

**United Mine Workers of America
Testimony of Dennis O'Dell
before the
U.S. House of Representatives Committee
on Education and Labor
Subcommittee on
Workforce Protections**

**The S-MINER Act (H.R. 2768) and
The Miner Health Enhancement Act of 2007 (H.R. 2769)**

**July 26, 2007
Hearing Room 2175
Rayburn House Office Building**

Madam Chair, Congressman Miller and other members of the Subcommittee, my name is Dennis O'Dell, Administrator of Occupational Health and Safety for the United Mine Workers of America ("UMWA"), the union that for 117 years has been an unwavering advocate for miners' health and safety. I would like to thank you for inviting me to testify before you today. This Committee has an opportunity to change history by better protecting our nations most valuable resource...the Miners.

Congress has played a significant role in advancing miners' health and safety and I would like to express my appreciation to the leadership of this Committee and others for your efforts to further protect the health and safety of all miners. Your continued oversight is critical to ensuring miners will go home safely at the end of their shift.

Shortly after the mining disasters in 2006, many from the mining community testified at various Senate and Congressional hearings about the inadequate protections for miners' health and safety. Congress answered and moved to enact the MINER Act. That law includes several important provisions aimed at helping miners *after* a mine

emergency develops, such as the use of underground safety chambers, wireless communications, tracking devices, increased amounts of breathable air available to miners, and many other important safety protections.

Before and after the enactment of the MINER Act, the Union has always maintained that it was a good first step to protecting miners safety, but we have also consistently expressed that Congress needs to continue to push forward with improvements in mine health and safety. The job is not done.

The legislation introduced in Congress by Representatives George Miller (D-Calif.) and Nick Rahall (D-W.V.) is much more than just another step in the right direction, it answers many of the most pressing safety and health needs of miners.

This legislation is especially important because it will help prevent dangerous situations from happening in the first place. For example, had the requirements in this legislation on seals, on belt flammability and on banning the use of ventilating the working faces of mines with belt air been in place prior to 2006, the tragic deaths at Sago and Aracoma very likely could have been prevented.

The enhanced enforcement authority this new legislation provides the Mine Safety and Health Administration (MSHA) will also be critical to ensuring the safety and health of miners but, as always, only if the agency embraces that new authority and actually uses it. Irresponsible coal operators need to know that MSHA is serious about enforcing all the laws on the books and also enforcing the penalties for noncompliance.

The UMWA is very supportive of the new respirable dust standards included in this legislation. We have worked long and hard to reduce the incidence of black lung in coal miners, yet have been consistently frustrated by government inaction at nearly every turn. This is a preventable disease that has not gone away, and we believe this legislation will mean a giant step forward for all coal miners.

I find it hard to believe that anyone in the mining industry would be against providing a means to improve safety. I have heard comments from some industry folks that there is no need to act, they say that based on this years fatalities, the industry is back on track...I ask you, is twenty-four (24) mining fatalities (9 coal/15 M/NM) so far this year acceptable? Do you think

the family members of these 24 miners who have died believe that the industry is back on track?

You may hear comments like it is too early to act. I ask you to do the math, 1977 to 2006 equals 29 years since any major changes have been made to improve miners health safety and training, and this came about, as the original 1969 Act, by the blood of our miners...should we wait another 29 years and let more miners die, or should we be, as this new legislation suggests, proactive and prevent more deaths and injuries.

The industry may try to argue that if the use of belt air is eliminated, many mines won't be able to operate because they can't control their roof. I spent many hours searching NIOSH's mining page looking for research and studies on the use of belt air. All I could find was reports associated with the hazards of the use of belt air with fires, respirable dust, smoke roll back, and escape hazards. I continued to search NIOSH's section on roof control problems and how to control all types of adverse roof conditions, I didn't see using 2 entry systems and belt air as one of those remedies to control adverse roof conditions.

You may hear that this legislation will harm small mine operators. Its time that Congress and mine enforcement agencies quit buying into such nonsense. Mining laws need to be applied to all mine operators, large and small. Its time to level the playing field and give all miners the same level of protection no matter the size of the mine or number of employees an operator has on their payroll.

