

TRANSCRIPT OF PROCEEDINGS

THURSDAY, DECEMBER 17, 1998

D E P A R T M E N T
O F L A B O R

MINE, SAFETY, AND HEALTH ADMINISTRATION

DIESEL PARTICULATE MATTER EXPOSURE OF
UNDERGROUND COAL MINERS

Pages: 1 through 204

Place: Birmingham, Alabama

HERITAGE REPORTING CORPORATION

Official Reporters

1220 L Street, NW, Suite 600

Washington, D.C.

(202) 628-4888

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14 BY: MR. GEORGE SASEEN

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16 MINE, HEALTH AND SAFETY ACADEMY

17 Industrial Hygienist

18 Beckley, West Virginia

19 BY: MR. WILLIAM McKINNEY

20

21

22

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

2

3

4 MR. THOMAS TOMB: Good morning. I'd
5 like to start the public hearing for this
6 proposal for diesel particulate in underground
7 coal miners.

8 My name is Thomas Tomb. I am the
9 Chief, Dust Division Health and Safety
10 Technology Center, located in Pittsburgh
11 Pennsylvania. I will be the moderator of this
12 public hearing on MSHA's proposed rule
13 addressing diesel particulate exposure of
14 underground coal miners.

15 Personally, and on behalf of the
16 Assistant Secretary J. Davitt McAteer, I would
17 like to take this opportunity to express our
18 appreciation for each of you for being here
19 today and for your input. With me on the panel
20 today are: Jon Kogut, from the Office of
21 Program Evaluation and Information Resources;
22 George Saseen, from the Approval and

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23 Certification Center; Robert Haney, from the

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1 Environmental Assessment of Contaminant Control
2 Branch of the Dust Division; Sandra Wesdock,
3 from the Office of the Solicitor; William
4 McKinney, from the Mine, Safety and Health
5 Academy; Ronald Ford and Pamela King, from the
6 Office of Standards, Regulations and
7 Variances.

8 This hearing is being held in
9 accordance with Section 10 of the Federal, Mine
10 Safety and Health Act of 1977. As is the
11 practice of this Agency, formal rules of
12 evidence will not apply.

13 We are making a verbatim transcript
14 of this hearing. It will be made an official
15 part of the rulemaking record. The hearing
16 transcript along with the all the comments that
17 MSHA has received today and the proposed rule
18 will be available for your review. If you want
19 to get a copy of the hearing transcript for
20 your own use, however, you must make your own
21 arrangements with the reporter.

22 We value your comments. MSHA will

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23 accept written comments and other data from

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1 anyone, including those of you who do not
2 present an oral statement. You may submit
3 written comments to Pamela King or send them to
4 Carol Jones, Acting Director of Standards,
5 Regulations, and Variances, at the address that
6 has been listed in the hearing notice. We will
7 include them in the rulemaking record. If you
8 feel you need to modify your comments or wish
9 to submit additional comments following this
10 hearing, the record will stay open until
11 February 16, 1999. You are encouraged to
12 submit to MSHA a copy of your comments on
13 computer disk.

14 Your comments are essential in
15 helping MSHA develop the most appropriate rule
16 that fosters safety and health in our Nation's
17 mines. We appreciate your views on this
18 rulemaking and assure you that your comments
19 whether written or oral will be considered by
20 MSHA in finalizing this rule.

21 In another rulemaking on October 29,
22 1998, we published a proposal to address diesel

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23 particulate matter exposure of underground

1 metal and nonmetal miners. The comment period
2 for that proposed rule will close on February
3 26, 1999.

4 Hearings for the metal and nonmetal
5 proposal will be announced in a future of
6 Federal Register Notice. You may obtain copies
7 of that proposal by downloading it from MSHA's
8 website at WWW.MSHA.GOV or by calling the
9 Office of Standards, Regulations, and Variances
10 at 703-235-1910.

11 However, the scope of this hearing
12 today is limited to the April 9th, 1998,
13 proposed rule addressing diesel particulate
14 matter exposure of underground coal miners.
15 This hearing is the fourth of four public
16 hearings to be held on this proposed rule. The
17 first was held in Salt Lake City on November
18 17th, 1998; the second was held at Beckley,
19 West Virginia, at the Mine, Safety, and Health
20 Academy on November 19th, 1998; and the third
21 was held in Mt. Vernon, Illinois, on December
22 15th, 1998.

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1 were published in the Federal Register on
2 October 19th, and can also be obtained from
3 MSHA's website on the internet, and there are a
4 view copies here, if you would like to get them
5 today.

6 On April 9th, 1998, MSHA Published a
7 proposed rule that would reduce risks to
8 underground coal miners of serious hazards that
9 associated with exposure to high concentrations
10 of diesel particulate matter. Diesel
11 particulate matter is a very small particle in
12 diesel exhaust. Underground miners are exposed
13 to far higher concentrations of this fine
14 particulate than any other group of workers.

15 The best available evidence indicates
16 that such high exposures put these miners at
17 excess risk of a variety of health effects,
18 including lung cancer.

19 The comment period for the proposed
20 rule is scheduled to close on August 7th, 1998.
21 However, due to requests from the mining
22 community, the agency extended the comment

23 period for an additional 60 days until

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1 October 9th, 1998.

2 The proposed rule would require the
3 following: Proposed paragraph 72.500 would
4 require the installation and maintenance of
5 high-efficiency particulate filters on the most
6 polluting types of diesel equipment in
7 underground coal mines. It would require the
8 beginning 18 months after the date that the
9 rule promulgated, any piece of permissible
10 diesel-powered equipment operated in an
11 underground coal mine must be equipped with a
12 system capable of removing, on average, at
13 least 95 percent of the mass of DPM emitted
14 from the engine.

15 Additionally, 30 months after the
16 rule promulgated, any nonpermissible piece of
17 heavy duty -- and I stress heavy duty -- piece
18 of diesel-powered equipment operated in
19 underground coal mine be equipped with a system
20 of removing, on average, 95 percent of the mass
21 of the diesel particulate matter emitted from
22 the engine.

1 installed to reduce the emission of DPM would
2 be required to be maintained in accordance with
3 manufacture specifications.

4 The proposal also sets forth the
5 Agency's Requirements for determining whether a
6 system is capable of removing, on average, at
7 least 95 percent of diesel particulate matter
8 by mass. It states that a filtration system
9 must be tested by comparing the results of the
10 emission tests of an engine with and without
11 the filtration system in place.

12 Proposed paragraph 72.510 is a
13 training requirement, which list the pertinent
14 areas in which construction must occur. The
15 training is to provide annually in all mines
16 using diesel-powered equipment, and is to be
17 provided without charge to the miner. It also
18 provides provisions on record retention,
19 access, and transfer.

20 And finally, proposed amendment to
21 paragraph 75.371 would amend existing paragraph
22 75.371, which is the mine ventilation plain

23 contents, to add one new requirement for an

1 underground mine's ventilation control plan.
2 The additional information is limited, but is
3 critical to the control of diesel particulate
4 matter.

