD: Okay. What about specifically the
3 filters, especially the dry system?

4 MR. LUMAS: Yes. They were -- because that is a
5 new system and they were trained in the maintenance of the
6 dry scrubber system.

7 MR. FORD: Okay. Do you know like how that took
8 place? Was it the people in the mine themselves, or did
9 like a manufacturer come in and give that training?

10 MR. LUMAS: Well, the company I work for, they
11 were instrumental in developing the dry scrubber system.
12 And they were trained internally.

13 MR. FORD: Okay, thank you.

14 MR. TOMB: I have one question for clarification.
15 Maybe I heard you wrong before. I thought when you made
16 your presentation, you said that you had similar type
17 problems what other people had, including maintenance
18 problems --

19 MR. LUMAS: Correct --

20 MR. TOMB: -- in your mine. Now -- and you just
21 said that everybody has been trained in maintenance and
22 everything. So, can you elaborate maybe a little bit on the
23 other problems you're talking about?

1 MR. LUMAS: Well, our mine is -- you know, we're
2 unlike any other -- I mean, we're like -- just like the rest
3 of the mines.

4 A year and a half ago, we had a massive layoff and
5 massive cutbacks. But as everyone that's worked in a coal
6 mine, they don't like to repair things until absolutely that
7 piece of equipment will just no longer motivate.

8 And production is number one on the list. Cost is
9 another thing. If you can run a piece of equipment for any
10 length of time, then we're saving without doing any
11 maintenance to it.

12 MR. TOMB: Do you have a regular maintenance
13 program?

14 MR. LUMAS: Well, they will tell you that they
15 have a regular maintenance program, let me put it that way.
16 Now, as far as following their maintenance program, they
17 will also tell you that they have a wash program to clean
18 equipment. Yes, they do have these plans. Now, ask me if
19 they use those plans -- utilize those plans. In my opinion,
20 no.

21 MR. TOMB: Okay. So, what you're saying then is
22 the people have been trained, though. You have trained
23 people and so forth.

1 MR. LUMAS: Yes.

2 MR. TOMB: When the maintenance is done and so
3 forth is another story I think is what you're saying.

4 MR. LUMAS: Correct.

5 MR. TOMB: Okay. Any other questions? Thank you.

6 Mr. Price will be our next presenter.

7 MR. PRICE: My name is Gil Price, and I'm from
8 Local 2412. And Price is P-R-I-C-E.

9 Everybody's touching on a lot of the same stuff.
10 And it's because of the same problems at all the mines.

11 One of the things that they mention -- I'm not
12 going to reiterate on everything they mention. I'm going to
13 try to bring some new stuff here.

14 For one thing, a mantrip -- your mantrips are
15 always operated in the neutral. They're not considered
16 heavy equipment, but they put out just as much diesel
17 emissions as everything else does. They're under a load.
18 They're usually going fast to get in a unit and fast to get
19 out.

20 And the one thing nobody mentions, and it's always
21 bothered me, is that when you've got a piece of diesel
22 equipment that comes in the mine and you say, "We're going
23 to regulate that this machine's going to be in compliance

1 with the Federal law," you have a base number for your CO
2 emissions on the machine. And that number is taken at the
3 mine when it gets underground. And that's what you have to
4 keep that machine in compliance with.

5 Who says that number is in compliance? Nobody
6 does. Nobody regulates that. If you check that machine and
7 that machine's out of compliance when it gets there, it
8 remains out of compliance the entire time it's at the mine.
9 You don't regulate the numbers on that. You tell us to take
10 a base number there and that's going to be your compliance
11 number.

12 So, if it's out of compliance when we get it, it's
13 always out of compliance. So, we're breathing that stuff
14 with no regulation on it. And that's the CO of the exhaust
15 that's killing people.

16 Then, you've got -- the Federal law says within
17 the neutrals, you have to have a movement of air. These
18 machines are operating always in the neutral. And if you've
19 got diesel scoops or service centers and that, and they
20 break down in the unit or just out by the units, then
21 they're repaired right there.

22 Now, they're in the neutral. So, all you have is
23 a movement of air, which is not enough air to dispense the

1 diesel emissions or the exhaust and whoever the operator
2 are, the repairman's working on them is right there in that
3 neutral with that, with just a movement of air. So, they're
4 breathing that fumes the entire time. If it takes 15
5 minutes to fix it or if it's got a fuel problem, you got to
6 bleed the lines and that, and it takes you three hours to
7 fix it, you're breathing those fumes in neutral with no air.

8 The carcinogens in there -- you know, the study by
9 the Cancer Institute -- they did one in '88 -- last part of
10 '88, first part of '89. And they concluded that the fumes
11 contained particulates that were carcinogenic to human
12 beings.

13 And in March, I think of this year, in Evansville,
14 Indiana, MSHA gave a two-day seminar up there for vendors
15 and anybody wanting to attend on diesel emissions. And they
16 gave us a book in there that had a chart in it. You were
17 there. I saw you there. Remember the chart? The chart,
18 whenever it was written or drawn up, the underground coal
19 miner was basically off the chart when the chart was made.

20 Now, most of the time when you make a chart,
21 you've got room for improvement and room to get worse.
22 Well, we left a lot of room for improvement there, but we
23 didn't leave the underground coal miner any room to get any

1 worse then he was at that time. We were almost off the
2 chart. So, we were breathing basically as much as you
3 thought we could breathe in. And I haven't seen any change
4 in that.

5 But what I did see was a 15-year study that was
6 conclusive with the hazards of particulate matter. And the
7 only relief I have from that is that the Board still has
8 that under review.

9 But people touched on -- you know, you have diesel
10 particular matter, it's been determined can cause upper
11 respiratory infections and migraine headaches, cancer, lung
12 disease and heart disease. Now, you have an opportunity and
13 you're in a position to help these people not to breath this
14 stuff, and why it took this long for a review -- I
15 understand how red tape works, and I'm very understanding of
16 how the Government works. But I don't understand why it
17 takes 15 years to help people quit breathing stuff that's
18 killing them.

19 And I, for one, I don't -- I don't really know
20 what phosphorous smells like. I know if I saw my kid
21 playing with it, I'd slap him. Or lead or zinc or arsenic
22 or creosol. Creosol stinks, I know that. But all these
23 carcinogens are in these diesel emissions, and we're

1 breathing them every day.

2 And we've got guys in our mines that's got upper
3 respiratory infections, guys that got coughs. I'm being
4 treated right now for migraine headaches because I work on
5 these things all the time. And the triglycerides in my
6 system are supposed to be around 200. Right now, they're
7 677. This is an ongoing thing with me, and I've been
8 breathing this and I've been raising hell about it for a
9 couple years now, but one of these days I'll get somebody to
10 listen.

11 But there's 40 carcinogenic materials in diesel
12 exhaust they say, as a survey of April 9, 1998 in that
13 California report, but nobody tells me how many particulates
14 are in a gallon of diesel fuel. I have no idea. I don't
15 really know what percentage of each carcinogen is in a
16 gallon of diesel fuel. We burn 60,000 a year -- gallons.
17 Since we've had the diesels, we burn 420 to 480 gallons of
18 diesel fuel. So, I don't know how much of it we breathe,
19 and I don't know how many people are sick on account of it.

20 But you know, the system says that a two-cylinder
21 engine which a gentleman touched on, is heavy equipment,
22 depending on what it's on. And a four-cylinder diesel
23 engine is not heavy equipment.

1 It doesn't make any difference. Your light duty
2 or your light maintenance is running in neutral because it's
3 not heavy duty, you know. And it's putting out just as much
4 fumes, but it's in neutral where you don't have the air.
5 You don't have 35,000 -- you might have 35,000 on the intake
6 sometimes, 9,000 on the return, but in neutral you've got
7 movement.

8 You're breathing the same amount of fumes in there
9 as you're diluting anywhere else. You have to pass over the
10 machine to dilute it. But in the neutrals, nobody cares if
11 something is broke down in the neutrals and you're breathing
12 that stuff and you end up sick from it.

13 You people have an opportunity to do something
14 really good here. And this should have been done -- I'm not
15 laying any blame or trying to piss anybody off, although
16 that's what I'm really best at, but for 15 years you've been
17 reviewing something.

18 Now, I'm a great shopper because if I look at
19 something for five minutes and I don't like it, I don't buy
20 it. But it don't take me five minutes to decide if it's
21 something good or not. But 15 years is way too long, and
22 we've got people sick, and we probably had people die from
23 it.

1 I checked these machines, and if a filter goes bad
2 or gets clogged up, it coughs and sputters and makes you
3 sick. Your throat hurts and that, and if you don't work on
4 it -- if you don't know what's wrong with it, then if you're
5 conscientious about it, you might tell your boss when he
6 leaves that day, "Hey, that thing's really put out a lot of
7 smoke." But if the next guy gets on it and he's the laborer
8 or an operator, whatever, he don't normally run that
9 machine, he gets on it and he thinks it's supposed to be
10 that way.

11 Well, if it had a base number of 456 parts per
12 million CO when you checked it and it came underground, and
13 now it's got 400, you think, "Well, hell, that's in
14 compliance." But you don't know if it was in compliance
15 when it came underground. You're breathing this stuff, and
16 there's no way for you to know.

17 Nobody ever regulated what a safe number was on
18 exhaust. They said, "Take a check. If it gets higher than
19 that, put it back in compliance."

20 And that's all I've got.

21 MR. TOMB: Thank you. Do you have any questions?

22 MR. SASEEN: Mr. Price, I don't know if I missed
23 this at the beginning. You're a mechanic?

1 MR. PRICE: Yeah.

2 MR. SASEEN: Okay. In the neutrals, you said
3 you're doing a lot of work on the scene to break down. Is
4 there any way of removing in your situation moving from the
5 man working, like piping it somewhere else?

6 MR. PRICE: There's really no way to do that. You
7 could move it unless it's a fuel problem, or we've got
8 electric solenoids that pull in the fuel systems on the
9 machines. And if that solenoid's broke, you've got to put
10 one on it, and you've got to adjust it, so that when you
11 start, your hold circuit is tied in with your start circuit.
12 So, you've got to adjust that solenoid so that it drops off
13 when you shut the machine off, holds in when you try to
14 start it. So, you adjust it right there.

15 And some of those machines, I know for a fact when
16 they came there, they could not possibly have been decent
17 enough for a human being to breathe. So, because we took a
18 base number and said, "This is what we're going to go by,"
19 that's what we still go by.

20 And there's not very many. And I'm not laying
21 blame. I'm not. I'm lucky where I work at. If I have a
22 problem, usually it don't take anybody very long to get
23 tired of listening to me. So, I can go in and holler about

1 it for awhile, you know, and they'll fix it or will do
2 something with it.

3 But this is an ongoing problem. And a lot of
4 times we can't move a machine to a rush of intake air. We
5 can't take them in the intake to begin with. So, wherever
6 you're working on that, most of the time we're in the
7 neutrals. And if we're in the shop working on them, there's
8 exhaust fans in there. We've only got two in one bay, and
9 we've got a six-bay shop.

10 But if you're working on it here, a lot -- the guy
11 that works with me, he's had four upper respiratory
12 infections this year, and he's never been sick before, never
13 had a problem. I haven't missed a day of work since back in
14 the '80s. But I leave now and I go to the hospital and have
15 blood work done and then I come back to work. Takes about
16 an hour and a half. And I'm trying to get figured out
17 what's wrong with me and what's wrong with him and what's
18 wrong with Chris Wisnick, but I'm pretty sure I know. It's
19 what we're breathing.

20 You know, you don't want to blame anybody, but
21 then you get aggravated because a review goes on. I mean,
22 if I were -- if you pick up a paper and you say, "The
23 National Cancer Institute says this." Well, they put it on

1 packs of cigarettes and everybody went "Shit" and threw them
2 out, you know. A lot of people did, you know. Some didn't.