You will hear from those who oppose this bill complaints about the new seal requirements... for example, it has been reported in an interview that one mines workforce has been forced to build three sets of seals to three different specifications because there are three (3) different seal standards on the psi pressure strength ratings by which they are to build their seals. They, meaning the industry, claims this is causing chaos and confusion. They don't tell you they have been given the option to continuously monitor the areas behind these seals taking all of the guesswork out of it. We, meaning the UMWA and members from the Industry, have meet jointly with MSHA on how to address these seal construction and monitoring problems. It was my understanding that we were well on our way to resolving their concerns, and if not the UMWA stands committed to working with the Industry and MSHA to help resolve their concerns.

I recently read in a newspaper article this statement from the chair of the Mine Safety Technology and Training Commission that was formed after the Sago and Alma disasters.

QUOTE “Complying with the MINER Act is not the only challenge the industry faces. The mine tragedies last year also spurred many good operators to take voluntary steps to improve mine safety. Many of these steps were recommended by an independent Mine Safety Technology and Training Commission.”

“Once adopted, these voluntary measures undoubtedly will improve the safety of coal miners beyond the level prescribed by the MINER Act, thereby setting the high standard of safety performance desired by good people throughout the industry. Additional legislation now would not only intensify the chaos in the coal fields, but also would stifle incentives to adopt these voluntary steps, which are essential for a truly new paradigm of mine safety based on prevention and risk management”.

The problem with this statement is that the steps and measures are on a voluntary basis by some of the more reputable, or as he put it “good operators”. This also relies on the use of “risk management” that we are learning is not the best tool provided to protecting miners, and should never be allowed as a means to replace regulatory enforcement by our State and Federal agencies. Others, or the bad actors/operators are doing nothing. The only way that protection will be afforded across the board is through enforceable regulations such as those written in the proposed S-Miner Act. Some would say it would be a burden on the industry and the regulators. What about the burden of the miners who have died over the years, and the family members who has been left behind because of inadequate safety provisions and mandatory regulations? I propose to you that the burden that may be placed on coal operators does not even come close to that.

In 1969, coal operators cried to Congress, that if they were placed under what was then introduced as the 1969 Mine Act, the industry would fold. Yet we are still here in 2007, safer that we were prior to 1969. In a day and age when we rely on coal to supply the majority of our Nation’s energy demands so that we are not dependant upon other countries resources, we need to continue to improve our safety record so that we can reach our goal of zero accidents and zero fatalities.

Madam Chair, The UMWA strongly supports this legislation in all aspects, and commends you, Representatives Miller and Representative Rahall for introducing it, as well as all of those who have signed on as co-sponsors. Your continuing commitment to improving mine health and safety is greatly appreciated by coal miners and their families across America.

I thank you and will be happy to try to answer any questions you may have.

United Mine Workers of America
8315 Lee Highway
Fairfax, Virginia 22031-2215

Phone (703) 208-7120
Fax (703) 208-7135
E-Mail DiggerUMWA@ad.com
dodell@umwa.org

Dennis Bryan O'Dell

Experience

2005 to current United Mine Workers of America Fairfax, Virginia

Administrator for Occupational Health and Safety

- Responsible for overseeing all UMWA Health and Safety operations for coal and non-coal members in the United States and Canada.
- Chairman representing the UMWA on the Joint Industry Committee between the United Mine Workers Of America and the National Bituminous Coal Operators Association (UMWA/BCOA Health and Safety Committee)
- Chairman on Joint Industry UMWA/BCOA Training Committee.
- Classroom instructor for the training of miners at the National Mine Academy of Beckley and an instructor for the Joint Industry Training classes as provided by the agreement of the National Bituminous Coal wage agreement
- Active member and participate of the Black Lung Association.
- Appointed to the National Institute for Occupational Safety and Health Mine Safety and Health Research Advisory Committee in 2006.
- In accordance with the decision taken by the Governing Body of the International Labour Organization (ILO) at its 288th Session held in November 2003, a Meeting of experts on Safety and Health in Underground Coal Mines was convened in Geneva Switzerland. Eight individuals were appointed respectively from each group made up from Government Representatives, Workers Representatives, and the Employers Representatives. The Countries seated were from, Australia, China, Germany, India, Poland, Russian Federation, South Africa, and the United States. I was nominated to serve as the workers expert from the United States. Our task was to revise the existing code of practice on safety and health in underground coal mines that had originally been written in 1986. In May of 2006 we successfully re-wrote and adopted a new code to enhance and improve coal mine health and safety Internationally.
- Worked with members of the US Congress and the US Senate to author/write the Mine Improvement and New Emergency Response Act of 2006, also known as the MINER Act, which was signed by President George W. Bush on June 15, 2006. This legislation, the most significant mine safety legislation in 30 years, amends the Mine Safety and Health Act of 1977 and contains a number of provisions to improve safety and health in America's mines.
- March 1, 2006 at the Rayburn House Office Building in Washington, D. C. I gave testimony before the United States House of Representatives Subcommittee on Workforce Protections for improving coal mine safety
- Work with on a continual basis to with the States of West Virginia, Virginia, Pennsylvania, Illinois, Kentucky, Ohio and Alabama on writing and adopting new safety regulations to improve mine safety.

