

Mine Safety Society Urges Government Prudence in Wake of Recent Disaster

Jasper, Ga., April 27, 2010 -- The International Society of Mine Safety Professionals offers the following comments on the April 5, 2010 disaster at the Upper Big Branch coal mine.

The International Society of Mine Safety Professionals (ISMSP) is comprised of health and safety professionals throughout the international mining community who are dedicated to saving lives and reducing injuries through better leadership, planning and practice.

Several mine safety professionals, certified by the ISMSP, had roles in the rescue and recovery operations that followed the April 5, 2010 mine disaster at the Upper Big Branch mine.

The ISMSP expresses its deepest condolences to the families and friends of the 29 underground coal miners who lost their lives at the Upper Big Branch mine.

The ISMSP agrees with President Obama that the only acceptable number of mining deaths in the United States is zero. However, based on the President's April 14, 2010 remarks, the ISMSP membership is concerned that the federal government may not be moving in the right direction to eliminate future mining deaths.

1. The federal government should not rush to judgment or to action.

At this early point, the specific chain of events and unique conditions that contributed to the disaster are completely unknown. The Obama Administration should avoid the mistake that the Bush Administration made following the Sago mine disaster in 2006. In 2006, Congressional leadership preliminarily assumed that the Sago disaster resulted from the malfeasance of the mine operator. Based on this assumption, Congress hastily enacted the Miner Act, which strengthened the law enforcement authority of the Mine Safety and Health Administration (MSHA). In addition to signing the law, President Bush also permitted his appointees within MSHA to administratively increase penalties for violations. Both the tougher enforcement provisions and the penalty increase became laws before MSHA even published its investigation findings as to the cause of the accident. MSHA's investigation of the Sago disaster subsequently determined that the explosion was likely caused by lightning and not by violations committed by the operator of the Sago mine. It is notable that the pre-report actions taken in haste by the federal government after Sago, which focused on tougher enforcement, did not prevent the Upper Big Branch disaster.

2. The federal government should not put fault-finding ahead of fact-finding.

The future safety of underground coal miners depends upon a complete understanding of the events and conditions that contributed to the explosion at the Upper Big Branch mine. In addition to being contrary to rudimentary principles of due process, a preliminary bias against the mine operator, as reflected in President Obama's comments, has the potential to taint and obscure the investigation's safety-related findings. A preoccupation with law enforcement activities also has the potential to slow the flow of vital safety information both to the federal government from the mine operator and from the federal government to the mining industry. Instead of asking lawyers from the Department of Justice (DOJ) to assist the Mine Safety and Health Administration (MSHA) in the accident investigation, the President should have asked safety professionals from the National Institute of Occupational Safety and Health (NIOSH).

*International Society of Mine Safety Professionals
PO Box 772 - Jasper, GA 30143
P. Anthony Whitworth, CMSP Executive Director
Contact: info@ismsp.com*

3. The federal government should not draw general conclusions about mine safety based on one specific event.

The Upper Big Branch mine is only one of 2,000 coal mines in the United States. It is highly likely that the conditions contributing to the accident were unique to the Upper Big Branch mine. In terms of fatalities, 2009 was the safest year on record in the United States coal mining industry, with 18 coal miner deaths. The 2009 record indicates that there are not systemic problems in the United States underground coal mining industry. In any event, the recent underground coal mine disaster is certainly neither indicative of nor relevant to the safety of the non-coal mines, the surface mines and the other mills and plants that are also regulated by the MSHA. There were 17 mining deaths at non-coal mines and mills in 2009. In terms of both total fatalities and fatality rates, being a miner is comparable to being a garbage collector, a structural steelworker or a utility line repairman. Mining is significantly safer than fishing and logging, which are favorably portrayed on popular television shows.

4. The federal government should not focus on law enforcement to the detriment of safety.

As the Upper Big Branch disaster exemplifies, over thirty-five years of law enforcement by the federal government has not eliminated mine disasters. MSHA inspectors logged nearly 2,250 hours at Upper Big Branch mine since January 1, 2009. In 2009, MSHA issued over 450 citations and over 50 orders to withdrawal miners at the Upper Big Branch mine. A MSHA inspector was at the mine on the day of the accident. However, there is no established or documented correlation between this type of vigorous law enforcement activity by MSHA with either improved compliance or improved safety. For example, immediately following the Sago mine disaster in 2006, MSHA deliberately increased total penalties for violations by approximately 250%, with the expectation that there would be a significant improvement in compliance. However, following the significant penalty increase, the total number of citations issued by MSHA for noncompliance increased by over 25% (2005-2009) and the number of serious violations increased by approximately 200% (2006-2008). This unpredicted result, which contributed to the current case backlog before the Federal Mine Safety and Health Review Commission (FMSHRC), suggests that tougher law enforcement does not necessarily equate to improved compliance. More importantly, it has never been established or documented that improved compliance, even if it could be achieved through tougher law enforcement, results in improved safety. In this respect, the ISMSP agrees with the President, that it is important to review how MSHA operates. Currently, MSHA commits over 70% of its operating budget to law enforcement activities, relegating technical assistance and education/training aspects of MSHA's mission to the back burner. The federal government needs to work with industry stakeholders, miners' representatives and with mine safety professionals to assure that governmental resources, which are specifically committed to improve mine safety, are directed to activities that actually produce the intended results.

The ISMSP is committed to working with the President and with MSHA to prevent future coal and other mining disasters.

International Society of Mine Safety Professionals
PO Box 772 - Jasper, GA 30143
P. Anthony Whitworth, CMSP Executive Director
Please contact: info@ismsp.com