

UTAH MINE SAFETY COMMISSION
MSHA Investigation
Role of State representative
November 20, 2007
Remarks: Sherrie Hayashi

I appreciate this opportunity, Mr. Chairman to address the Mine Safety Commission as the state representative on the MSHA investigation team.

As you know, I was requested by the Governor to participate on the MSHA investigation team through Tani Downing, Deputy Chief of Staff. Although I was not a part of those actual discussions between MSHA and the Governor's office, I believe there were three primary reasons for my assignment:

First, as the agency head of the Labor Commission, I am a cabinet level position; Secondly, and related to the first, by statute, the Labor Commission is responsible for the protection of life, health and safety of all persons with respect to mining operations, with the caveat that we may not inspect or enforce mining rules or regulations so long as Utah's mining operations are governed by federal regulations; and thirdly, the need to separate the investigation to maintain confidentiality.

Most of us have struggled with our roles with regard to the events at Crandall Canyon mine, so as I accepted this assignment, I felt I needed to define my role as well.

As the state representative, I believe my role on the MSHA investigation team is to provide some level of assurance to the Governor and the state of Utah as to the thoroughness, adequacy and accuracy of the MSHA investigation. Further, particularly from the perspective of the Labor Commission, in anticipation that there may be some increased involvement in the role of the state and the Labor Commission in mine safety, I wanted to have a better understanding of the manner in which MSHA conducts an investigation, its rule and regulations, the scope of an accident investigation, particularly of the catastrophic nature of the events at Crandall, and most importantly in looking towards the future by developing a better partnership with MSHA.

Thus far in my involvement in this investigation, I have found that the members of the MSHA investigation team are the utmost professionals, people dedicated to the health and safety of coal miners, and extremely competent in the various aspects and specialties within their profession. The team has treated me courteously and professionally and most importantly as a full partner and representative of the state. Although I do not have the technical knowledge with regard to mine safety, each member of the inspection team has always been very willing to explain and educate me on everything from mining terms to eventually, what will be the root cause of accident at Crandall Canyon mine and the second accident that occurred during the rescue efforts.

In the many reviews of this process, and eventually likely of the investigation, I am sure there will be areas of improvement, but reserving my final opinion for the outcome of the investigation, as the state representative, I have confidence in the MSHA investigation team.

As an agency head, I appreciate the struggle this Commission is undertaking in making some very broad-based policy recommendations as to what role the state should have with respect to mine safety. As I know this Commission needs to identify some, at least interim recommendations as the legislative session is drawing near, I had a few thoughts I would like to share.

We have heard from the Governor and John Baza that as events unfolded that, as a state, we managed to pull together our respective roles, but that it was really done on an ad hoc basis. In the hopes that an accident such as this will never happen again, but knowing we need to be prepared, I concur with Governor Huntsman that roles need to be better defined. Along that line of thought, I would suggest that this Commission consider a recommendation of designating a person/position to be the state representative in the event of another mine accident. Since ceding responsibility over mine safety to MSHA, the state does not have individuals who have the mine safety experience within its ranks; however, I believe there is a certain fit within the Labor Commission. As I mentioned, as a cabinet level position, there is that level of communication with the Governor's office and the ability to work with other cabinet members.

In addition, to the statutory reference to the Labor Commission being responsible for safety within the mines, within the five primary Division that make up the Labor Commission, is UOSH or Utah Occupational Safety and Health which conducts regular safety and health inspection of worksites, investigates workplace accidents and fatalities, determine the cause of those accidents, and would issue any applicable citations if there were any violations of applicable state or federal laws. We do this type of inspection and investigation in every workplace except for within mines.

In addition, the Labor Commission also conducts investigations of employment discrimination, hears claims for unpaid wages, hears disputes regarding workers compensation cases. We also inspect all boilers, elevators, and pressure vessels to assure their safe operation, including the inspection of these within mines, and of course our mine certification responsibilities. The business of the Labor Commission is workplace safety, health and fairness.

The Labor Commission was also asked as an assignment by this Commission to provide information and recommendations on training and certification. As I know you have a full agenda, we have prepared a written document which I hope will assist you in your deliberations.