5 The proposal would require the
6 ventilation plan to contain a list of
7 diesel-powered units used by the mine operator
8 together with information about each unit's
9 emissions control or filtration system.
10 Details relative to the efficiency of the
11 system and the method used to establish the
12 efficiency of the system for removing DPM must
13 be included. Any amendments to a mine's
14 ventilation plan must, of course, also follow
15 the Requirements of 30 CFR 75.370, which is the
16 mine's ventilation plan; Submission and
17 Approval Requirements.

18 MSHA received comments from various
19 sectors of the mining community in the
20 preliminarily reviewed the comments it has
21 received thus far. MSHA would particularly
22 like additional input from the mining community

23 regarding specific alternative approaches

1 discussed in the economic feasibility section
2 of the preamble. As you might recall, the
3 options discussed include: establishing a
4 concentration limit for DPM in the sector,
5 requiring filters on some light-duty equipment,
6 and looking at the filter and the engine as a
7 package that has to meet a particular emission
8 standard instead of requiring that all engines
9 be equipped with high-efficiency filter.

10 The Agency is also interested in
11 obtaining as many examples as possible of the
12 specific situation in individual mines. This
13 could include the composition of the diesel
14 fleet, what controls cannot be utilized to
15 special conditions, and any studies of
16 alternative controls you might have used for
17 the computer spreadsheet.

18 We also seek information about the
19 availability and cost of various control
20 technologies that are being developed; for
21 example, high-efficiency ceramic filters; also
22 experience with the use of available control

23 and information that will help us evaluate

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1 alternative approaches for underground coal
2 mines. We would also like to hear about any
3 unusual situations that might warrant the
4 application of special provisions.

5 The Agency welcomes comments upon any
6 topics on which we should provide initial
7 guidance, as well as any alternative practices
8 which MSHA should accept for compliance before
9 various provisions of the rule go into effect.

10 Additionally, the National
11 Environmental Policy Act of 1969 requires each
12 Federal Agency to consider the environmental
13 effects of proposed actions and to prepare an
14 environmental impact statement on major actions
15 significantly affecting the quality of the
16 human environment.

17 On July 14th, 1998, MSHA published a
18 notice in the Federal Register that announced
19 its preliminary determination for the proposed
20 rule would have no significant environmental
21 impact. The comment period was scheduled to
22 close on August 10th, 1998, however, MSHA

23 extended that comment period until October 9th,

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1 1998. The record will remain open, as stated
2 in the Public Hearing Notice, until February
3 16th, 1999, to allow for post-hearing comments
4 in date of submission.

5 MSHA reviews this rulemaking activity
6 as extremely important and knows that your
7 participation is also a reflection of the
8 importance you associate with this rulemaking.
9 To insure that an adequate record is made
10 during this proceeding when you present your
11 oral statement, or otherwise address the panel,
12 I ask that you come to the podium and clearly
13 state your name, spell your name, and state the
14 name and the organization that you represent.

15 It is my intent that during this
16 hearing, anyone who wishes to speak will be
17 given an opportunity. Anyone who has not
18 previously asked for time to speak needs to
19 tell us of their intention to do so by signing
20 the Request to Speak Sheet and let us know how
21 much time you will need to make your
22 presentation. I have the sheet up here, so at

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23 the break if anybody that has not signed the

1 sheet wants to come up and sign it, they can do
2 that when we take for break or at lunch time.

3 We are scheduled to go until 5:00
4 p.m. today. Of course, if the presentation
5 don't go that long, then we'll abandon the
6 hearing earlier.

7 Our attempt to recognize all speakers
8 in the order in which they request to speak.
9 As the moderator, if necessary, I reserve the
10 right to modify the order in presentation in
11 the interest of fairness. I doubt that it will
12 be necessary, but I may also exercise
13 discretion to exclude irrelevant or unduly
14 repetitious material. In an order to clarify
15 certain points, the panel may ask questions of
16 the speakers.

17 To begin for the first speaker, we
18 will have Mr. Glenn Pierson:

19 MR. GLENN PIERSON: I'm Glenn
20 Pierson, G-l-e-n-n P-i-e-r-s-o-n. I am a
21 member of the United Mine Workers and I work at
22 Local 1928.

Back in the mid-1990s, we had these

1 similar hearings in Beckley, West Virginia. At
2 that time a gentlemen by the name of Norbert
3 Paas had a dry-filtration system that -- in the
4 neighborhood of 98 percent particulate that
5 would filter out. About four years have past
6 now, and we haven't seen any improvements in
7 our filtration systems. We have got more
8 equipment in the mines. We've got people
9 exposed to combinations of things that could
10 cause breathing problems: coal dust, silica,
11 and the diesel particulate. Your own tests and
12 studies have shown that 900 out of 1,000 people
13 that are exposed to these diesel particulates
14 could possibly come down with lung cancer.

15 The Pennsylvania State Laws have
16 chosen to protect their miners and go a little
17 bit further than what MSHA has done in the
18 past. And I think it's MSHA's moral obligation
19 to give the miners across the country the equal
20 protection that those Pennsylvania miners have.

21 Thank you.

22 MR. THOMAS TOMB: Okay. Wait a

23 minute, please. I have some questions here.

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1 MR. GLENN PIERSON: Yes, sir.

2 MR. THOMAS TOMB: Any questions of
3 him?

4 MR. GEORGE SASEEN: Sir, did you say
5 -- does your mine have any Norbert Paas'
6 dry-filtration systems?

7 MR. GLENN PIERSON: No, sir.

8 MR. GEORGE SASEEN: Okay, are you
9 using any phasetology (phonetic) equipment?

10 MR. GLENN PIERSON: Yes, sir.

11 MR. GEORGE SASEEN: What type? Are
12 they with wet scrubbers?

13 MR. GLENN PIERSON: Yes, sir.

14 MR. GEORGE SASEEN: Could you provide
15 us with an inventory of that equipment at your
16 mine?

17 MR. GLENN PIERSON: Particular
18 numbers?

19 MR. GEORGE SASEEN: Numbers and types
20 of equipment.

21 MR. GLENN PIERSON: Numbers, no, sir.
22 I could provide you with types. We've got a

23 diesel Ramcar, it's a Jeffrey, and we've got --

1 let's see, I think we've got some Eimcos, and
2 -- what's the name of that other? Wagner. I'm
3 sorry. As far as face equipment.

4 MR. GEORGE SASEEN: As far as face
5 equipment you --

6 MR. GLENN PIERSON: Yes, sir. We've
7 got diesel locomotives that run on a track
8 which is in our main intake.

9 MR. GEORGE SASEEN: If you could
10 provide that list, also if you could present us
11 with information on the usage and how much
12 they're used per days each piece of equipment,
13 an hour, two hours, if that's possible.

