

2011 National Conference of State Legislatures - Labor and Economic Development Committee  
States Dig for Ways to Make Mines Safer

Good afternoon. Thank you for inviting me to speak today. I am Robert Butero, the Director of Region IV of the United Mine Workers of America in Denver. During the first 14 years with the UMWA, I was the UMWA Health and Safety Representative for the Western United States. I began my mining career as an underground miner in southern Colorado for Colorado Fuel and Iron's Allen Mine. I began my UMWA career working with miners in underground and surface mines. Most of my work has dealt with coal miners and coal mining, but I have worked in metal and non-metal surface and underground mines as well.

It is my opinion that we are suffering an increase in mine fatalities due, in part, to "direct" and "indirect" causes. And I believe each of you can play key role in aiding our miners -- by making sure they are able to work a shift in the mine and return home safely to his or her loved ones.

### **Direct Causes**

Most of the major disasters that the mining industry has experienced recently have been caused by a failure to follow "proven safety procedures". Just like other industries, miners and mine management are under tremendous pressure to get product out of the mine at the lowest cost possible.

Utilizing proven safety procedures primarily allows miners to complete their shifts and return home safely. It is my opinion that most mine operators have programs in place to provide for a safe and productive place to work. They provide the necessary training so that their miners to understand the dangers of mining and equipment, so that the miners produce their product in a safe manner.

There are a small group of operators that do not follow proven safety procedures, and they therefore place their miners in constant danger. Last spring in the State of West Virginia 29 miners were killed in a methane/coal dust explosion at the A.T. Massey's Upper Big Branch Mine. The Mine Safety and Health Administration along with the State of West Virginia, A.T. Massey and the United Mine Workers of America conducted an investigation into the cause of that disaster. Some of the testimony given by survivors and family members of the deceased miners from the Upper Big Branch Mine indicated that miners actually wrote letters to their loved ones expressing their fears of never seeing their families again. No miner or anyone from any other industry should go to work daily with the thought of never returning home.

Even in mines that provide a good safety program, we see, from time to time, supervisors and miners make bad decisions for short term gains. Safety hazards can arise and they will be ignored or allowed to exist in order to meet daily production goals with the thought of correcting them at a later time. No injuries or illnesses will occur during the majority of these incidents but eventually luck runs out and either the miner or related group of miners will be gravely affected by their failure to correct the safety hazard. This leads to what I refer to as the "indirect cause" of accidents.

### **Indirect Causes**

The University of Stanford just completed a study that found that miners that are covered by a collective bargaining agreement are more likely to have less accidents and/or fatalities than miners who are not covered by a collective bargaining agreement. Miners who are covered by a collective bargaining agreement generally speak out about unsafe work conditions due to the protections of the

collective bargaining agreement.

The Mine Safety and Health Act Section 105 addresses discrimination against any miner for different issues with one being the fact that a miner can not be suspended or fired for reporting unsafe work conditions to either mine management or to a government agency. Some may point to the fact that the number of citations issued under Section 105(C) of the Mine Act have not shown a significant increase, but that statistic is misleading. The reason that statistic is misleading is because most operators will not discriminate against a miner for exercising his/her safety rights but later the operator will suspend and/or fire that miner as soon as the next opportunity arises. Which has a chilling effect on all miners as to any miner wanting to speak out on a safety issue.

Most States have "Employment At-Will" laws. Employment At-Will laws allow for a worker to be fired "without cause", so long as it does not violate any State or Federal law. Most employers' personnel manuals from employment at-will states contain policies that spell this out to employees. These policies produce an environment in which workers know that if they want to keep their jobs, it is best to keep their mouths shut and only do what they are told. This severely restricts a miner or group of miners from pointing out unsafe conditions. This "indirect cause" has led to some of the recent tragic mining disasters and is evidenced in the testimony of family members whose loved ones have died in mine disasters.

Over the last couple years organized labor has campaigned to make changes in the current labor laws governing the right to organize. Opposition to these efforts painted the picture that labor unions were attempting to deny workers the right to a secret ballot election, but they were in fact attempting to level the playing field. The same Company Personnel Manuals that contain information on the Employment at Will laws also spell out that these same companies are union-free and are not interested in changing their stance on unions. Most miners when they are interviewed for their position as a miner are talked to at length about the company being union-free. So the indoctrination of unionization begins from the first day of employment and continues forward until the employee no longer works at the mine. Over the last few months the National Labor Relations Board has proposed new regulations in restricting the amount of time it takes to schedule an election once a labor union has petitioned for an election. Again opposition has stated it needs this time to educate its workers about union membership. This again is not the case for workers in the mining industry since their indoctrination occurs from pre-employment.

### **States Dig for Ways to Make Mines Safer**

Again thank you for allowing me to speak to you today. As your Labor and Economic Committee seeks to make our nation's mines safer consider addressing both the direct and indirect causes of mine accidents and fatalities.

We must hold mine certified personnel, (for whom most states certify in the mining industry), accountable for their actions. Another section of the Federal Mine Act (Section 110) addresses the issue of penalties and fines against any person who is required to obtain a certification under mine regulations to perform certain types of work in both underground and surface mines. States should also look for ways to insure that certified person who ignore the law are not allowed to hold those positions in their states. Also corporations that do not hold the miner's life as the highest priority should not be allowed to seek mining permits in any state, not just at the mine where their lawlessness has occurred. These are actions for you to consider in dealing with the direct causes of mine deaths.

But in order to deal with all causes you must look at the indirect causes. You should immediately either

repeal the Employment At-Will laws in your states, or at the very least for those that work in your state's mining industry should be exempt from those laws. Also the constant attack on miners and their right to join or form a union must also be addressed in each state. Miners who fear speaking out on any issue will certainly not speak out on unsafe working conditions. They should be encouraged to join together to protect each other because the action of a few can effect the group as a whole. Furthermore, Mine Operators who violate Labor Laws should not be granted mining permits in any state.

This concludes my comments today and I will be willing to answers your questions.