1995 to 2004 United Mine Workers of America Fairmont, West Virginia

International Health and Safety Representative

Responsible for representing coal and non-coal members in the United States and Canada but primarily in West Virginia, Ohio, Pennsylvania, Maryland, and New York on various health and safety issues. I represented approximately 100,000 plus members, active and retired.

I coordinated and/or conducted coal mine accident investigations. My experience came as an assigned lead investigator for the United Mine Workers of America in the following cases since 1995: Consols Quarto #4 multiple fatality investigation, Consols McElroy fatality investigation, AEP's Meigs Mine fatality investigation, Consols Humphrey Mine fatality (2 cases) investigations, Consols Loveridge Mine Fire Accident investigation, Consols Ireland River load out fatality investigation, Consols Blacksville #2 prep plant fatality investigation, Ohio Valley Coal Powhatan #6 fatality investigation, Jim Walter Resources Mine # 5 multiple fatality investigation, Consols McElroy Shaft explosion investigation, Consols 2nd Loveridge mine fire investigation with the Australian Mine Rescue GAG jet engine Technology, Consols 84 mine fire investigation, Pin Oak mine fire investigation, ICG Sago Mine Disaster, Aracoma Mine Disaster

I coordinated and participated in all Health Hazard Evaluation investigations conducted by NIOSH within my regional area.

I served on a joint committee consisting of coal and non-coal with Industry, State, and various Labor organizations in the State of Ohio.

I serve as a Diesel Equipment Commissioner from 1997 to 2005 as appointed by West Virginia Governor Cecil E. Underwood and re-appointed by Governors to follow.

I served for the United Mine Workers of America on the UMWA/BCOA (United Mine Workers of America/Bituminous Coal Operators Association) Joint Industry Training Committee.

1993 to 1995 Consolidation Coal Company Robinson Run Mine#95

UMWA 1501 Local Union Representative

Elected by and served as the Local Union's **Vice President**.

Elected by and served as the Local Union's **Chairman of the Health and Safety Committee**.

Education

1969 to 1973 Fairmont Senior High School
Loop Park Drive, Fairmont, West Virginia 26554

- College Preparatory Classes

1973,75,76,77 Fairmont State College
1201 Locust Avenue Fairmont, West Virginia 2655

- Elementary Education 1 thru 9

1974 West Virginia Wesleyan College
59 College Avenue Buckhannon, West Virginia 26201

- Theology

1993, 94, 95, 2001 thru 2007 National Mine Academy
Beckley, West Virginia

Underground and Surface coal mine training consisting of the following classes:

Total hours of training 600

- 1994 Maritime Institute-Tech & Grdt
5700 N Hammonds Ferry Road Linthium Hgt., Maryland 21090
 - Organizing Training 40 hours
- 1995 Cooksburys College Charleston, West Virginia Seminar
 - Youth Disciple Training 20 hours
- 1977 West Virginia Underground Certification # UG N-1020A
- 1981 West Virginia Assistant Mine Foreman's Certification # 33185
- 1985 West Virginia Mine Foreman's Certification # 33185-85
West Virginia Surface Blasters Certification
West Virginia Shot Fireman's Certification
- 1994 United States Department of Labor, Surface Safety Committee
Training 2.5 CEU hours
- 1994 United States Department of Labor, Underground Safety
Committee Training 2.5 C EU hours
- 1995 United States Department of Labor, Mine Health and Safety
Training Seminar 3.2 CEU hours
- 2002 United States Department of Labor
Instructor – CH, GB, IU, GA, IS
- 2004 United States Department of Labor, Law Regulation and Policy 2.1
CEU hours