14 MR. GLENN PIERSON: The majority of
15 it is run the majority of the shift.

16 MR. GEORGE SASEEN: Well, if you
17 could specify that, please.

18 MR. GLENN PIERSON: I can't at this
19 time.

20 MR. GEORGE SASEEN: Well, I mean in
21 written form, if you would like to submit that
22 before the February 16 deadline.

MR. GLENN PIERSON: Yes, sir.

1 MR. GEORGE SASEEN: Thank you.

2 MR. GLENN PIERSON: Thank you.

3 MR. THOMAS TOMB: I have one
4 question also --

5 MR. GLENN PIERSON: Yes, sir.

6 MR. THOMAS TOMB: -- just to
7 clarify. My understanding from what you said
8 to Mr. Saseen, you only have water scrubbers as
9 control system.

10 MR. GLENN PIERSON: On the face
11 equipment.

12 MR. THOMAS TOMB: Is there any other
13 control technology used for diesel particulate
14 in your mine that you know of?

15 MR. GLENN PIERSON: We have a dry-
16 filter system, but not on the face equipment.
17 It's just a regular filter.

18 MR. THOMAS TOMB: Paper filter?

19 MR. GLENN PIERSON: Yes, sir.

20 MR. THOMAS TOMB: How many pieces of
21 equipment are equipped with that?

22 MR. GLENN PIERSON: It's mostly the

23 diesel locomotives and probably half a dozen or

1 so.

2 MR. THOMAS TOMB: Thank you.

3 MR. GLENN PIERSON: Thank you.

4 MR. THOMAS TOMB: Our next presenter
5 will be Mr. Woods:

6 MR. JAMES WOODS: Good morning.

7 James Woods, J-a-m-e-s W-o-o-d-s, UMWA local
8 1928.

9 I, like Glenn, have been to several
10 of diesel hearings that MSHA has held across
11 the country in the 90s. We lobbied for diesel
12 regs; MSHA did give us a few regs that helped
13 miners over the country.

14 As far as the proposed rule, MSHA's
15 preamble to the proposed rule indicates that a
16 total of 3,000 pieces of equipment, diesel
17 equipment, operates in underground coal mines
18 today. Out of those 3,000 pieces of diesel
19 equipment, approximately 500 pieces are in-by
20 equipment, approximately 500 pieces are labeled
21 as heavy duty.

22 This leaves a total of 2,000 pieces

23 of equipment -- or two-thirds of the amount --

1 excuse me -- not -- excuse me -- that's not
2 considered in the rule. This means that people
3 like myself will be exposed to diesel
4 particulate matter of approximately 2,000
5 pieces of equipment, if this equipment is
6 permitted to operate without filters.

7 This is like the Government's attempt
8 to limit harmful and dangerous emissions in the
9 air. The only difference is we can't buy
10 emission credits. The only thing you're
11 allowing them to do is change the light duty,
12 heavy duty, or inby on the machines. If this
13 rule is adopted as proposed by MSHA, then that
14 means we will have approximately 2,000 pieces
15 of equipment in the country today that's
16 labeled light duty, that wouldn't need any kind
17 of filtration on them at all.

18 One of our fears, and there are many,
19 is that exposure to diesel exhaust will lead to
20 the next black-lung epidemic. We've been
21 working in Alabama for the last 25 years with
22 diesel-powered equipment. We've been asking

23 MSHA for the last 20 years, that I know of, to

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1 help us out, to give our people some way that
2 we can live with underground diesel-powered
3 equipment.

4 Twenty-five years later, here we are
5 proposing a proposed rule that's only going to
6 address, as I mentioned before, 1,000 pieces of
7 equipment out of approximately 3,000 pieces,
8 and that's to date, and they're still adding
9 up.

10 I work for Jim Walter Number 3
11 Mines. At Jim Walter Number 3 Mine, there are
12 approximately 30 pieces of what MSHA would call
13 light-duty equipment in underground coal mine.
14 Excuse me. Some of your own test an analysis
15 of underground coal mines that have diesel-
16 powered equipment have -- the analysis prove
17 that when exposed to just half of the dose
18 that's actually found that the mine air, some
19 studies go as far as showing 900 out of 1,000
20 coal mines in a health risk.

21 In 1996, UMW, AMAX (phonetic) Coal
22 Company, the Coal Association, and the Bureau

23 of Deep Mine Safety, along with several other

1 people, reached an agreement on regulation for
2 the use of diesel-powered equipment in
3 Pennsylvania.

4 The question to the Panel I have: If
5 Pennsylvania can adopt regulations that the
6 majority of the people agree protects coal
7 miners, reduces their risk of diesel emission,
8 why can't Alabama and the rest of the country?

9 MR. THOMAS TOMB: Thank you very
10 much. State your name for the reporter.

11 MR. RONALD FORD: My name is Ronald
12 Ford. Mr. Woods --

13 MR. JAMES WOODS: Uh-huh (yes).

14 MR. RONALD FORD: -- at the Jim
15 Walter Number 3 Mine, you said you had 30
16 pieces of light-duty equipment. Do you know
17 about the total number of diesel pieces that
18 you have?

19 MR. JAMES WOODS: The total number of
20 -- as MSHA propose as light duty.

21 MR. RONALD FORD: No. Total --

22 MR. JAMES WOODS: The total number of

23 diesel-powered equipment that's on the ground?

1 MR. RONALD FORD: Yes.

2 MR. JAMES WOODS: No, sir, I don't
3 have a total number of that, but there are
4 many. We operate solely on the diesel-powered
5 equipment for coal hauling, track hauling.

6 MR. RONALD FORD: Can you give us
7 some examples of how this light-duty equipment,
8 these 30 pieces, present problems to the miners
9 in the mine? What type of equipment this is
10 and what are the problems that you're facing
11 with it?

12 MR. JAMES WOODS: Sure.
13 Approximately, at Number 3 -- and I can only
14 speak for Number 3 -- approximately 25 pieces
15 are manbuggies, manhaulers. We have Low Tracs,
16 what we call Low Tracs -- in the industry, I
17 don't know what they call them, but they're Low
18 Tracs, something like forklifts, where you
19 unload material with.

20 Also Number 3 Mine is on the 1105 and
21 the 326 Petition that allows better intake
22 air. Our primary intake is traffic, where all

23 the diesel equipment runs; that intake runs

1 directly into the face. You've got some
2 sections with as many as four diesel ramcars on
3 them, running at all times, as my brother
4 stated. Along with the intake air -- and these
5 diesel emissions from the manbuses, any piece
6 of equipment that MSHA has labeled outby or
7 light duty, those emissions come directly to
8 the face area. If that answers your question.

9 MR. RONALD FORD: So, some of the
10 light-duty equipment is not transporting rock
11 or coal, but it may be transporting equipment
12 that is very heavy, therefore, is under heavy
13 load.

14 MR. JAMES WOODS: Well, I think those
15 would be motors that I would guess would follow
16 under the heavy-duty definition that MSHA has
17 prescribed as.