3 But the point I'm trying to make is when a
4 National Cancer Institute does a study and review and they
5 said, "This is hazardous to your health," and they give it
6 to a group of people that's governing your health and safety
7 underground, and they review it for 15 years or 10 years,
8 and it's still under review, you know, it pisses me off.
9 But I don't know what it does to everybody else. I'm sure
10 it don't make you very happy, you know.

11 MR. TOMB: It gave me gray hair.

12 MR. PRICE: It gave you gray hair. What about
13 this?

14 I think I'm sick from it. I think other people
15 are sick from it. If you've got a chance to do something
16 good here, don't pass it up.

17 These stipulations on the numbers, I'm saying, on
18 the base numbers should have been on those machines for they
19 ever came underground. They really should have.

20 I'll answer any questions, because I know just
21 basically everything.

22 MR. TOMB: Thank you for your presentation.

23 MR. PRICE: Thank you.

1 MR. TOMB: Okay. As pre-planned, why don't we
2 take our lunch break now and get back here if we can about
3 ten to one, so we can get started right at one o'clock.

4 (Whereupon, at 11:55 a.m., the hearing recessed to
5 reconvene at 12:50 p.m., this same day, Monday, December 15,
6 1998.)

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1 A F T E R N O O N S E S S I O N

2 MR. TOMB: Our next presenter will be Mr.
3 Filkins.

4 MR. FILKINS: My name is Melvin Filkins, F-I-L-K-
5 I-N-S. I'm with Local 1545, and I work at the Wren Lake
6 Consol Mine. At our mine we've got fifty-eight pieces of
7 diesel equipment, and I've got you eighty citations in the
8 last two and a half years here, on ventilation at our mine.

9 One of the biggest problems at our mine is, --
10 we've got a long wall mine; sitting up the long wall. I get
11 more complaints on guys with sick headaches, eyes burning
12 and sore throats, with the long wall set up, because you've
13 got your diesel equipment moving in and out of there all the
14 time, -- equipment. And I think it would be very poor just
15 to put the filters on the heavy-duty equipment when we've
16 got a lot of light-duty equipment at that mine. We need it
17 on all the equipment.

18 I get migraine headaches now, which I never did
19 get. And I asked my doctor about it and he said, "Probably
20 in that diesel fumes it will cause you to have a migraine
21 headache". And they're no fun.

22 That's basically about all I've got to say, as
23 compared to what the man before me said.

1 MR. TOMB: Okay. Any questions?

2 MR. MCKINNEY: Do you all have the same types of
3 problems on the recovery, when you're doing the long wall
4 recovery, as you do from your setups?

5 MR. FILKINS: Not as much on the recovery,
6 because it's back out at the mouth of the unit, so you've
7 got more air going out there, and you've got less, you know,
8 diesel equipment coming in. The recovery is hauling into
9 the, --

10 MR. MCKINNEY: So, it's a lot worse on the setups
11 than it is on the recovery?

12 MR. FILKINS: Yes.

13 MR. TOMB: How much light-duty equipment is used
14 in the setup?

15 MR. FILKINS: Well, we've got all kind of light-
16 duty equipment coming in and out of there all the time.
17 We've got a lot of, --

18 MR. TOMB: I mean, used in the mine, or
19 just, -- I'm talking about the setup only?

20 MR. FILKINS: You've got the scooters, you know,
21 that the foreman and stuff drive, and the mechanics and
22 stuff drive. So you've got quite a bit of equipment going
23 in and out of there. And you've got, -- we've got four

1 Gatlin tractors, and that would be like two on that side.
2 And you've got four diesel scoops, Wagner Scoops, that come
3 in there.

4 MR. TOMB: Those would be heavy-duty though,
5 right?

6 MR. FILKINS: Yeah, but they're all outby
7 equipment now, because they took the scrubbers off the
8 scoops we got.

9 MR. TOMB: Okay. Any other questions?

10 (No Verbal Response)

11 MR. TOMB: Okay. Thank you very much, Mr.
12 Filkins.

13 MR. FILKINS: I'd like to give you these, -- these
14 citations.

15 MR. TOMB: Thank you. Is it too much trouble to
16 ask you to submit that equipment that you use, and its use,
17 and its time of use?

18 MR. FILKINS: I can try to get it for you.

19 MR. TOMB: Can you?

20 MR. FILKINS: Yes sir.

21 MR. TOMB: I'd appreciate that if you could. Mr.
22 Brown.

23 MR. BROWN: My name's Dan Brown, B-R-O-W-N. I

1 work at Wren Lake Mine. I'm the Safety Committeeman for
2 Local 1545. A lot of the things that have been said here
3 today, it seems like those guys are working at my mine. You
4 know, it's just the same repetition of the exact same things
5 that are happening. I've heard you ask several times about
6 the seven thousand. The reason you probably won't see any
7 seven thousand, when it comes to diesel it's just like, --
8 you don't anything with black lung. You know, it's
9 something that's not gonna happen immediately. But it is
10 happening.

11 I've sent a list of names to Mr. McAteer, about a
12 hundred and thirty people that have health concerns from
13 migraine headaches, from heartaches, to whatever. The
14 studies that MSHA and different other agencies have done,
15 tell you that the miner is exposed to ten times greater DPM
16 than any other industry. Two hundred times greater than
17 places such as Los Angeles. The facts speak for themselves.
18 It's time to do something.

19 The long wall setups seem to be our biggest
20 concern. There's times that you couldn't see the distance
21 of this room and everything. And as far as being in
22 compliance, we'd be in compliance with each piece of
23 equipment. When you take ten pieces of equipment, twenty

1 pieces of equipment into areas with about 9,000 cubic foot
2 of air, all the air there is to ventilate it, you've got a
3 problem.

4 The maintenance; we have a pretty good maintenance
5 program at our mine. I will have to say that. We change
6 filters regularly, change oil, that type of thing.

7 You asked about the training. Under MSHA's
8 guidelines, what is the proper training? Basically, all
9 they have to do is say this is a scoop, -- this is a diesel
10 scoop, if they have no problems they comply with your
11 regulations.

12 So, the things that we've learned, we've learned
13 on our own through different people. The filters, we change
14 weekly, it protects the motor. Nothing protects me. The
15 raw emission tests we think, twenty-five hundred parts per
16 million, can't exceed that. You won't find a piece of
17 equipment (indiscernible) for twenty-five hundred parts per
18 million. So, something needs to be done to protect those
19 people, now. Like Melvin said, we have fifty some odd
20 pieces of equipment, they were bought to use. They do not
21 sit idle. You asked for percentages of time. They use them
22 every time there's a warm body to put on them. So, they're
23 being used constantly. There's

1 just, -- the ventilation violations that we've got prove
2 that the ventilation is out of compliance, or we wouldn't, -
3 - or MSHA wouldn't have wrote these citations. So,
4 something needs to be done here to protect the miners. And
5 I believe it's your responsibility to make sure that's done.
6 That's basically all I've got.

7 MR. TOMB: Okay. Any questions?

8 (No Verbal Response)

9 MR. TOMB: Okay. Thank you very much. Mr.
10 Russell.

11 MR. RUSSELL: My name is Terry Russell; T-E-R-R-Y
12 R-U-S-S-E-L-L. I'm a Pit Committeeman for Local 1545. I
13 worked for Consolidated Coal, Wren Lake Mine.

14 I'm an Alternate Safety Man at the Nelson
15 (phonetic) Portal, -- we're a two portal mine. And in the
16 safety man's absence and on his behalf, I'm recognized by
17 the company to represent the miners. So, I do travel with
18 inspectors; I see these citations on ventilation because I
19 am a radisman (phonetic) and that is my job, ventilation.

20 The outby, inby question I know has been probably
21 addressed too much here today, but to me, if you were there,
22 it could never be addressed too much. My number question as
23 a pit committeemen, that I

1 cannot, -- I have trouble dealing with, is when people come
2 to me, especially during a long wall move, and they say, "Do
3 I have to stay in this? Do I have to work here?" And when
4 I check with the Federal man and the company itself, and the
5 only thing I can come back and say is, "They're in
6 compliance, they're not gonna do anymore then they have to
7 do, and that's obvious". They don't do anymore than they
8 have to do. And if they're in compliance that's what you're
9 gonna have to do, you're gonna have to stay there. And if
10 you could just imagine the only air that you can breathe is
11 gonna come through that door right there. That's it.
12 Outside that door is all kind of contaminates from the
13 diesel equipment, inby and out. It don't make any
14 difference, you're still breathing.

15 The face equipment, it's gonna be over here
16 (indicating). You're still breathing everything that comes
17 through that door. And basically, that's what we're talking
18 about on light-duty equipment.

19 Our mantrips are capable of carrying eleven
20 people. Then we have five seat, four seaters and two seat
21 diesel equipment for management, maintenance, pumpers and
22 what have you, different classifications. And they're run
23 all during the day. Material is hauled all during the day.

1 When they come by that last split of air if you're inside,
2 you're breathing it. If they're in there dropping a trailer
3 at number 6 crosscut and you're at (40), believe me, you
4 know it. We have actually had people have to come off the
5 facia (phonetic) before because the seal monitors on the
6 belt has went off at fifteen parts per million, because
7 something was being operated outby, and we didn't know what
8 was going on. People have had to stop production because of
9 the emissions that we have had to breath from this
10 equipment. Not inby, not at the face, maybe not heavy duty,
11 because the concentration of diesel equipment in the last
12 split of air that you're breathing.

13 I know a friend of mine who's a mine examiner, and
14 during one of the long wall moves he was taking air readings
15 that we had. There's spots in a single entry system where
16 you're gonna have more air movement than you will in others.
17 And a number of complaints on, -- "Do we have to work here?"
18 You know, it "Makes me sick. I've got a headache". And I
19 can speak first-hand, 'cause I have had to leave the room
20 due to a headache and exposure to diesel. And this examiner
21 came to me. I tried to go to the Federal. Something as
22 simple, maybe, -- I said, "Well, can you do something on the
23 ground's obnoxious fumes?" And MSHA told me that there's

1 nothing in the law. For cutting and welding, I could cite
2 them, but not for diesel emissions. Now, they may be in
3 compliance, they may be legal, but when your eyes water and
4 your throat burns, something's the matter. And it's not, --
5 it doesn't give you much consolation when you have to turn
6 to somebody and say, "They're in compliance and there's
7 nothing we can do".

8 Now, the operators are not gonna do anymore than
9 they're forced to do. And you have the opportunity today to
10 set the standards that's gonna affect the quality of our
11 lives long after we retire; if we live that long. And I
12 feel very strongly, because one of my number one questions
13 is not job security it is this environment that we have to
14 work in. And there's too many things that we cannot control
15 to let something go by that we can control. And you can
16 control this right here. Or you can make a good start.
17 Everybody would appreciate your help. That's all I've got
18 to say.

19 MR. TOMB: Okay. Thank you, Mr. Russell. Any
20 questions? Bob.

21 MR. HANEY: Yes. At Wren Lake, how many entries
22 are used in your overall development?

23 MR. RUSSELL: Three.

1 MR. HANEY: Thank you.

2 MR. TOMB: Anyone else?

3 MR. SASEEN: Yeah. You said there was a, -- how
4 many personal mantrips?

5 MR. RUSSELL: I don't know the breakdown. Are
6 mantrips are eleven person capacity.

7 MR. SASEEN: Do you know what type of vehicle
8 that is?

9 MR. RUSSELL: ALE(s).

10 MR. SASEEN: ALE(s).

11 MR. RUSSELL: So, they're all concentrating on
12 the bottom, that's probably your, -- you've got as much air
13 as you're gonna have anywhere in the mine. And at shift
14 change when they're leaving the bottom, you're starting
15 those things up, they're sitting end to end. You're
16 breathing everything that happens right there. That exhaust
17 and that mantrip in front of you is right in your face. And
18 if you talk about air, if all the air is coming this way and
19 you're following a scoop, I don't care how much air it is,
20 when they're blowing all that emission right in your face, I
21 don't care what kind of air you're breathing, you're getting
22 it, and you're getting a lot of it. We've got one entry
23 that we travel in. When you have to pull on a crosscut to

1 let another piece of equipment by, then you're in dead air.
2 There's nothing going through there. And you're also
3 breathing bad air. There is no place to put it that it
4 doesn't affect someone. The only thing that we can do is
5 hopefully clean it up.