18 MR. RONALD FORD: Thank you.

19 MR. BOB HANEY: Bob Haney. Mr.
20 Woods, the previous speaker said that you have
21 several pieces of equipment with dry-filtration
22 systems at your mine.

MR. JAMES WOODS: Uh-huh (yes).

1 MR. BOB HANEY: Do you know how long
2 the filters last on those systems before they
3 have to be changed?

4 MR. JAMES WOODS: No, I don't. No, I
5 don't. I would hate to try to speculate on
6 that, because I'm not in that particular frame
7 of checking that, but -- I couldn't say.

8 MR. THOMAS TOMB: Thomas Tomb. I
9 have a couple of questions. On your
10 manbuggies, you said you have 25 of them that
11 operate.

12 MR. JAMES WOODS: Approximately, 25
13 manbuses.

14 MR. THOMAS TOMB: How are they used?
15 Are they running most of the time? During a
16 shift? Do they run two hours out of a shift?
17 Or do you have any kind of an estimation on
18 that?

19 MR. JAMES WOODS: It's -- it's pretty
20 much hard to say. They run -- they're
21 manhaulers, they haul the crews into the
22 section, but also they are used to bring

23 supplies in from the kickbacks along the

1 section track, pushing cars in to the end of
2 the track to be unloaded. I think they are
3 rated at something like a five ton locomotive.
4 So, in the definition in the proposed rule, you
5 could use those, as prescribed, as light duty
6 to push heavy loads, and they wouldn't have to
7 come under the proposed rule.

8 MR. THOMAS TOMB: Do they get used a
9 lot during the shift?

10 MR. JAMES WOODS: Sure.

11 MR. THOMAS TOMB: All of them are
12 running.

13 MR. JAMES WOODS: Now, all of them
14 do. Not run at the same time. You probably
15 wouldn't have that, but you have a significant
16 amount of equipment on the track all during the
17 8-hour period. Sure.

18 MR. THOMAS TOMB: Do you have any
19 knowledge of the maintenance program of the
20 equipment on your mines? Is there a regular
21 maintenance program performed on it?

22 MR. JAMES WOODS: We do have a

23 maintenance program, but I couldn't specify.

1 MR. THOMAS TOMB: Okay. Thank you
2 very much.

3 Our next presenter will be Mr.
4 Sawyer:

5 MR. WILLIAM SAWYER: William Sawyer,
6 S-a-w-y-e-r, Hacksaw.

7 MR. THOMAS TOMB: Pardon?

8 MR. WILLIAM SAWYER: Hacksaw is what
9 they call me. Everybody knows me by it.

10 MR. THOMAS TOMB: Okay.

11 MR. WILLIAM SAWYER: I have a few
12 questions, and I'm familiar with the two guys
13 that's already spoke here, because I worked in
14 their mines some. But I have questions and
15 then maybe a few comments. But one is the
16 concern for the diesel emissions particulate
17 that are in neutral entries where you have
18 outby equipment both heavy and light duty
19 running and there's little to no ventilation.

20 And, as our brothers from Jim Walter,
21 they have intake air or theirs. All right. On
22 our sections we go into, there's intake air on

23 ours, so, you know, we know in November '99,

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1 that the vent regs on diesel will pick up
2 ventilation for any equipment coming in,
3 staying in prolonged period of time on the
4 sections, that's intake air.

5 But my question is: Have y'all
6 considered about neutral entries where your
7 belt and tractors are in adjacent entries and
8 they're not separated and they're running
9 pretty much continuously, heavy, which is our
10 motors pulling longhaul material, or, you know,
11 heavy stuff; add a little parts and jeeps --
12 and electricians use two jeeps, and such as
13 that.

14 Okay. Back in the '90s, when they
15 were talking about those hearings, there was a
16 Dr. Cantrell that was doing test on diesel.
17 From what I understood then, and I still don't
18 get too many good answers about it -- coal dust
19 particles and diesel particulate have a
20 tendency to combine. All right. When you're
21 sampling, do y'all have an adequate means to
22 separate those two, because both of them is

23 really a concern to miners, because both of

1 them cause lung disease?

2 And in that same scenario, when
3 you're checking for that 95 percent free, and
4 that's what it's boiling down to, can you
5 separate them to see which is which?

6 Also -- oh, I left my glasses back
7 there. I can't read my own writing. We have
8 the wetbed-scrubber system on our ramcars. We
9 got into this -- we've had diesels probably
10 longer than my brothers here, except maybe
11 Number 3 -- and we have a paper filter plus --
12 it's on the outby side of our wetbed scrubber.
13 They help. You know, it's obvious from the
14 man's reaction they help. But how, as me,
15 Hacksaw, a safety committeeman, know how much
16 particulate is being put out.

17 You know, what tests are being used,
18 which we do our PPM test regular. We even went
19 into the PPM test on outby light and heavy,
20 we're doing it now, so we won't get caught in
21 November '99, not doing it. And we know what
22 they're putting out, and we're observing the

23 engine, and when they start reaching a

1 threshold that's concerned to us, the company
2 changes them out. They do do maintenance on
3 them continually on the wetbed scrubber.

4 The filters, I'll tell you about the
5 filters, and our safety rep here knows a whole
6 lot more about them. But when we started off
7 with them, they guaranteed three shifts;
8 wouldn't do it. Then they said two shifts; a
9 little bit better, but not good enough. We've
10 even tried to recycle them; take them out,
11 clean them, bring them back in; no good. So,
12 now we change them each shift, each eight-hour
13 shift. And it does help.

14 But still how much particulate is
15 being out. We know what the manufactures told
16 us the filters would do theirselves, and we know
17 the scrubbers, the wetbed scrubbers -- I
18 believe back then Jeff was at the meeting. I
19 believe when the wetbed scrubber comes off the
20 production line and it has totally been covered
21 in maintenance, it is around a 90, 95 percent
22 particulate-free system, but it has to be

23 continually maintained in that condition or it

1 starts dropping.

2 Okay. Back to the same question:
3 How do I know how much particulate is coming
4 out? What tests are available? What machines
5 or testing equipment? And I know Dr. Cantrell
6 was running tests on ramcar operators at that
7 particular time, and he was running it strictly
8 on them, and my question was: How about the
9 men that are on the face and the particulate
10 off these ramcars is covering the pin crew, the
11 scoop crew, and everybody, but they were
12 testing just operators, which run away from the
13 emissions part time. Now, under the new regs,
14 we take check point. At the loading point that
15 diesel is setting under a load, unloading, and
16 also on our return where everything on the
17 section is coming off. That's a little bit
18 better than it was back in the '90s.

19 This is just questions on the
20 particulate, and if y'all could enlighten me a
21 little bit, I'd thank you.

22 MR. THOMAS TOMB: Okay. Thank you.

23 Any questions?

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1 I'll just go ahead and address your
2 questions. I'm not sure I remember all of your
3 questions. I think the main pertinent question
4 was --

5 MR. WILLIAM SAWYER: The separation.

6 MR. THOMAS TOMB: The mix of coal
7 dust and diesel particulate I think was your
8 main question.

9 This rule that requires filters is
10 going to reduce the amount of diesel
11 particulate coming out. The test would be
12 performed in a laboratory setting. It wouldn't
13 be performed underground. So, the efficiency
14 that you get is going to remove the diesel
15 particulate.

16 Now, for every residual diesel
17 particulate, the five percent that would still
18 be coming out, would still be mixed with the
19 coal dust in the environment, and it would be
20 sampled. As an example, if you did a
21 respirable dust sample for coal mine dust
22 exposure, you would get both -- that diesel

23 part would be included in your respirable dust

1 sample.

2 MR. WILLIAM SAWYER: That's what we
3 get now.

4 MR. THOMAS TOMB: Okay, yes, that's
5 right. So, I don't know if that really answers
6 your question. But you would be separating it
7 underground from what I thought you're question
8 was.

9 MR. WILLIAM SAWYER: It would
10 strictly be in the laboratory to separate and
11 determine which coal --

12 MR. THOMAS TOMB: No separation.
13 It's just going to be how much is removed from
14 the exhaust. Okay? That's what it would be.

15 MR. WILLIAM SAWYER: The second one
16 is about the equipment; whether heavy outby or
17 light duty outby in neutral entries where there
18 is very little ventilation. You know, they're
19 running pretty consistent in there, and you do
20 have a buildup, even if you get the equipment
21 at it's best at 95 percent. They stay in these
22 areas for long periods of time, and is there

23 going to be some regulation that will improve

1 the ventilation. I know there's going to be to
2 improve the engines.

3 MR. THOMAS TOMB: That's addressed
4 in the diesel safety rule. And I believe those
5 regulations go into affect next year, requiring
6 specify ventilation.

7 MR. WILLIAM SAWYER: For the proposed
8 engine --

9 MR. THOMAS TOMB: For the engine,
10 yes, and it would cover the neutrals also.

11 Thank you very much for your comments
12 and questions.

13 Our next presenter will be Mr. Caply:
14 Did I pronounce that correctly?

15 MR. DENNY CAPLEY: Yes. My first is
16 Denny, D-e-n-n-y; second name is Capley,
17 C-a-p-l-e-y. I belong to local 2245, United
18 Mine Workers of America, Woodville, Alabama.

19 I brought my glasses with me and now
20 I got to find them. I work at Jim Walter
21 Number 4 Mine underground.

22 My job is driving a diesel engine

23 ramcar. On July -- in July of 1993, I was

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1 exposed to hot diesel exhaust fumes while
2 riding a mantrip from the bottom to section 3
3 in the west part of the mine. As a result of
4 my exposure to the hot diesel exhaust fumes, I
5 developed pneumonia and had a fever to reach
6 102.

7 Today I have a hacking cough on many
8 occasions, and approximately 18 months ago,
9 X-ray showed that I have a spot on one of my
10 lungs. And I got wrote here: Recent studies
11 have found that 900 out of 1,000 miners could
12 get lung cancer from diesel particulate
13 exposure.

14 I think it is essential that a
15 filtration system capable of removing, on the
16 average, of at least 95 percent of diesel
17 particulate matter by mass be phased in as soon
18 as possible on all underground diesel-powered
19 machines.

20 Thank you.

21 MR. THOMAS TOMB: I'm trying to make
22 some notes here. Any questions.

MR. GEORGE SASEEN: Sir, does your

1 ramcar have any filtration systems on it now?

2 MR. DENNY CAPLEY: Yes. But don't
3 forget, I was on a mantrip when this exposure
4 to the hot diesel exhaust fumes came -- I was
5 driving from the bottom going to our section.
6 I just want to make sure you understood.

7 MR. GEORGE SASEEN: Right. Your
8 ramcar has a wet scrubber system on it?

9 MR. DENNY CAPLEY: Yes.

10 MR. GEORGE SASEEN: And it has the
11 filter added on downstream; correct, the paper
12 filter?

13 MR. DENNY CAPLEY: Don't have.

14 MR. GEORGE SASEEN: I'm sorry.

15 MR. DENNY CAPLEY: Don't have a
16 filter.

17 MR. GEORGE SASEEN: It does not have a
18 filter, a paper filter?

19 MR. DENNY CAPLEY: No.

20 MR. GEORGE SASEEN: Okay. Thank you.

21 MR. THOMAS TOMB: Mr. Caply, was
22 this exposure, was this like a one-time

23 exposure, or was this like over a week or a

1 month or?

2 MR. DENNY CAPLEY: This particular
3 time when I got -- overcome with these fumes,
4 it was later determined, I think, that there
5 was a leak in the exhaust system. So, it was a
6 one time --

7 MR. THOMAS TOMB: Exposure that this
8 happened.

9 MR. DENNY CAPLEY: -- exposure and I
10 got sick on it.

11 MR. THOMAS TOMB: Do you know if, in
12 your mine, maintenance is performed on your
13 diesel equipment? Do they have a good
14 maintenance program?

15 MR. DENNY CAPLEY: It's better now
16 than it has been, but there's still some room
17 for improvement.

18 MR. THOMAS TOMB: Any other
19 questions? Thank you very much. Excuse me for
20 taking some time to make some notes.

21 Our next presenter will be Mr.
22 Brackner:

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23

MR. JIM BRACKNER: I'm Jim Brackner,

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1 J-i-m B-r-a-c-k-n-e-r. I'm a safety
2 committeemen of the United Mine Workers of
3 America, local 2405; employee at Jim Walter
4 Number 4 Mine.

5 We received our first piece of diesel
6 equipment in the mid-80s. Since then, we've --
7 well, currently we have 63 pieces of
8 underground diesel equipment. We have numerous
9 complaints from miners about the equipments
10 smoking excessively. You've already heard
11 we've had a member that's been overexposed to
12 diesel exhaust.

13 According to MSHA's proposed rule,
14 over half of our equipment is going to be
15 covered. The proposed rule, to me, is good,
16 but it falls short of providing our miners with
17 protection they deserve.

18 We'd like to see the DPM filters on
19 all of the diesel equipment: heavy duty and
20 light duty. We don't, we don't want to have
21 anybody else have the same problems that Mr.
22 Capley has had, on these strong regulations.

I expect the coal operators to

1 testify that they can control DPM through the
2 use of ventilation. I can't see that
3 happening. We get citation upon citation now
4 where we don't have adequate ventilation
5 underground in our mine.

6 I'm afraid if we go to something like
7 that, that, you know, we will end up with
8 something similar to the respirable dust
9 sampler. That on days that the equipment is
10 to be sampled, those days will be different
11 from normal operating days, which is the way it
12 is with a lot of respirable dust sample.

13 The best protection for miners, to
14 us, would be for each and every piece of diesel
15 equipment underground to be filtered.