6 MR. TOMB: Okay. Thank you. Any other
7 questions?

8 (No Verbal Response)

9 MR. TOMB: Okay. Thank you, Mr. Russell. The
10 next presenter will be Mr. Main.

11 MR. MAIN: Pass those out back through there.
12 This is a good place to start. My name is Joe Main, and I
13 am the Administrator of Health and Safety for the United
14 Mine Workers of America. I've spent a lifetime on the
15 subject that we have today before this public hearing. And
16 I would first like to thank MSHA for finally moving forward
17 with the promulgation of a rule that addresses a very
18 critical problem in the lives of many miners in this
19 country.

20 And as I start this, I think it's important to
21 meditate on what that bumper sticker that we just passed out
22 means; "Black Lung: Make It Disappear." We've been
23 wrestling with a disease amongst coal miners in this country

1 since coal was mined, -- since coal had began to be mined in
2 the United States of America. And we have spent an enormous
3 amount of time trying to figure out a way to prevent miners
4 from contracting a disease from mining that coal, which is
5 black lung. And it's unfortunate as we stand here today, to
6 say that we have failed that mission, and we failed it for a
7 variety of reasons. Would anybody know on the panel, the
8 number of black lung claims filed in the year 1997, in the
9 United States of America? Have any idea what the number is?

10 (No Verbal Response)

11 MR. MAIN: Would you believe nearly seven
12 thousand, five hundred claims filed with the fellow
13 Government for black lung disability claims in the year
14 1997. This year I don't know what the number will be, but
15 if it follows like the last few years it's gonna be about
16 the same ballpark. Could you imagine that we're standing
17 here in this country of ours, mining coal and still causing
18 that miners to at least believe they have the disease?
19 That's outrageous. And I think we've all lost sight of the
20 fact that there is human beings that are affected by the
21 kind of occupational exposures that these people work in.
22 And I would say that everybody sitting on this panel if you
23 believe for a minute that you'd be one of those seven

1 thousand, you'd be doing something about it. And I think
2 that you ought to be doing something about it. You wouldn't
3 want to be one of those victims.

4 Unfortunately, as I say, we have failed somewhere
5 in the system. We have turned a death ear to miners who've
6 complained the kind of corruption and practice that's going
7 on in the coal mines that led a lot of those miners to get
8 the disease. And it's about time we stop that and take a
9 different approach. And say, "We're not gonna tolerate this
10 anymore. We're gonna start taking corrective actions to
11 prevent people from getting those kind of diseases. And if
12 we can, we're gonna start doing that before they get
13 exposed." When you look at black lung, and you look at
14 diesel, what does that represent? If you believe even half
15 of the medical evidence that's out there; and I believe far
16 more than half, it tells you that we have a population of
17 miners that has over the last twenty years, been subject to
18 another disease that can be even more crippling and deadly
19 than black lung disease. It can give you lung cancer.
20 That's not Joe Main saying that. That's not some coal miner
21 just saying out of the blue, that's the case, that's what
22 the scientific evidence has brought us to. And that
23 scientific evidence says that the worst case scenario here,

1 based on the recent NIOSH Reports that nearly nine hundred
2 out of a thousand miners exposed to about 1 milligram per
3 cubic meter of this particulate matter, can expect to get
4 lung cancer over the lifetime of working in the mine. Now,
5 to me, it's outrageous that we have today, miners exposed to
6 such levels of diesel particulate matter. I mean, think
7 about that. The worst case scenario according to the NIOSH
8 Study says that nine hundred out of a thousand could get
9 lung cancer over their working lifetime. Would anybody in
10 this room want to go work in an occupation that would have
11 such a risk that you're faced with? And if you were placed
12 in that, wouldn't you be the first to say, "Whoa, we're
13 going to halt this kind of exposure to working class people
14 in this country until we can fix it". Unfortunately, what's
15 happened to us in diesel, is the same thing that happened to
16 coal miners with their exposure to coal dust. You made it
17 until enough people get sick, then you've got to do
18 something about it. The difference between diesel and black
19 lung is that we don't have to build that long history like
20 we did with black lung. And if there's anybody that
21 believes that coal miners don't get black lung from
22 breathing coal dust, I think that you need to probably seek
23 another profession. I think there's enough statistical

1 evidence to show that there's a correlation between
2 breathing all that dusty material that comes off of coal and
3 ruins your lungs. Now, there's some that argue that that's
4 cigarette smoke that causes that and not coal dust, but I
5 think most miners really know what the truth of the matter
6 is, and a lot of professionals know what the truth of the
7 matter is.

8 The truth of the matter also is, that when you're
9 breathing diesel particulate matter it takes a time of
10 accumulating that particulate in your body to actually do
11 damage. There's those that argue, "You know, hey, we should
12 have all these bodies laying around here now if this was
13 that serious". Well, I think if you look at history, what
14 it's gonna tell you is that in coal mines there hasn't been
15 that much exposure to diesel particulate matter. And I
16 remember back in the early 1970(s) when we had somewhere
17 around seventy-five to a hundred pieces of diesel equipment
18 in the coal mines in this country. And what happened is, --
19 and you can look at the different time-lines, but in the
20 early '80(s) there was a proliferation up to this date, of
21 diesel equipment being used in mines. And now we're
22 setting, according to interest data, somewhere around three
23 thousand pieces of equipment now being used throughout the

1 country. So, we've had a limited amount of exposure. And I
2 think as Joe Urban pointed out, I remember when the Wabash
3 Mine became the front runner of putting diesel equipment in
4 the coal mines here in the State of Illinois. And I
5 remember when they bought this one beautiful piece of diesel
6 equipment and told the mine workers, "Don't worry folks,
7 we're not gonna dieselize these mines, we just need a few
8 pieces in here". I remember those days. And I remember one
9 thing is that that was not true. What we wound up with at
10 the Wabash Mine before the smoke cleared, I think we was up
11 pushing over a hundred and forty, hundred and fifty pieces
12 of diesel equipment at that one coal mine. So miners
13 learned not to trust what people have to say about what they
14 would be exposed to. And those miners at Wabash learned a
15 very hard lesson in life.

16 But the exposure here started in the 1980(s), and
17 I guess it was around '87, '86, whatever the year was. And
18 so, we've had a limited amount of time. But we've had, I
19 think, an enormous amount of exposure of miners in the
20 Illinois mines. And I think likewise in miners, -- to
21 miners in Kentucky, to miners in Alabama, to miners in the
22 west, Utah. And if anybody thinks that exposure has been
23 good to them, I'd like to hear the evidence of that. And I

1 would like to understand how, as a Government, realized that
2 we've already screwed up so many miner's chest in this
3 country, -- I mean, ruined their lungs, and but damage, --
4 placed damage on their heart. Because the heart basically,
5 has to start carrying a larger load as they have to breath
6 from the ill effect of the coal dust disease. And now we've
7 dumped, -- that ain't enough, we've got to dump some of this
8 DPM down there too, and we'll cause another reaction, to
9 cause them to have lung cancer. And in all honestly folks,
10 that's exactly what we've done here.

11 I think it's time that rational people grab a hold
12 of this issue and make some sound decisions to start helping
13 coal miners for a change, as opposed to let's argue over
14 this for another fifteen years.

15 I came to conference, I think it was here, for one
16 of the three that we did some years back, and this whole
17 debate over miner's exposure to diesel emissions, and I sat
18 at that conference. I am tired of arguing about the rat
19 studies, because what we've got ourself caught up in for
20 those detractors that don't want the issue dealt with. We
21 could argue the scientific validity of what, -- every one of
22 those studies until we all die. While coal miners are out
23 there sucking down DPM, if that's the course that we chose.

1 The miner workers chose to say, "Enough is enough. We're
2 not gonna get into debate over the peculiarities of one
3 study versus another study". We have seen enough evidence
4 here to make it clear to us that this stuff makes miners
5 sick. And if they breath enough of it, it will kill them.
6 It's as simple as that. Unfortunately, there are those that
7 want to continue to wrestle with the technical questions of
8 exactly what was the population. How is it segregated, and
9 all this thing. We're not interested in that anymore. And
10 the coal miners are not interested in that anymore, either.
11 And they've had a hard time trying to figure out why, for
12 the last twenty years we have engaged ourselves in that
13 debate and not moved forward.

14 I'm very happy that we're here today. And I'm
15 very happy that we've got this whole issue elevated to the
16 point they're about ready to issue a rule. The problem is,
17 if we don't issue the right rule, we're gonna have a batch
18 of miners out there that are still exposed to diesel
19 particulate at levels that will give them lung cancer. And
20 while there is some discussion about leaving out of the
21 equation here the light-duty equipment, I think if MSHA does
22 that, what they're doing, they're dooming a lot of coal
23 miners. And they're gonna cause a lot of coal miners to

1 wind up with lung cancer. As a result of failure to take
2 action to issue a rule that protects those miners.

3 As I travel throughout the country and talking to
4 coal miners about what they saw as the biggest problem that
5 they were faced with in their lives, the issue of diesel
6 came up almost immediately in any crowd that I went into
7 where diesel equipment is used. The pollutants that come
8 out those tail pipes that they have to breath has been
9 something that they have realized a long time ago was
10 unhealthy for them, and despite those that say, "This really
11 don't exist that way," does, in fact, exist that way. And
12 miners who are working in outby areas, -- for example, I was
13 at the Show Creek Mine (phonetic) in Alabama about a month,
14 month and a half ago, and was walking out of the bath house,
15 this miner comes up to me and he says, "Mr. Main, can you
16 give me some help filing a compensation case?" And I said,
17 "What's the case over?" And he says, "Working around this
18 diesel equipment. Sick, I've got an asthmatic condition now
19 that I can't even breath, and every time I'm around it just
20 like, destroys my respiratory system". And he said, "The
21 last time they put me working in the belt entry with the
22 forklift. Not enough air". And he said, "It made me so
23 sick I couldn't breath. And I've got to have help". That's

1 the realities of coal miners that people try to ignore and
2 say, "That really doesn't exist". That does exist. The
3 problem these miners have pointed out too, is getting
4 documentation of all these illnesses is such a moving target
5 it's, -- I can be standing here have an ill effect
6 breathing; which I do from a cold right now, but from some
7 other exposure I had that I may not be able to figure out
8 the cause or the time, you know, exposure problems that you
9 run into. And the problem we have in coal mines too, which
10 we all realize, it's just not diesel, and it's just not coal
11 dust that ruins the respiratory system, we've got a gad of
12 chemicals that's scattered throughout the mines right now
13 that is causing immense harm to miners. Iso-synase
14 (phonetic(. I'm sure you've heard of that, and I'm sure you
15 understand that Iso-synase is wildly used through the mining
16 industry. I've had a raft of cases come across my desk
17 where miners' respiratory systems have been adversely
18 affected by their exposure to Iso-synase. And to the point
19 they get sensitized, to the point they can't even be around
20 it and the reaction goes far worse when they are. Those are
21 the realities of life. And, you know, you step back and
22 say, "We're dealing with a confined space problem here
23 folks". I mean, this isn't out in the open air where you've

1 got, you know, a mound of wind coming through diluting all
2 these problems, you know, down to where they're not
3 affecting miners. This is real stuff in a confined space
4 that miners are stuck into.

5 So the effect of the respiratory system is just
6 not diesel, it's coal dust, it's Iso-synase, a wrath of
7 other chemicals. But this is just another one we add we add
8 on the pot.