16 That's all.

17 MR. THOMAS TOMB: Any questions?

18 MR. BOB HANEY: Yes. How much
19 airflow do you typically have on a section?

20 MR. JIM BRACKNER: It varies;
21 anywhere from 30,000 to 60-70,000.

22 MR. BOB HANEY: Okay. Thank you.

1 MR. JON KOGUT: I think you said that
2 you, as the safety committeeman, received
3 complaints of excessive smoke. Can you expand
4 on that a little bit and give me some idea how
5 frequently you receive complaints? And you're
6 talking about visible black smoke.

7 MR. JIM BRACKNER: Visible smoke,
8 yes.

9 MR. JOHN KOGUT: How often do you get
10 complaints like that?

11 MR. JIM BRACKNER: Very often. It's
12 nothing unusual to receive a complaint every
13 day of some piece of equipment smoking:
14 burning their eyes, causing cough, having sore
15 throat.

16 MR. JON KOGUT: Do people normally
17 complain when there is any visible smoke or
18 just, in their opinion, when the smoke is
19 excessive -- you used the word "excessive"?

20 MR. JIM BRACKNER: Our people aren't
21 bad to complain about just any little bit of
22 smoke. You know, normally when they complain,

23 it's excessive.

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1 MR. JON KOGUT: So, what, on the
2 average, how many complaints would you say you
3 get a week?

4 MR. JIM BRACKNER: Five or six.

5 MR. THOMAS TOMB: Do you have a
6 maintenance program for the equipment in your
7 mine?

8 MR. JIM BRACKNER: Yes, we do.

9 MR. THOMAS TOMB: Even after the
10 equipment is maintained, do you know whether
11 there is still black smoke?

12 MR. JIM BRACKNER: Yes, sir. As a
13 matter of fact, a lot of times after it's sent
14 outside for reworking, sent back underground,
15 that's when we have our biggest problem.

16 MR. THOMAS TOMB: Okay. How many
17 pieces of equipment in your mine currently are
18 filtered?

19 MR. JIM BRACKNER: Only on our
20 ramcars, which is about -- there's probably
21 roughly 28, 29 of those, I guess. No, there's
22 less than -- there's 18.

MR. THOMAS TOMB: Do you have another

1 question, Bob?

2 MR. BOB HANEY: Yes. That 30 to
3 -70,000 CFM is that on each side of the
4 section, so you have between 60 and -140,000 on
5 section.

6 MR. JIM BRACKNER: Yes.

7 MR. BOB HANEY: How many ramcars do
8 you particularly run?

9 MR. JIM BRACKNER: Anywhere from two
10 to four.

11 MR. BOB HANEY: And they're the --

12 MR. JIM BRACKNER: Jeffrey.

13 MR. BOB HANEY: Jeffrey 4110?

14 MR. JIM BRACKNER: Yes, sir.

15 MR. BOB HANEY: The last speaker said
16 you didn't have filters on your ramcars.

17 MR. JIM BRACKNER: We have a wet
18 scrubber.

19 MR. BOB HANEY: Well, the wet
20 scrubber is all that you have.

21 MR. THOMAS TOMB: That's all you have
22 is just the wet scrubber?

MR. JIM BRACKNER: That's right.

1 MR. BOB HANEY: You don't have paper
2 filters on them?

3 MR. JIM BRACKNER: As far as I know
4 we don't.

5 MR. BOB HANEY: Okay. Thank you.

6 MR. JIM BRACKNER: While we're at it,
7 I'd like to ask a question also. Diesel
8 locomotives, would that be considered heavy
9 duty or light-duty equipment?

10 MR. BOB HANEY: Is it pushing loads
11 of coal?

12 MR. JIM BRACKNER: No. Long-haul
13 equipment.

14 MR. THOMAS TOMB: Heavy duty.

15 MR. JIM BRACKNER: Thank you.

16 MR. THOMAS TOMB: One more question,
17 sir. Mr. Saseen.

18 MR. GEORGE SASEEN: Is your fleet of
19 diesel relatively older fleet or newer fleet or
20 mixed?

21 MR. JIM BRACKNER: It's mixed.

22 MR. GEORGE SASEEN: Mixed?

MR. JIM BRACKNER: Yes.

1 MR. GEORGE SASEEN: The complaints
2 you get on the black smoke, smoke coming from
3 them, is that generally more in the ramcars or
4 your light-duty type of equipment?

5 MR. JIM BRACKNER: Mostly from the
6 manbuses and the Eimco diesel locomotive.

7 MR. GEORGE SASEEN: Do you know what
8 kind of mantrips those are? Automotive pick-up
9 trucks or are they like AL or ALE?

10 MR. JIM BRACKNER: They're rated the
11 5 ton locomotive, similar, I guess, to what Mr.
12 Woods has in his mine.

13 MR. GEORGE SASEEN: So, most of the
14 complaints are coming from the light duty?

15 MR. JIM BRACKNER: Well, from the
16 Eimco diesel locomotive, which you said was
17 considered heavy duty also. That's where
18 probably we receive most of the complaints.

19 MR. GEORGE SASEEN: Okay. Thank you.

20 MR. WILLIAM MCKINNEY: One more
21 question, if you don't mind. William McKinney.
22 I assume from the comment about the

23 locomotives that you do have a longwall at your

1 mine?

2 MR. JIM BRACKNER: Yes, sir. Two of
3 them.

4 MR. WILLIAM McKINNEY: Do you see
5 more of a problem with the diesel equipment
6 when you're setting up along a longwall section
7 or when you're recovering a longwall section or
8 are those instances of a concern to y'all?

9 MR. JIM BRACKNER: Well, we see
10 problems on a regular basis. Our problems are
11 not confined to one time. The first time when
12 a longwall is being set up or removed, we have
13 problems with our equipment smoking regularly.

14 MR. WILLIAM McKINNEY: Thank you.

15 MR. THOMAS TOMB: If we have to call
16 you back more than seven times, we give you a
17 seat at the table.

18 Thank you very much for your
19 comments.

20 Our next presenter will be Mr. --
21 C-a-g --

22 MR. JEFFREY DUNCAN: Cagle.

MR. THOMAS TOMB: Cagle. I'm sorry.

1 I'll let you spell it.

2 MR. DWIGHT CAGLE. Good morning.

3 My name Dwight Cagle, UMWA, local 2397, Jim
4 Walter Number 7. D-w-i-g-h-t C-a-g-l-e. I'm
5 also a safety member.

6 At our mine, we have 12 to 15
7 ramcars, Deutz MWM 916 engines in them. Also 8
8 to 10 of these cars are running around the
9 clock, six to seven days a week. We also have,
10 as far as the Low Trac that he was talking
11 about, we carry the Isuzu C242 cylinder 56
12 horsepower, they're outback, and they're
13 equipped with catalytic converters, which they
14 may take out some particulates, but they put
15 out the black smoke, just like the ramcars do.

16 Now, our ramcars are equipped with
17 the wet scrubber. Also in our mines we have
18 seven Brookville locomotives 413 Deutz engine,
19 2 Eimcos with Deutz engines; also we have one
20 diesel piner (phonetic), two diesel air
21 compressor.