9 I think the testimony that we have submitted in
10 the initial comments, -- and I'm not gonna get into a lot of
11 those details today, but were very well founded, and this is
12 the way things are in the industry. And we have provided
13 recommendations on how that rule needs to be fixed to really
14 do justice to helping coal miners.

15 But I'm gonna touch on a couple of things that's
16 in that rule. We've heard a lot of criticism from the
17 industry about you can't reach a 95 percent diesel
18 particulate filter. Well, we believe we've done that in
19 Pennsylvania. We have a law that says that, and as far as
20 we're concerned it is very doable. We've seen a lot of
21 resistance from the industry to try to achieve that. I
22 mean, it's like what we saw is, "Fight it tooth and nail,
23 but don't let anybody proclaim there's a 95 percent filter

1 out there". And I think there's an obvious reason for that.
2 The industry, quite frankly, don't want to have to spend the
3 money to do that. I think the risks are so high, as far as
4 the health of coal miners, that that equation should be
5 evaluated based on what is the risk, you know, that's being
6 placed on miners by staking a claim to that argument? What
7 we said in our proposal is, "Okay. You know, for the first
8 short period of time let's go to an 80 percent filter
9 performance". And we've seen a variety of filters out there
10 that meets that. And then, eventually reached the 95
11 percent performance, which we think is giving them a little
12 bit of lead time to build a better mousetrap if they want to
13 try to do that. We believe that there is filtering
14 capability that's available out there, and one of the things
15 that we found as we started to deal with this issue was that
16 there's a lot of companies that sell filters throughout the
17 world, that put it on equipment. We're not reinventing the
18 wheel here somewhere, we're looking at existing technology
19 that's able to do these things. We're looking at diesel
20 equipment too, that operates in these outby areas, that as
21 many miners have attested to that's where the bulk of it is
22 now. I think according to MSHA stats we pulled out, there's
23 something like two thousand out of three thousand pieces of

1 equipment that's so-called outby equipment that miners are
2 exposed to all the time. And I think the miners ask a very
3 logical question, is, "Why don't you protect us as much from
4 that light-duty equipment, as you do from the heavy-duty
5 equipment, -- inby equipment?" Now, when you look at some
6 of the polluting factors of some of this equipment, you can
7 have exempted from the control some of the most polluting
8 equipment that you've got in a coal mine, just because it's
9 classed as light-duty of where it's used at. And we do have
10 problems with some of these areas where we have common belt
11 intake entries where, you know, the air flow is limited. We
12 have areas of belt lines that all kind of equipment is used
13 from time to time to slow velocity. But those are not the
14 only problem we have. There's a variety of different
15 situations you have in coal mines where in the outby area
16 you're not guaranteed the kind of air flow. And as part of
17 the comments that we did submit, I think we've pointed out
18 some of the situations where you would have a piece of a
19 diesel equipment that would not even nearly bring down the
20 diesel particulate levels to that level that NIOSH referred
21 to, that 1 milligram exposure in their study. And I point
22 out, looking at the DPM that comes off of a Caterpillar 3306
23 engine, if you look at the outby air quality for those

1 engines I think it's seventy-five hundred. That's not for
2 each one, that's for everything that's out there. Now, if
3 you have four of those (3306(s)) stacked up back to back as
4 far as the DPM production goes, you would have a situation
5 where you would have seventy-five hundred CFM, 'cause that's
6 all you're required outby. But the production levels, it
7 would take, -- and I'm gonna use some figures off the top of
8 my head, these may not be totally accurate. But I know we
9 used an example of just two engines like that, instead of
10 seventy-five hundred CFM on two engines, I think to get the
11 DPM down to a range that was in the 1 milligram; which we do
12 not agree will protect miners at all, would take forty-six
13 thousand CFM of quarry.

14 Those are the realities of life, when we talk
15 about "Do we have enough air?" We do not have enough air in
16 the coal mines to dilute down diesel particulate to protect
17 coal miners. And when you look at this wolf from the
18 standpoint is that you can have five, six, seven pieces of
19 diesel equipment stacked up, and you only have to meet the
20 plate reading of outby equipment of the highest piece, where
21 is the science, and where is the protection there? It does
22 not exist. The science is not there that will support any
23 belief that miners would have the DPM controlled to a safe

1 level.

2 Well, these miners that are here today, are like a
3 lot of miners I've met with over the years. And what they
4 represent is a voice from the mines that says, "We want this
5 problem fixed". And I think they've been very polite and
6 very straightforward here about what the circumstances are
7 to mines, when, in fact, maybe we ought to be a little bit
8 louder and more rambunctious than what we are. We're
9 hopeful that this rule does get fixed, and does get fixed
10 right. But I think they've waited far too long to get the
11 answer from the Agency.

12 You know, when we built the Pennsylvania law
13 that's been talked about, and we addressed that in our
14 comments, when we put together that law we did a creative
15 thing. We brought in coal miners from mines that used
16 diesel equipment, like the Wabash Mine, the Imprinter's
17 Energy Mine (phonetic), we bought my management folks in,
18 and we sat down and we had an open discussion about "What is
19 really wrong with how we use diesel equipment in coal
20 mines?" And we built a standard based on that open
21 discussion, understanding of what those problems. And the
22 miners, like the miners that talked here today, and the
23 company folks you were there, agreed with that, we do a very

1 poor job managing, -- or maintaining diesel equipment, in
2 particular, the outby equipment that, you know, we can just
3 run, you know, in and out the mine. We don't always have
4 air there to control these circumstances, to dilute all
5 these gases and particulates down, and there is a lack of
6 understanding and application of that understanding about
7 how we can have cleaner burning engines, cleaner engines as
8 a whole, you know, in coal mines. And so, when that
9 standard was built, it was built based on the premise that
10 we needed to fix those things in the right way that would
11 actually protect coal miners. So, what we did is, we
12 applied control technologies to fix the problem. So,
13 whenever the maintenance got a little bit poor, at least it
14 was trapping in the particulate, as far as particulate goes.
15 Whenever the ventilation got a little weak, at least it was
16 trapping the particulate that's coming out of that exhaust
17 system. And when all the other systems failed, at least we
18 had something in there to trap that particulate if the
19 intake air filter got a little plugged up or whatever the
20 case may be. We also put diagnostic systems on there to
21 give machine operators the kind of information they needed
22 to let me know there was a problem in the system so
23 maintenance could take place. We also set some specific

1 performance standards for that equipment.

2 And that Pennsylvania law, I think, serves as a
3 great model to identify the kind of decision-making that
4 needed to take place if you're truly gonna protect coal
5 miners, and not rely on one MSHA inspector coming in and
6 looking for this moving target of equipment that may be
7 hidden, or maybe instead of ten pieces, he finds two pieces
8 when he does his test, or relying on all these other things
9 that miners have really found to be a failure in the system.
10 Control technology was the answer then, and control
11 technology is the answer now.

12 We also found one other thing, too, is that you
13 ought to have some other kind of performance standard other
14 than just putting a filter on a piece of equipment. And we
15 realize the difficulty of doing in mine testing, so what we
16 required as part of the Pennsylvania law was a lab test of
17 the equipment before it could get approval to show that it
18 would perform in a certain way. And it would limit, with
19 the filters that was being used, the DPM to a level that we
20 felt would protect the miners. And in particular, what we
21 were able to define was a system that limited the DPM
22 production to .12 milligram per cubic meter. And that was a
23 test parameter that we set in Pennsylvania. And we believe

1 has not. And not only do I suggest that, there is a mound
2 of evidence that says that sampling for exposure of miners
3 to those things in the environment they agree that can make
4 them sick, as a means to prevent them from getting sick, has
5 not worked in the coal mining industry.

6 And the first document that I have given you is,
7 is a list of all the criminal convictions and guilty pleas
8 regarding dust fraud that has occurred in the United States,
9 that has been, -- at least, went through the judicial system
10 with some end result. There's over a hundred and sixty
11 companies and/or individuals on the attached list, from 1991
12 through 1997, that have been criminally convicted or pled
13 guilty to fraudulent coal dust sampling in the United
14 States. I believe that if you'll look at the history of the
15 Coal Mine Act, there is not a single other type of violation
16 of the Act that is anywhere equal to the number of
17 violations or the number of criminal convictions rather,
18 that have been made in the dust fraud, -- for dust fraud in
19 dust sampling. Not another single standard of the Mine Act
20 has had anywhere near the number of criminal cases, criminal
21 convictions, as this one single issue.

22 Also, I've provided you with a copy of the
23 Louisville Courier Journal series that was ran in April of

1 1998. And what this describes is, -- for those who haven't
2 read it yet, -- and I want to make sure that these are
3 officially placed in the record. What this story is about
4 is an in depth investigation into dust sampling in the
5 Appalachian coal mines, and particularly in the State of
6 Kentucky. And what the investigation disclosed was that
7 there was just rampant fraudulent dust sampling taking place
8 in these Appalachian mines that this article covered. And
9 it was such an open issue that we even had company
10 officials, ex-company officials give information to the
11 reporter for the story of, "Yeah, we did it. We did it to
12 make a profit". Had exposed miners to unhealthy levels of
13 coal dust, cheating the dust sampling system to make money
14 off of coal.

15 There's a lot of stories about the victims in
16 here. There's one that's dying, -- if you'll look at the
17 "Cheating on dust tests is widespread". I know this fellow.
18 I don't know if you folks have ever met him or not, Les
19 Blevins. Anybody know Les Blevins, on the panel?

20 (No Verbal Response)

21 MR. MAIN: I spent some time with Les Blevins,
22 and this is a victim who at forty-five years old his life is
23 over; waiting for lung transplants; ready to die. And one

1 of the reasons why is, that the system failed to protect Les
2 Blevins, and he became so sick that his life on this earth,
3 and he knows it, is very short.

4 There's another story in here about a miner who
5 had worked in Kentucky, his name was Terry Howard, and
6 Howard died in 1995, as a result of silicosis, -- or from
7 silicosis, at the age of forty-five, and is survived by his
8 wife and his children. And for those that knew of Terry
9 Howard, they would tell you that it was one of the most
10 tragic deaths that any individual ever went through in their
11 life.

12 There's other stories in here about other miners.
13 I'm talking about miners, you know, early forties, dying of
14 these diseases. I personally met a lot of these miners that
15 have become ill from diseases. Larry Hattin worked in the
16 mines in West Virginia. The story about Larry is in here,
17 who also has lung diseases. Numerous miners that have not
18 made it through their working career because they were
19 exposed to a disease of which this Government failed to
20 control, which really, the mine operator exposed them to
21 without adequate controls, and in cases, as these miners
22 attest to, bent the law and lied about the conditions that
23 they were exposed to, in order to grant favorable

1 enforcement activity from the Government, and produce a lot
2 of coal. And I say that in respect to these are the same
3 people today, you know, people who said, "Don't believe this
4 stuff, this didn't happen to these miners. These miners, --
5 it wasn't the dust". That's malarkey, they were. But you
6 have some of the same folks running around today saying,
7 "Don't believe all this stuff about the dangers of diesel
8 particulate matter that these miners breath, it's not that
9 bad. And air takes care of all these problems". That's not
10 true. And if we're not wise enough to figure it out,
11 there's gonna be a lot of miners like the Les Blevins in
12 here, only the story's not gonna be black lung, it's gonna
13 be lung cancer.

14 We're gonna be submitting a lot more information
15 before the record closes, so I'm not gonna hit a lot of
16 these things in any depth. But, you know, about three or
17 four points I want to make before I close.

18 There has been some discussion about what should
19 be in the plans. This is an issue, if you look at our
20 proposal, that outlines certain testing that has to take
21 place, certain certifications that need to place for proper
22 a proper diesel filter particulate system to work. We
23 believe that what we proposed needs to be in that rule. And

1 we also believe that that needs to be part of the plan. So,
2 you know, we get in a situation here where other things that
3 may tie around how that diesel equipment is used, to ensure
4 that it's used the way it is, that it should be part of the
5 approved plan that can be incorporated in that, and not just
6 some document.

7 There's been some discussion, I understand in the
8 previous hearings, about letting, -- "Gee, just let us use
9 the Toolbox approach". And for those who don't know what
10 the Toolbox is, it's a document put out by MSHA based on the
11 conferences that were held some three or four years ago,
12 that talked about some of the improvements that we could
13 make in diesel equipment that's being used, which some of
14 those booklets laying on the table are. Well, you know what
15 my reaction to those books would be? They're not using them
16 now. I mean, I would hope to God with all we know about the
17 dangers of all these gases and particulate coming out the
18 tail pipes of diesel equipment that we don't have operators
19 saying, "Gee, just let me do that". What they should be
20 saying is, "Gee, we're doing that," okay, given the
21 seriousness and the nature of the disease that their
22 employees face. I don't think that miners can be protected
23 by a Toolbox booklet. If anybody on this panel thinks so, I

1 think it would be wise for you to lay out to us why you
2 think that you could. What the Toolbox approach is, is a
3 general guide of things that responsible industry folks
4 should be doing to protect their miners. And as we all
5 know, there are some operators that do a lot better job at
6 protecting the miners than others do. And as we all know, -
7 - and you take that case of those miners that's in that
8 newspaper, like the Terry (sic) Hattin's of the world, the
9 Les Blevins' of the world, who did not have the benefit of
10 working for a responsible employer who destroyed their life
11 and took their life away from them. That's the reality in
12 the coal industry. And that's the reality that everybody
13 has to understand. This is not an industry of which we can
14 do things that may stretch protection or stretch the law,
15 and there is no real harm. We're talking about when you do
16 those kind of things, stretch and bend the law, somebody's
17 gonna get hurt. And somebody gets hurt in real way. So, I
18 think the message here is that we need real rules and not
19 Toolbox guidelines as a way to protect these miners.

20 The one point, too, that I need to raise is, is
21 that this whole debate has gotten very vicious. And I've
22 been in it for about twenty years, and I just want to make
23 sure that as the miners walk away from here today they have

1 engaged in a protected activity under the Mine Act, and
2 anybody that would try to retaliate against them has to
3 understand that that is a violation of the Mine Act to do
4 that. Unfortunately, we've had some recent cases where mine
5 operators have went after miners who have engaged in
6 protective activity and discriminated against them, and
7 that's unfortunate. But I just wanted to remind everyone
8 here that that is a right that these miners have, and a
9 protection guaranteed by the Mine Act. And I'm sure that
10 MSHA would be very, -- look very ill upon anybody that tried
11 to discriminate against any miner who did participate.

12 Personally, for myself, it's been probably even
13 higher than that. I even, -- this whole diesel debate's
14 gotten to the point that one of the highest industry
15 officials have went to my boss and tried to get me fired
16 over it. Hard to believe, but that's just how serious this
17 whole issue is. That, of course, didn't work. But it has
18 made me understand what stretches, what depths some of the
19 industry will go to to try to stop the Government from
20 acting to protect coal miners against something that is so
21 inevitable to so many of them, that will shorten their life
22 and kill them that, you know, it's sort of outrageous that
23 that conduct takes place.

1 I'm gonna close by saying that we'll have a lot
2 more comments to make for the record. These miners have
3 asked you, pleaded with you, to make a decision so they quit
4 getting sick in the mines, so they don't wind up being one
5 of those statistics that says, "John Doe got lung cancer
6 from breathing diesel particulate matter in coal mines," and
7 set a rule that really works, and don't piecemeal it, and
8 don't just take out a third of the diesel equipment and say,
9 "We'll tinker with that," deal with the whole issue. And if
10 an operator wants to use equipment, they ought to have the
11 moral fortitude about them to put the right protection on
12 there before they stick that in the working environment of
13 the miner.

14 The State of Pennsylvania, until they implemented the
15 Pennsylvania Diesel Law, didn't allow that. The State of
16 West Virginia continues to disallow that. The State of Ohio
17 continues to disallow that. The States of West Virginia and
18 Pennsylvania are two producing coal states, they all have
19 coal mines, and some of them are doing quite well. And a
20 lot of them, like I say, very few mines in Pennsylvania have
21 diesel equipment. None in West Virginia does. And those
22 that say, "Gee, if we don't get this it's gonna put us out
23 of work," is poppycock. For those that want to do it, well,

1 they have to pay the price to protect their miners to do
2 that. And we believe that the time has come to quit arguing
3 over the rap debates. I'm sick of looking coal miners in
4 the eye that's forty-five years of old, and looking at coal
5 operators that abuse those folks and just walked away from
6 them. 'Cause there's a whole lot of them walking around in
7 this world. You should go down to East Kentucky if you want
8 to see a whole batch of cripples and people that can't
9 breath anymore. And it's time that someone in this industry
10 stand up to the freaking plate and be responsible for what
11 they're doing to people. Thank you very much.

12 MR. TOMB: Thank you, Mr. Main. You have any
13 questions?

14 MS. WESDOCK: Mr. Main, can I have a copy of the
15 newspaper? I didn't get one.

16 MR. MAIN: Oh, okay, there's, -- if you're short
17 any of that, I can make sure I get you some additional
18 copies. Anybody else need one?

19 (Pause)

20 MR. TOMB: Okay. Thank you, Mr. Main. Thank
21 you. Our next presenter will be a Mr. Jourdan.

22 MR. JOURDAN: Good afternoon. My name is Sean
23 Jourdan, S-E-A-N J-O-U-R-D-A-N. I am an Environmental

1 Engineer with the Mississippi Lime Company, a limestone mine
2 located in St. Genevieve, Missouri. I am pleased to testify
3 today on behalf of the MARG Diesel Coalition concerning
4 MSHA's proposed rule governing diesel particulate exposure
5 in underground coal mines.

6 MARG is a coalition comprised of underground
7 nonmetal mine operators and other entities who are
8 interested in the regulation of diesel particulate and the
9 potential health effects of diesel exhaust in humans. May
10 of MARG's members operate mines that are the subject of an
11 ongoing collaborative study by the National Institute for
12 Occupational Safety and Health (NIOSH), and the National
13 Cancer Institute (NCI), that is designed to measure diesel
14 exhaust exposure in underground nonmetal miners and to
15 evaluate the past and current health effects on this cohort
16 of workers.

17 MARG and its individual member companies plan to
18 comment in detail concerning MSHA's newly proposed
19 regulation governing diesel particulate matter in
20 underground metal/nonmetal mines. And we reserve the right
21 to submit additional written materials concerning the coal
22 sector's proposal. Today's testimony, however, focuses on
23 MSHA's failure to provide a sound basis for those proposed

1 rules.

2 As MSHA is well aware, earlier in this year NIOSH
3 and NCI finally began data collection for its six year,
4 multifaceted study of diesel exhaust exposure in nonmetal
5 miners, which is intended to determine whether such exposure
6 causes illnesses. The goal of this multimillion dollar
7 project are: (1) to evaluate mortality with regard to
8 diesel exhaust exposure; (2) to determine whether mortality
9 increases in relation to the level of diesel exposure; and
10 (3) to evaluate the association between measured levels of
11 diesel exhaust components in the air, metabolites in the
12 urine, and DNA adducts in bronchial and blood cells. All
13 suspected disease endpoints are being studied, including
14 lung cancer. This study includes the following components:

15 A retrospective cohort mortality study: The
16 cohort for this phase is comprised of approximately eight
17 thousand, two hundred non-metal miners from ten underground
18 mines who were employed for at least one year during the
19 period from the date of mine dieselization until December
20 30, 1996. Vital status will be determined, and cause of
21 death will be obtained from death certificates.

22 A nested case control study: This study will be
23 based on deaths ascertained during the follow-up stage of

1 the cohort mortality study. four controls will be selected
2 for each case from among members of the cohort, and
3 information on confounding factors will be gained from
4 these interviews.

5 Biomarker study: This study is designed to
6 examine whether exposed workers have detectable levels of
7 nitro-polycyclic aromatic hydrocarbons, also known as nitro-
8 PAH metabolites in their urine and nitro-PAH DNA adducts in
9 a spectrum of tissues, and to relate these levels to
10 airborne exposures.

11 Information from industrial hygiene surveys at
12 each mine, and data from past surveys and MSHA enforcement,
13 together with information on diesel usage and other
14 surrogate measures, will be utilized to construct estimates
15 of personal exposure for the cohort mortality and nested
16 case-control studies. Such measurements include: elemental
17 carbon, submicrometer combustible dust, submicrometer
18 particulate, organic fraction of the exhaust, NO, NO(2), CO,
19 CO(2), nitro-PAH(s) and respirable and total particulate.
20 These measures are being collected because NIOSH and NCI
21 recognize that there is no definitive substance which serves
22 as a surrogate for diesel particulate matter exposure and
23 the researchers hope to determine which substances best

1 correlates with identifiable diesel exhaust exposure.

2 NIOSH/NCI's proposal for this study clearly
3 identifies the problem with MSHA's assumptions concerning
4 health effects. In short, -- and I quote,

5 "Although diesel exhaust has been
6 classified as a possible carcinogen by
7 IARC and as a possible carcinogen by
8 NIOSH, the risk of lung cancer in humans
9 is still not well defined".

10 NIOSH admits the same conclusion for all of the suspected
11 disease endpoints. the Government researchers observed
12 that, in view of the inconclusive findings in animal
13 studies, "There is a clear need for more information on the
14 effect of diesel exhaust exposure in humans". The protocol
15 concluded that "The existing studies have many weaknesses,"
16 including use of crude indicators for diesel exhaust
17 exposure, no historical quantitative measurements of diesel
18 exhaust, short latent period, low exposure levels and a
19 small number of observations.

20 In the Advance Notice of Proposed Rulemaking that
21 preceded the current proposal, MSHA quoted the Diesel
22 Advisory Committee's findings that more research was needed
23 because of the absence of adequate information regarding the

1 permissible exposure limits at which health effects accrue.
2 Prior to initiating the rulemaking, MSHA had asked NIOSH to
3 perform a risk assessment for exposure to diesel
4 particulate, and between 1988 and 1991, eight studies and/or
5 papers were developed by NIOSH, the Bureau of Mines, and
6 MSHA researchers, addressing the health effects and/or
7 sampling and measurement techniques for diesel particulate.
8 As recently as last year, NIOSH and NCI thoroughly reviewed
9 the existing scientific literature before making these
10 findings and concluded that the human health effects of
11 diesel were not well known. Therefore, admittedly flawed
12 scientific studies are the source of MSHA's "strong
13 evidence" of an increased risk of lung cancer, and serve as
14 a scientific basis for the purposed, draconian diesel
15 exhaust rule. MSHA has selectively presented studies
16 supporting its conclusion while ignoring other research that
17 refutes its findings. The agency has also has disregarded
18 the recent conclusion of Dr. Debra Silverman, lead
19 researcher on the NIOSH/NCI diesel study: When she states,
20 "The repeated findings of small effects, coupled with the
21 absence of quantitative data on historical exposure,
22 precludes a causal interpretation."

23 The mining operations involved in the NIOSH/NCI study

1 are participating cooperatively with government researchers
2 because we share their desire to obtain definitive
3 information as to whether or not diesel exhaust exposure
4 presents health hazards to underground miners. Our
5 participation has resulted in extensive disruption in our
6 mine sites and has cost the industry millions of dollars in
7 non-reimbursed expenses for such items as: reviewing and
8 copying of hundreds of thousands of non-statutorily required
9 personnel, medical and business documents; sampling and
10 exposure monitoring; accompanying the researchers for their
11 personal safety; and, review of and comments concerning
12 NIOSH/NCI's many revisions of their protocol.