22 And getting back to the longwall

23 move, generally longwall move, we have four to

1 six locomotives running around the clock all in
2 shifts in the same split of air. And this is
3 around the clock until the wall is set up. We
4 have a total of about 35 diesel pieces at our
5 mine.

6 Our evidence shows that the approval
7 plate on this equipment for the particulate is
8 4,000 SI -- and versus 1,500 for -- that's for
9 one motor. This is not even --

10 MR. THOMAS TOMB: Could you repeat,
11 please?

12 MR. DWIGHT CAGLE: Sir?

13 MR. THOMAS TOMB: Could you just
14 repeat what you said?

15 MR. DWIGHT CAGLE: The approval plate
16 on these engines is 4,000, is proved at 4,000
17 CFM --

18 MR. THOMAS TOMB: Okay.

19 MR. DWIGHT CAGLE: Okay. And to get
20 the particulate --

21 MR. THOMAS TOMB: The particulate
22 index is --

1 that's a little over twice as much CFM on that.
2 And during these longwall move -- this don't
3 even count the manbuses and jeeps in the same
4 split of air. I have worked on these longwall
5 moves and a lot of our people has complained of
6 sever headaches, and you can taste the diesel
7 and the soot.

8 Also in our mines when we get close
9 to running out of space for a wall, they turn
10 our section into two-barrel entries, which is
11 850 foot long to 1,000 foot long. And you're
12 talking about putting two and three ramcars
13 running 8-, 10-, 12-, 16-hour shifts. They put
14 out a lot of emissions.

15 One car we had a lot of trouble with
16 in this two-barrel entry that, you know, we
17 have a pretty good maintenance program on ours;
18 we change our filters weekly, air filters and
19 all, we do CO test, but I look through our
20 record books where we register this, and either
21 our record keeping is not good or we are
22 falling back on our checking, may be it's

23 because we only have one CO checker, and most

1 of the time the battery down is on it and you
2 have to have it charged. It's a carbon
3 monoxide checker Model 262 with a pump SP202.

4 Manbuses, we are assigned manbuses
5 most of the time they are -- it's a poor
6 maintenance program on it. They want the
7 section electrician to take care of them. They
8 send them outside, but you may get one number
9 bus today and tomorrow you may get another
10 number and you don't know what's been done on
11 it. Poor record keeping on those.

12 So at our mine, like I said, we --
13 one ramcar, like I was talking about, CO
14 checking on it was 1,200 then it got on up to
15 2,000, and 2,500 you couldn't see a ramcar at
16 2,500 because of smoke emissions.

17 That's all I got.

18 MR. THOMAS TOMB: Okay. Thank you
19 very much. Any questions.

20 MR. RONALD FORD: Mr. Cagle, you've
21 mentioned problems with the mobile equipment,
22 diesel-powered equipment. Have you had any

23 problems with the two pieces of diesel air

1 compressors and, if so, can you tell us what
2 they were?

3 MR. DWIGHT CAGLE: Well, in our
4 mines, we have to keep someone with these air
5 compressors, you know. I think they're bought
6 out in Utah. We've got water hooked up to them
7 for sprinkling, filters, and maintenance on
8 them. Usually, they are just sent all over the
9 mines, and, you know, they send them out, air
10 filters never get changed; there's no kind of
11 scrubber on those, as far emissions.

12 MR. RONALD FORD: Has anybody
13 complained of any problems with the air
14 compressors --

15 MR. DWIGHT CAGLE: Yes. We --

16 MR. RONALD FORD: -- or being around
17 them?

18 MR. DWIGHT CAGLE: We have severe
19 headaches.

20 MR. RONALD FORD: Thank you.

21 MR. THOMAS TOMB: Any other questions?

22 MR. BOB HANEY: Mr. Cagle, how much

23 airflow do you have on your sections at Jim

1 Walter Number 7?

2 MR. DWIGHT CAGLE: Minimum 20,000.

3 Usually, we get 25, -30,000.

4 MR. BOB HANEY: And that's in each
5 side of the section?

6 MR. DWIGHT CAGLE: Yes.

7 MR. BOB HANEY: Thank you.

8 MS. SANDRA WESDOCK: Mr. Cagle, I
9 have one question, and then I'll let you sit
10 down.

11 MR. DWIGHT CAGLE: Okay.

12 MS. SANDRA WESDOCK: You mentioned in
13 your testimony that the record keeping was
14 poor.

15 MR. DWIGHT CAGLE: Yes, ma'am.

16 MS. SANDRA WESDOCK: Can you expand a
17 little bit on that? Is that there is missing
18 information, or that the information that is
19 recorded is inadequate? I mean, could you
20 explain a little bit?

21 MR. JAMES WOODS: Okay. We have what
22 you call a permissibility book that we register

23 our CO checking, what it reads on the gauge and

1 our CO test. I reviewed the books this week,
2 and a lot of them hasn't been put in. I don't
3 know if they tested them and didn't put them in
4 or what, but it's a violation of the law. And
5 I talked to our coordinators and they're
6 supposed to get on top of it.

7 And another problem with the CO
8 checker, it's readily available, but usually
9 it's dead. If that answers your questions.

10 MS. SANDRA WESDOCK: Thank you.

11 MR. THOMAS TOMB: Who's responsible
12 for making those checks in your mine?

13 MR. DWIGHT CAGLE: Usually, section
14 electricians.

15 MR. THOMAS TOMB: Section
16 electricians. Thank you.

17 Our next presenter will be Mr.
18 Parker.

19 MR. RICKY PARKER: Good morning.
20 My name is Ricky Parker, R-i-c-k-y P-a-r-k-e-r.
21 I'm a member of the UMWA, local 2368, Chairman
22 of the Safety Committee, and I've worked at Jim

23 Walter Number 5 Mine, for approximately 19

1 years.

2 In the 19 years that I have worked at
3 that mine, I have been a miner for
4 approximately 15 years of my job there. After
5 working on a mine, I have since then become a
6 ramcar operator. At our mine we have
7 approximately 32 pieces of equipment,
8 diesel-powered equipment with our diesel
9 ramcars on the face being Jeffrey 4110, which
10 have only a wetbed scrubber system, as far as
11 exhaust. We have approximately five
12 diesel-powered locomotives outby; five being
13 Eimco, one being Brookville. And we have 11
14 diesel-powered mantrips at that mine.

15 On many occasions, we have been cited
16 on our mantrips, diesel-powered mantrips, which
17 are Hagar mantrips, exhaust pipes not being
18 hooked up, broken into, what have you. We have
19 been cited at our mine: scrub systems on our
20 ramcars being jumped out, especially the Wagner
21 type. We have some Wagner type -- excuse me,
22 I didn't mention that -- Wagner diesel

23 ramcars.