13 The "best available evidence," as determined by NIOSH
14 (the agency charged with the scientific research under the
15 Mine Act) indicates that significant health risks have not
16 been demonstrated to warrant MSHA's strict regulation of
17 diesel equipment use and exhaust exposure within our
18 industry. If such a significant risk has already been
19 established, there would be no basis for NIOSH/NCI to
20 continue to work with millions of taxpayer's dollars.
21 Similarly, there would no need for our companies to suffer
22 the disruption and considerable expense associated with the
23 NIOSH/NCI endeavor if the verdict is already in concerning

1 the health effects of diesel. If however, MSHA agrees with
2 NIOSH that the science is by no means clear that diesel
3 exhaust has any adverse health effects in humans, then the
4 agency should suspend the rulemaking until such time as
5 NIOSH/NCI complete their work and have had the opportunity
6 to process the results and submit them to an independent
7 peer review.

8 Although MARG acknowledges the MSHA does not have to be
9 100 percent certain of a health risk before proceeding with
10 regulation, in light of the uncertain scientific basis for
11 the proposed rule and ongoing industry-specific research by
12 NIOSH/NCI, we urge the agency to exercise restraint.
13 Implementation of this proposal would impose highly
14 expensive workplace modifications on mining operations, that
15 might turn out to be entirely wrong or unnecessary based
16 upon NIOSH/NCI's findings, which should be available in five
17 years, with interim reports expected within two years. The
18 basis for MSHA's proposal, therefore, is inherently flawed
19 and the proposal should be suspended until more definitive
20 information is available on this very important issue.

21

22 That's all I have to say. Thank you very much for
23 your consideration of these comments. Any questions?

1 MR. TOMB: Thank you, Mr. Jourdan. Any
2 questions? Jon.

3 MR. KOGUT: You said that MSHA in its risk
4 assessment had ignored some studies that tended to refute
5 the conclusion that diesel particulate posed a significant
6 health risk. Do you have a list of those studies?

7 MR. JOURDAN: No, I don't. I don't. But I know
8 there's been some significant studies done, at least in
9 other countries. I can think of Australia, for one. But I
10 don't have, --

11 MR. KOGUT: Can you send us as part of a post-
12 hearing comments, a list of the studies that you believe
13 we've ignored?

14 MR. JOURDAN: That's no problem.

15 MR. TOMB: Any other questions?

16 (No Verbal Response)

17 MR. TOMB: Thank you very much, Mr. Jourdan.

18 MR. JOURDAN: Thank you.

19 MR. TOMB: Our next presenter will be Mr.
20 McWhorter. Did I pronounce that correctly, sir?

21 MR. MCWHORTER: Yes. Thank you very much. I'll
22 try to be brief. My name is P. L. McWhorter, sometimes
23 known as Judge. I am Vice-President of Phillips Machine

1 Service in Beckley, West Virginia.

2 MR. TOMB: Would you spell your name, please,
3 sir?

4 MR. MCWHORTER: M-C-W-H-O-R-T-E-R.

5 MR. TOMB: Thank you.

6 MR. MCWHORTER: This is certainly a complex
7 subject. A lot of us have spent a great deal of time and
8 effort on it. I would start off by saying that I am going
9 to address, and want to focus on just one portion of the
10 proposed regulations, and that is the call for a "95 percent
11 filter efficiency".

12 I would state that in my opinion there can be
13 improvements in a coal mine, -- in a coal mine diesel
14 operation, if you will, and there certainly should be
15 exhaust improvements. In fact, our company is currently
16 building a, -- well, not, -- we have built one prototype
17 machine. We are prepared to go beyond that, in which we
18 incorporate what is the existing state of the art of filter
19 efficiency, if you want to use that term. However, having
20 said that, and feeling very confident that we can meet
21 almost any standards that are called for, I still would like
22 to ask the Agency to get rid of the term 95 percent,
23 specifically. Why am I concerned about 95 percent?

1 Actually, one of my concerns is, -- and I'm an old timer,
2 I've been around this business for awhile, is my concern
3 that by so doing I think that we're going to stop some
4 technological advances. An example, over-the-road
5 technology in diesel engine technology is way ahead of
6 anything that we use in the coal mine. We are prohibited
7 currently, from utilizing those engines that are much
8 cleaner, in many ways, than the engines that we're allowed
9 to use underground. Particularly in the permissible
10 engines. One of the challenges is that if we retain the
11 requirement for 95 percent efficiency, -- I'll try to phrase
12 it another way. Ninety-five percent is reasonably easy to
13 attain when you have a relatively dirty engine. If
14 technology advances and we use extraordinary clean engines,
15 such as are used in surface technology now, we will have a
16 heck of a time trying to get 95 percent of the contaminants
17 that are already at a low level out of the system. So, I
18 think that the, -- I think we're better served to have a
19 more realistic number that doesn't stop that technological
20 advance.

21 To give you some idea of how difficult it is to
22 attain, as some of you know, we have been working
23 extensively in West Virginia, to try to arrive at a mutually

1 agreeable; and I'll call it that, set of regulations that, -
2 - for diesel operation. And, frankly, it has been, -- in
3 this process we have tested many diesel engines, many
4 filters, and that the so-called filter business is more
5 complex than, -- and I'm sure a filter, as many of you know,
6 it's a combination of whether or not catalytic converters
7 are used in conjunction with a so-called filter. But in
8 that process it has been very difficult to obtain laboratory
9 results that everyone is happy with. The laboratory that
10 has been used is a West Virginia University Laboratory, a
11 state of the art facility, very professional. Nonetheless,
12 some of the data that has come out has been very difficult
13 for lots of folks to live with. In fact, actually, the
14 engine that is currently used in two of the pieces of the
15 equipment that are really at this point, I think, the only
16 two that are used in Pennsylvania, specifically, did not
17 pass the tests that were carried out. I say, "the engine,"
18 the engine and filter combination did not really pass, due
19 to the nature, probably, of the laboratory tests. But,
20 nonetheless, that was the standard upon which this
21 performance was measured. It's a good combination, it works
22 well, I'm sure it's doing a fine job in Pennsylvania. But
23 if it were really held to the test, -- or to the current, --

1 or the required level of tests, I doubt if it could really
2 pass it. At least the tests that we used in West Virginia.

3 There are other details, I think, that I won't get
4 into, but for those who have made a study of the existing
5 several sources of catalytic converters and that sort of
6 thing, there is considerable variation in the manner in
7 which the percentages are determined. In some cases it's
8 done by, -- on a mass basis, a weight basis. In other cases
9 it's done by a percentage of particulate count, -- or
10 particle count, I should say. And there are some built-in
11 discrepancies in the technology that is used.

12 I guess if I have to, -- I think that it's
13 probably appropriate to have some sort of percentage in the
14 regulations. I think if I personally were going to write a
15 regulation I think I would call for something in the 70 to
16 80 percent regulation. I think that any manufacturer,
17 frankly, who's worth his salt, who wants to be competitive,
18 will strive to go way beyond that. And, frankly, he will
19 use his ability to, -- at least in laboratory, attain that,
20 as a means of selling his product. But I think that
21 something in the 70 to 80 percent range is something that
22 the industry and you, MSHA, can live with. As we trend
23 toward (95), frankly, we'll all spend a lot of time and

1 agony trying to defend the indefensible. That's all I have.
2 Thank you very much.

3 MR. TOMB: Thank you. Any questions?

4 MR. FORD: I'm a bit confused about your
5 statement. You said, "The company is building the state of
6 the art efficiency machine"?

7 MR. MCWHORTER: Yes.

8 MR. FORD: What's that mean? Are you building a
9 machine with a, --

10 MR. MCWHORTER: Yes.

11 MR. FORD: -- filter, or, --

12 MR. MCWHORTER: We are building a, -- we have
13 built, a diesel electric shuttle car, which utilizes the DST
14 system, -- the first generation DST system. What is first
15 generation? First generation DST system which is the system
16 that was approved up until, what, early last year. It did
17 not incorporate a catalytic converter. Now, the subsequent,
18 so-called second generation does, indeed, incorporate a
19 catalytic converter. It is our plan that on subsequent
20 machines we would incorporate the now approved catalytic
21 converter in conjunction with the heat exchanger type DST
22 system. And we use this on the MWM engine, and that
23 combination is, -- I think I'm safe to say, about the

1 cleanest combination thus far known to MSHA. So, that's why
2 I called it the state of the art.

3 MR. FORD: So, you took a shuttle car and you're
4 putting on it the DST system?

5 MR. MCWHORTER: Uh-huh (positive utterance).

6 MR. FORD: Can you tell me just to put on that, -
7 - would this system be a permissible?

8 MR. MCWHORTER: Yes.

9 MR. FORD: Okay. Would you tell me what it would
10 cost to put on that DST system, purchasing it and
11 installation? The range?

12 MR. MCWHORTER: Oh, bear in mind that the system
13 includes, -- it is, indeed, a system. It isn't just a heat
14 exchanger, and it is not just a catalytic converter. It is
15 that, which is necessary to cool it, so it does incorporate
16 a radiator, it does incorporate safety shut downs and some
17 other devices that are necessary. If I had to throw a rough
18 number together I'd guess on that particular machine sixty
19 to seventy thousand dollars, probably.

20 MR. FORD: Okay. What's the horsepower?

21 MR. MCWHORTER: That is (88), as it was tested.
22 The MSHA approval for that particular is at (88).

23 MR. FORD: Okay. Thank you.

1 MR. MCWHORTER: Thank you.

2 MR. TOMB: We've got another question, please,
3 sir.

4 MR. MCWHORTER: Yes sir.

5 MR. KOGUT: You identified it as a problem with
6 the approach that we tentatively took in the proposed rule
7 of a requiring 95 percent filtration, that that would, -- I
8 gathered from what you said, that you thought that that
9 would be technology inhibiting in some sense.

10 MR. MCWHORTER: Yes.

11 MR. KOGUT: And argument for that is that
12 cleaner, -- that it's more difficult to achieve any fixed
13 filtration rate with cleaner engines than with, -- and yet,
14 you apparently endorsed using a requirement of using
15 something like 80 percent. I don't understand why that
16 argument wouldn't apply in both cases?

17 MR. MCWHORTER: All right. Thank you for the
18 question. There are all sorts of diesel equipment used in a
19 coal mine. Our particular machine lends itself to the use
20 of this particular size engine, and this particular
21 configuration of scrubber, filter, what have you.

22 MR. KOGUT: When you say, "your engine, --

23 MR. MCWHORTER: Our particular configuration.

1 MR. KOGUT: You mean on the shuttle car?

2 MR. MCWHORTER: My concern is, -- excuse me?

3 MR. KOGUT: You mean on the shuttle car?

4 MR. MCWHORTER: Yes, on this particular size
5 machine. It's a big machine that has room to put things in
6 it. My concern is that this, as I understand it, is an
7 across the board requirement. And some of these, -- to
8 attain that, with other engine combinations, on other pieces
9 of equipment, could be impractical, if not impossible.

10 MR. KOGUT: When you say, "attain that," you mean
11 attain 95 percent?

12 MR. MCWHORTER: Ninety-five percent. Ninety-five
13 percent. I think what you're doing in establishing some
14 sort of efficiency level is probably necessary, but, -- as
15 part of the overall mix. But I think that, -- as far as I'm
16 concerned, the MWM engine with our diesel package is right
17 at the edge of the state of the art. And under the very
18 best of laboratory conditions, yes, it will get 95 percent,
19 okay? But that is truly laboratory. I have reason to think
20 that many other engines, even when used with the DST system
21 will probably have, -- will have difficulty getting up to
22 that, -- you know, in acetonic things, as you get closer and
23 closer to 100 percent it gets infinitely more difficult.

1 And I'm just trying to say it's impractical. It won't
2 happen. It will be very limiting.

3 MR. KOGUT: When you, -- well, you also mentioned
4 that there are different ways of evaluating the efficiency,
5 of course. And what we had proposed was 95 percent
6 reduction by mass. In your view, does the diminishing
7 return increase difficulty in achieving that 95 percent with
8 so-called cleaner engines, does that apply when the
9 filtration efficiency is measured on a, -- on the basis of
10 number of particles, as well as by mass?

11 MR. MCWHORTER: It wouldn't, I should think, in a
12 reasonable range. But as you get closer and closer to 100
13 percent it could make a difference, maybe, you know, a few
14 percent one way or another. Yeah, uh-huh (positive
15 utterance). I think that's kind of a detail. I just want
16 us not to get hung up on that detail.

17 MR. MCKINNEY: As I understand from the hearing
18 we had in Beckley, the MWM engine is no longer gonna be
19 available because of simply there's no market for the
20 engine. Do you see any engines that are out there that are
21 available now, using some of the cleaner technologies that
22 are gonna be available to you guys to put these packages
23 together with?

1 MR. MCWHORTER: Well, of course, in that same
2 horsepower range there is available the Caterpillar 3304
3 right now. It's not as clean, not as efficient, but we
4 could certainly, -- I'm confident that we could filter it
5 very well, all that sort of thing. I prefer not to use it,
6 there's some space and size configurations. There exists a,
7 -- in fact, it was initially suggested to me by MSHA, to
8 look into this. There exists a group in Brazil that were
9 originally part of MWM, have
10 since, -- MWM was purchased by Deutsche (phonetic), and the
11 Brazilian group spun off and actually had been a major
12 manufacturer of engines for many years. They've sent me a
13 CD rom and all sorts of things; quite an impressive
14 operation. And they make a, -- they make that engine. They
15 make an engine virtually like the MWM 916, with the
16 exception that it is not indirect ignition, or injection,
17 and it does not have water cooled exhaust manifold. But
18 these things are not beyond the range of, -- that sort of
19 thing could be, -- those modifications could be made. So, I
20 have some hope that we will be able to, -- if the market
21 develops, that we will have an alternative source for that
22 engine.

23 MR. TOMB: Okay. Thank you very much.

1 MR. MCWHORTER: Thank you.

2 MR. TOMB: Our next presenter will be Mr. Larry
3 Patts.

4 MR. PATTS: Thank you, Mr. Chairman, ladies and
5 gentlemen of the panel. My name is Larry Patts, P-A-T-T-S,
6 and I'm with Consol, Incorporate, Corporate Safety
7 Department. I just wanted to make a few very brief comments
8 this afternoon, particularly in respect to references made
9 to the Pennsylvania law.

10 As a resident of the great State; thank you, by
11 the way, -- great State of Pennsylvania, and an indirect
12 participant in the PA diesel process, I feel that it's
13 necessary to address several comments which were made in
14 reference to the Pennsylvania law.

15 As the members of the panel heard this afternoon,
16 miners want the use of diesel equipment. What they don't
17 want is to suffer health effects from DPM. Earlier, Mr.
18 Urban submitted the PA law as a pattern for the Federal
19 rule. But the PA law is so restrictive that only two pieces
20 of equipment in Pennsylvania are operating today. This is
21 since February of 1997, when the PA law went into effect.
22 It is questionable as to whether these two sole units of
23 equipment meet the 95 percent filter efficiency, which is

1 mandated by Pennsylvania. Such stringency effectively
2 prohibits the use of diesel equipment, which we believe is
3 very necessary to eliminate trolley wires and trailing
4 cables, and the fatalities and injuries that go with trolley
5 wire and trailing cables.

6 I'll give you an example. At one of our mines in
7 Pennsylvania, we've tried for over a year and a half to get
8 one piece of diesel equipment approved for use under the PA
9 requirements, and we cannot do it as of yet. And we have
10 had the help of several manufacturers and many people
11 involved in this, and can't get that one piece approved as
12 of this date.

13 Mr. Urban also made a reference to economics. And
14 he said that economics is not a problem with the PA law,
15 because the PA mines are still in operation, they're not
16 going out of business. I don't know how this could be
17 determined when there's only two pieces of equipment in
18 operation in the entire State of Pennsylvania? I would
19 remind the panel further, that Cypress, who was co-author of
20 the Pennsylvania law, has already given testimony to the
21 panel that the PA law is too restrictive and that it needs
22 revisions in order to be a workable law, and made
23 recommendations as to the adoption of an integrated approach

1 in Pennsylvania. Meaning the use of clean engines, clean
2 fuel, ventilation and so forth, in order to achieve a
3 certain standard.

4 I would hope that MSHA can learn from the
5 experience in Pennsylvania that has been gained over the
6 past two years and benefit from it. That's all I have.

7 MR. TOMB: Thank you. Any questions?

8 (No Verbal Response)

9 MR. TOMB: Mr. Patts, could you possibly
10 elaborate a little bit on what's involved, -- or what
11 Consol's been involved with in trying to get an approval on
12 an engine in Pennsylvania?

13 MR. PATTS: I sure can. What we've tried to do
14 is, -- our Dielworth (phonetic) Mine, in particular, needs a
15 piece of equipment to clean along the belt line. If not,
16 you've got to have men in there with picks and shovels,
17 shoveling the material that sluff off the rib and is
18 compacted against the rib. You have to pick and shovel
19 that, loosen it and shovel it onto the belt. We have wanted
20 to get a small unit called a Microtracks (phonetic).
21 There's a manufacturer in Pennsylvania, -- or Maryland,
22 rather, by the name of Romack (phonetic), that manufactures
23 this equipment. And it is really a diesel engine operating

1 a hydraulic power pack assembly, which you can put different
2 devices on. One is a digging shovel.

3 MR. TOMB: What's the size of that unit?

4 MR. PATTS: Maximum width is 30 to 36 inches, I
5 believe.

6 MR. TOMB: No, I mean the horsepower of it?

7 MR. PATTS: Oh, horsepower?

8 MR. TOMB: Yeah, uh-huh (positive utterance).

9 MR. PATTS: Nominal 15 horsepower, 15 to 20
10 horsepower unit. And we have had the manufacturer try
11 several different filters on this equipment. Realizing this
12 is a piece of small outby equipment and certainly cannot
13 accept a system which would have a large heat exchanger on
14 it and a dry paper filter. It couldn't accept it both
15 physically nor economically, because of the prices you've
16 heard with such systems. They have tried several different
17 ceramic type filters and different filter arrangements and
18 combinations of catalytic converters, and as of this date,
19 still cannot meet the stringent 95 percent requirement of
20 Pennsylvania law.

21 MR. TOMB: Is the engine manufacturer doing this,
22 -- trying these things?

23 MR. PATTS: The engine manufacturer is doing it.

1 Excuse me. Not the engine manufacturer, the equipment
2 manufacturer.

3 MR. TOMB: The equipment manufacturer.

4 MR. MCKINNEY: What type of reductions have they
5 gotten down to, using some of the ceramics?

6 MR. PATTS: Ceramics, they have got as high as 90
7 percent. However, that's one piece of equipment under
8 isolated conditions, and they did, in fact, -- the engine is
9 derated in order to gain that type of efficiency from a
10 filter. It's being rated in order to get the DPM emitted
11 down so that the efficiency can go up.

12 MR. TOMB: Okay. The other question I wanted to
13 ask, and I forgot when you finished before. But who's doing
14 the testing of the engines to determine the efficiency?

15 MR. PATTS: This testing just happened to be one
16 of the engines that was tested under the West Virginia, --

17 MR. TOMB: Okay.

18 MR. PATTS: -- system, -- under the West Virginia
19 proposal.

20 MR. TOMB: Okay. Thank you.

21 MR. PATTS: Thank you.

22 MR. TOMB: Okay. That pretty much concludes the
23 list of speakers that I have. And what I'd like to do is, -

1 - I have by popular demand, that we need a recess of about
2 fifteen minutes. Then I'd like to come back and if there's
3 anybody that would like to make a presentation that hasn't
4 signed up, give those people the opportunity to speak. And
5 if not, then this meeting will probably be concluded. You
6 might, if you want to come up at the break, give your names
7 while we take this break.

8 (Whereupon, at 2:20 p.m., the hearing was
9 recessed, to reconvene this same day at 2:35 p.m.)

10 MR. TOMB: I only have one additional name from a
11 person that would like to several additional comments from
12 their other presentation, Mr. Main.

13 MR. MAIN: Thank you. My name's Joe Main.
14 Again, from the United Mine Workers. A couple of things I'd
15 like to raise. When we were developing the model for
16 Pennsylvania, and we talked to a lot of miners, and I heard
17 it here today from some of the miners that testified, the
18 same situation, in trying to use water scrubbers with
19 filters sometimes there is a problem there. And the fire
20 problem results I think when they run the, -- they run water
21 dry in the scrubbers and it lets all the heat go through,
22 which is a maintenance problem. That's the reason that when
23 we saw the performance of the dry systems, and with heat

1 exchanger it did two things. It provided a constant cooling
2 system, and secondly, the maintenance, -- I mean, it reduced
3 the maintenance immensely. And I know there are some mines
4 out here, I think Wabash, if anybody's left from the Wabash,
5 is, -- you know, they've got one of the DST systems in, and
6 they're getting another one, which they talk about today.
7 And we're gonna get some more, you know, information on
8 that.

9 With respect to Pennsylvania, you know, whether
10 this is true or not, I don't, but there's some people who
11 just refuse to buy a product off of another coal company
12 that has control. And that's Cypress (phonetic), I guess,
13 controls the DST system, and some people may not like to buy
14 things off of Cypress. That's their problem, I don't know.
15 But they do have systems that has been tested and approved,
16 or at least they're still standing approved to meet the kind
17 of standard we're talking about.

18 With respect to a system that was mentioned today,
19 I was really surprised to hear that there have been this
20 length of time trying to get the DST, -- or the system that
21 was being developed, by Romax, -- Romack, out of, -- if it's
22 the same system that I saw pull into a parking lot and run,
23 -- about, -- this goes back five, six months at WVU. And we

1 have been pounding, -- or had been pounding on Dr. Godden
2 (phonetic) to get the thing in to get it tested. Now, we're
3 gonna go back and check the record on this one, but my
4 information that was coming to me is that it was getting
5 backed up behind other testing and research to be done at
6 WVU, and it wasn't the matter of just getting in there and
7 just getting all these tests. And if that's not true, I
8 want to get a verification on. But the information we had
9 is it wasn't getting in the test lab to be tested. And we
10 had talked to Romack ourself about "When are you guys gonna
11 get it tested?" And they were complaining about the backlog
12 of the other tests that was being done as part of the WVU
13 research program that we had committed to the legislature.
14 And what was happening down there, we tested a lot of
15 different equipment, different filters, different equipment
16 types, and that just happened to be one that was on the
17 list. So, it may be an unfair characterization, and we need
18 to get the facts to this committee that, in fact, it wasn't
19 delayed because of all these tests. It may have been
20 delayed because it just didn't get into the testing room.
21 And I'll be the first willing to clarify the record if the
22 information we've had, which comes straight out of the WVU
23 is not correct.

1 I do think that there is, -- if the industry
2 thought today that they had to meet the standards that we're
3 talking about, I think we'd see a lot more R & P being done
4 to get there, then what we're seeing today. I'm convinced
5 of that. One of the things that I think has happened as we
6 tried to work the Pennsylvania model, and try to develop a
7 rule similar to, -- or in West Virginia rather, and try to
8 work a rule similar to Pennsylvania was, there seemed to
9 have been those in the industry that was resisting having
10 certain kind of research done. And we had, --
11 unfortunately, had to deal with that. And I've been
12 disturbed by that. If you build it, they will come. If you
13 set the standard, they'll meet it, I think is a clear
14 message here.

15 A couple of other items too, is that miners don't
16 believe that some folks who have not had the experience, --
17 the ill fortunate, I would say, to work around diesel
18 equipment really understands what that's like. And we had
19 toyed with the thought of bringing a piece of diesel
20 equipment emitting the kind of pollutants that you're
21 talking about into the hearing room. And we figured we'd
22 probably run into, -- the laws probably wouldn't permit you
23 guys to be exposed to that. You know, they would protect

1 you from the diesel exhaust, you know, unlike coal miners.
2 But, I think that the, -- what the committee ought to do, if
3 they can do that, is to set up some of these schemes that
4 some of these miners are talking about and set up a meeting
5 where you are experiencing some of the same kinds of diesel
6 exposure that they've related. And I think that what we
7 ought to do, is we ought to have this room and let us set it
8 up based on a true mine experience. And as soon as you guys
9 leave, and as soon as anybody on this committee leaves, we
10 set that as, "Okay, that's the worst case scenario we're
11 gonna go as far any kind of exposure to diesel". And I say
12 that really because I think there is a lack of understanding
13 about some of the real circumstances that miners have to
14 face. It was sort of like that miner that I talked about at
15 Show Creek that just became sick and maybe some kind of
16 permanent illness as a result of exposure to diesel exhaust.
17 But he's just using a forklift in a belt entry. Those
18 things are common. Those are light-duty, common equipments
19 that run these days.

20 We'll probably be taking a look at the record,
21 submit some more comments with respect to some of the issues
22 that was raised here today. And I'll be providing those
23 before the record closes. Do you have any questions?

1 MR. HANEY: I have one. Does anybody have, --
2 can we have one, -- any?

3 MR. TOMB: (Positive gesture.)

4 MR. HANEY: You mentioned the testing that West
5 Virginia, you know, has been doing on this. Do you know how
6 many units that, -- different units or different engines
7 that they have tested, other than the two that have been
8 approved and possibly this, -- what did you call this last
9 one?

10 MR. MAIN: Romack?

11 MR. HANEY: Romack, yeah.

12 MR. MAIN: I don't know, but we can get you the
13 list. Because I think as far as the West Virginia research
14 program that was run from the monies that was appropriated
15 in West Virginia, there is a documentation I know of those,
16 that we have, and I can get those two you. The Romack test,
17 I know our folks had talked to WVU about, -- I think about
18 two weeks ago, and from what I understand, I mean, the tests
19 that I thought was the first real run-through that they did
20 with the system that we saw pulling in there some months
21 ago, came very, very close to meeting the PA standard. And,
22 again, I'm gonna go back and figure out what the
23 differences, -- what I heard today, as to what we heard out

1 of West Virginia. Because it appears that they had
2 something that's, you know, fairly close to meeting the
3 current PA law.

4 Oh, one other point too, I want to raise is, in
5 our proposal, what we have offered is an approach that the
6 .12 would be met with a combination of other things,
7 including a, -- as a starting point for the first round, an
8 80 percent filter efficiency, and utilizing to meet the .12,
9 twice the ventilating current plate rating. Which the
10 current PA law really sets that at one, or at the plate
11 level, .12.

12 MR. HANEY: What's the genesis of the .12?

13 MR. MAIN: Well, the genesis is that believe that
14 that's the range that we need to getting into to protect
15 miners. We believe that that's an achievable range based on
16 test results that have been conducted to get us there. We
17 can do better than that, but we believe that technology
18 gives us the ability to get there. And the problem we have
19 is that we realize that, -- two things, one is that when
20 that equipment in it's perfect condition is tested and goes
21 into a mine, its operation's gonna deteriorate to the
22 system. Okay, you're not gonna have that perfect world of
23 which to test. So we're really not even gonna achieve a .12

1 in the actual operations. But with a filter capacity to
2 filter out 95 percent, then we figure we're fairly close to
3 catch as much of that contaminant as we can. We also
4 realize that we can't do real in-line tests at the levels
5 we're talking about. And when you look at the other
6 contaminants in the environment, you know, it does pose
7 other problems. We've also said that you need to do tail
8 pipe testing when you do testing. The same was addressed
9 here by others today, in its undiluted form.

10 And the other point I'll raise on the DST systems,
11 the first DST systems did, in fact, come with a, -- without
12 a catalytic converter. We have found that once the catalyst
13 was added to that system, -- and it's been tested on some
14 different pieces of equipment thus far, but I think the Cat
15 3306 test, which was done at the Brookfield Plant in
16 Pennsylvania, -- which we will provide you folks a copy of a
17 tape on, had substantially reduced the carbon monoxide out
18 of the system. And I don't know what a 3306 engine is?
19 Probably about a four hundred part CO coming off the very
20 exhaust, about a 150 horse engine. And the catalytic
21 converter applied to that, operating about medium speed was,
22 -- we had a tail pipe undiluted gas of about thirteen to
23 nineteen parts per million. So, that second system that was

1 referred to today, we think has remarkably helped clean up,
2 you know, some of the gases that should be part of another
3 standard that should be moving fairly quickly.

4 MR. TOMB: Bob.

5 MR. HANEY: Your point was, that's a laboratory
6 index that includes air flow, filter efficiency and engine
7 emissions?

8 MR. MAIN: It is based on the ISO test, with .12
9 at no more than twice the plate rating, whatever, -- if you
10 had ten thousand, you'd use that, -- hypothetically, if you
11 had a five thousand plate reading you could have up to ten
12 thousand to bring those, -- the actual contaminates with
13 that dilution, whatever that dilution, up to that level then
14 of .12.

15 MR. HANEY: But that is a laboratory test?

16 MR. MAIN: That is a laboratory test. And you've
17 got to test these systems. I mean, you've got to have some
18 understanding about what you're doing. And, again, you
19 can't get that test, we don't think, with today's
20 instrumentation in a coal mine. Which poses
21 a, -- you know, we had sought early on an in-mine test,
22 because we thought that's what we needed to do. But after
23 talking to a lot of miners and looking at this whole animal,

1 I think that would be the worst thing, -- at least, you
2 know, in a coal mine, that we could do. But we do need to
3 develop the instrumentation.

4 MR. TOMB: So, that level, that .12 level, is
5 dependent on proper ventilation over that machine, also?

6 MR. MAIN: Yeah. In part, ventilation.

7 MR. TOMB: Okay.

8 MR. MAIN: Okay.

9 MR. TOMB: Any other questions?

10 (No Verbal Response)

11 MR. TOMB: Okay. Thank you. We have one more
12 request for comment. Mr. Thakur, -- Dr. Thakur, I'm sorry.

13 DR. THAKUR: That's all right. Mr. Chairman,
14 thank you. For the record, my name is Pramod Thakur. P, as
15 in Peter, R-A-M-O-D, and the last name is Thakur, T, as in
16 Tom, H-A-K-U-R. I'm a Research Associate with Consol, Inc.,
17 based in Morgantown, West Virginia. I'm also a duly
18 appointed Commissioner in the State of West Virginia, by the
19 Governor of West Virginia, to write the regulations for the
20 safe use of diesel in underground coal mines.

21 Some of the questions were asked here, and I think
22 Joe was trying his best to answer. I just want to
23 supplement what Joe said. In the WVU West Virginia

1 Commission test program, we had four engines tested.
2 Starting on the high side, we have CAT-3306, 150 horse; MWM-
3 916, nominal 94, derated to 88; Iszu C-240, a 57 horse
4 engine, and the last one was LPU-2, 16.2 nominal horsepower.
5 The only engine that could accommodate, -- of the large size
6 engines, the hundred and fifty horse and eighty-eighty horse
7 MWM, were done with DST. And we had some problems with the
8 manufacturer of the equipment once the (indiscernible)
9 technology correctly uncertified it. The best we got with
10 Cat-3306 was 81.8 percent. It is in the records, by the
11 way, that were given to you at Beckley.

12 MR. TOMB: Was that the presentation by Mr.
13 Carter?

14 DR. THAKUR: No. Yes, yes.

15 MR. TOMB: Yeah, okay.

16 DR. THAKUR: Yeah. And the numbers are there,
17 but just for the sake of this audience here, I thought it
18 was proper for me, since I am here, to share this with you.
19 Somebody asked me a question, "How they got 95 percent, you
20 know, with MWM". And I believe, -- it's on the record
21 again, in our discussions with my Industrial Labor
22 Commissioners, it was conveyed to us that testing was going
23 on. And the one way you measure how flat that trimter

1 (phonetic) is looking at the delta view (phonetic), from the
2 intake of the engine to the discharge at 40 inch which end
3 of the filter. And this has already developed almost 30
4 inches of water. And that is the stage we got, -- or
5 bigger, -- this was done three years back, it's not the part
6 of testing under the Commissioner's charge, it was done for
7 somebody else, you know. In our experiment we ran all kinds
8 of things, DST system, three different kinds of ceramic
9 systems, a variety of oxides and catalyst, and perhaps about
10 twenty-eight different combinations. And it ran from 42
11 percent on the low side, with the DST system, to as high as
12 90 percent with a combination of oxides and catalyst, and a
13 catalyzed filter. But the majority of data is between 70
14 and 80 percent, you know.

15 So, if we're gonna give a chance for people to
16 maximize the use of diesel engines in the coal mines, --
17 again, mind you, I come from a state where we have very
18 gassy mines. In Consol in the last twenty years we have had
19 eighteen fatalities. And God forbid if it happens again,
20 because we have those trolley wires. Just to stop and
21 think, if we had these in our mines, and if I came to Joe or
22 somebody else and ask, "I want to introduce naked wires in
23 the mine, gassy mines, carrying 600 bolt DC, what are my

1 chances of getting approval for that, or agreement?" None.

2 I have devoted my whole in making mines safe by
3 taking the gas out and keeping the dust out. I am
4 convinced, absolutely convinced, that diesel engines are
5 safer. It's not perfect. But I'm like many other speakers
6 here, I think we should leave the door open for further
7 research, for further improvement, because you never know
8 what we can achieve the next day. I didn't know that there
9 a fuel that's available with only five parts per million
10 sulfur. I found out only the other month here, you know.
11 Now, one of the problems we have with catalytic filters, Mr.
12 Chairman, that the way the CFR 30 defines DPM, -- maybe you
13 guys wrote it, anything that comes out on that filter is
14 DPM, (indiscernible). More than half off of the sulfate is
15 not carbon. And it does not, -- I mean, it's not as clean
16 as water, but it's not as bad as so-called DPM, you know.
17 So, what if we can cut down the sulfur in fuel? It will
18 make tremendous improvement. We've just found it. So, I'm
19 just saying, you know, that there are a lot of opportunities
20 to do work, but in the interim, we shouldn't wait to
21 introduce diesel in our mines, because it's for the sake of
22 safety. We can fight, we can litigate, we can bicker
23 around, four, five, six

1 years, -- we can litigate it for five years or so, you know,
2 but what if something like black lung, or maltase (phonetic)
3 or DP(5) in Virginia happens? I have seen too many people
4 die in the mines. Permitted, it is no different than hourly
5 workers and salaried workers, they're all my children,
6 brothers, or whatever, you know. I have great rapport with
7 the Union, in District 31, when I took the gas out from the
8 mines. And I come from that kind of relationship to
9 advocate for the sake of mines, -- safety of the mines and
10 safety of workers. Let's have some kind of good agreement,
11 get the equipment in, make the mines safe, leave the door
12 open for continued development. Some of the problems I have
13 heard, I'd like to address in Birmingham. They are very
14 easy to take care of, like burning of eyes, choking of
15 throat, you know. A lot of progress has been made in the
16 past year and a half. We've spent nearly a half a million
17 dollars, Mr. Chairman, on it, you know. So, there are some
18 people who are spending money on research, you know, and one
19 of them is my company, Consol, Inc., the other is the State
20 of West Virginia. Thank you.

21 MR. TOMB: Okay. Thank you. Any questions?

22 (No Verbal Response)

23 MR. TOMB: Okay. Thank you, Dr. Thakur. Is

REPORTER'S CERTIFICATE1
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DOCKET NO.: N/A
CASE TITLE: Diesel Particulate Matter
HEARING DATE: December 15, 1998
LOCATION: Mt. Vernon, Illinois

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the United States Department of Labor.

Date: December 15, 1998

Deborah Carter

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