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1 In 1993, we had an explosion in our
2 mine, which was not in any extent as to what
3 caused the explosion. But after the
4 investigation, it was found that two of the
5 scrubber systems on two of the ramcars on that
6 section was jumped out. Being a mine operator
7 for that many years, I was at that mine when we
8 totally ran electric cars, and I saw the diesel
9 ramcars come into place at that mine, I have
10 experienced effects of the sickness, burning of
11 the eyes when the diesel equipment come to the
12 face.

13 Being a ramcar operator now myself, I
14 have seen -- at our mine we have some of the
15 newest equipment, with the Jeffrey 4110
16 ramcars, which is a far superior piece of
17 equipment than the Wagner that we used 20 years
18 at that mine. But still in conjunction with
19 that equipment as new as it is, there are still
20 many problems with this ramcar due to us
21 totally relying on ventilation to dilute the
22 diesel particulate matter, to render in

23 harmless.

1 When we take our test on the feeder,
2 we backup on the feeder and start to dump your
3 load, and you have your foreman in front with a
4 410 spotter taking a CO check and a NO2 check.
5 The only time that you have to report any
6 problems is if you find a problem with that,
7 you know, with your examination of the
8 spotter.

9 We feel that is not a reliable way to
10 exam this equipment, because we are underneath
11 the mine getting a load, the exhaust is
12 therefore being turned around, coming straight
13 on you, in your face.

14 We have a mine operator at that mine
15 that can take off two weeks for vacation -- and
16 he's had respiratory problems, after equipment,
17 diesel equipment was brought into that line --
18 he can take off for two weeks vacation, come
19 back -- after that two weeks, he felt pretty
20 good, his respiratory problems would straighten
21 up, but at the very instant that he gets back
22 in the face of diesel-powered equipment, it

23 starts up again, his respiratory problems will

1 flare up again, coughing, sore throat, numerous
2 problems in his chest.

3 With the reports that the test that's
4 been conducting by NIOSH, where it states that
5 900 out of 1,000 miners can come down with lung
6 cancer for exposure to diesel particulate
7 matter, and due to the years of experience that
8 I've had being inby on face areas, running
9 diesel ramcar, it really frightens me as a
10 person that has been there in the face most of
11 the time, being exposed to the DPM.

12 It wasn't a short period of time ago
13 that we had an inspector riding a manbus in on
14 our mainline track that cited the company due
15 to the smoke that was coming off of that diesel
16 mantrip. We have had numerous citations issued
17 in our mine because of maintenance, lack of
18 maintenance. We've had people come into the
19 safety office, our brothers and sisters,
20 complain of sore throats, burning of the eyes,
21 breathing problems, where our diesel
22 locomotives outby have been hauling supplies,

23 60 ton continuous miners, where it takes two --

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1 at least two if not three diesel locomotives to
2 push it in our mine on our track system. We
3 have a plan where we can take extended cuts
4 from our mine, which is 25 foot. When you have
5 two, three, pieces of diesel-powered equipment
6 running, I mean, wide-open as you can, trying
7 to produce as much coal as you can.

8 It is mind-boggling also in
9 conjunction with your outby piece of equipment
10 smoking come in on people on face; it's
11 mind-boggling how we cannot -- we haven't in
12 the past -- or not come up with a better
13 filtering system to render these diesel
14 particulates harmless on our people.

15 I commend the state of Pennsylvania
16 for going that extra step to protect their
17 miners underground and to take that extra step
18 to render this diesel particulate matter
19 harmless.

20 We -- all the testing that is being
21 done in California in the EPA and the type of
22 dry systems available, I would like to take

23 this moment to ask you to, please, initiate

1 this proposed rule as quick as possible, to
2 render this diesel particulate harmless for our
3 brothers and sisters underground.

4 That's all.

5 MR. THOMAS TOMB: Thank you, Mr.
6 Parker. Any questions?

7 MR. GEORGE SASEEN: You mentioned
8 your mantrip model type.

9 MR. RICKY PARKER: It's a Hagar
10 mantrip.

11 MR. GEORGE SASEEN: Do you know what
12 type engine is in there?

13 MR. RICKY PARKER: Deutz.

14 MR. GEORGE SASEEN: Deutz. Okay.

15 MR. BOB HANEY: You said you run two
16 to three ramcars on the section.

17 MR. RICKY PARKER: Yes, sir,
18 continuously.

19 MR. BOB HANEY: And do you know what
20 the air flow on your section is there at
21 Number --

22 MR. RICKY PARKER: In our face areas,

23 sir, we are required to have at least 215 for

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1 an extended cut.

2 MR. THOMAS TOMB: How much?

3 MR. RICKY PARKER: 21,500 CFP.

4 MR. BOB HANEY: That's at the end of
5 your --

6 MR. RICKY PARKER: End of the line.

7 MR. BOB HANEY: Okay.

8 MR. RICKY PARKER: We sometimes have
9 in excess of that 26 to -30,000 with -- in the
10 last open crosscut 50 to -60,000. But in
11 conjunction with that, when you have three
12 diesel-powered locomotives outside in the outby
13 entries that's pushing an enormous amount of
14 weight, and you have manbuses that are
15 continuously running on our track with pumps
16 going to the different location, you have
17 foremen running in and out of the mine, you
18 have parts being transported continuously,
19 because that's a major -- that's our only
20 source of transportation is our track system.
21 And with all of that coming from outby onto the
22 sections, well, in conjunction with the

23 diesel-powered ramcars -- I've been on the

1 sections; I've seen the smoke come out of the
2 sections. People -- you know, I've been sick
3 before off of it. It's really scary and
4 something has got to be done or we're going to
5 have a bad case of a black-lung type epidemic
6 in this state.

7 MR. WILLIAM McKINNEY: I'm going to
8 assume you are using an exhaust, an wine
9 (phonetic) curtain on your face; right?

10 MR. RICKY PARKER: Yes, sir

11 MR. JON KOGUT: How many different
12 manbuses did you say you use at the mine?

13 MR. RICKY PARKER: We have
14 approximately 11 manbuses.

15 MR. JON KOGUT: And is there a
16 regular maintenance program?

17 MR. RICKY PARKER: Yes, sir. There
18 is a regular maintenance program. We have a
19 type of PM system that is to be gone over every
20 day on these manbuses and the locomotives.

21 MR. JON KOGUT: When you see the
22 visible smoke from the manbuses, do you see

23 that on all of the manbuses or just certain

1 ones.

2 MR. RICKY PARKER: Well, it's like
3 anything, when you have a new manbus come in,
4 you know, very little any hours on that engine,
5 it's going to be clear-burning motor. When you
6 crank the manbus up, you can see the puff of
7 black smoke come out the side of the mantrip.
8 When you crank up the diesel locomotives -- our
9 locomotives have no filter-type system on the
10 exhaust, the exhaust is straight from the motor
11 itself, and you'll see the black smoke come out
12 of it. And we may get so many hours on them
13 they won't start burning oil.

14 So, you know, we look forward to the
15 new diesel regs that are pertained to the outby
16 equipment.

17 MR. JON KOGUT: But specifically on
18 the manbuses -- I'm not sure I quite understood
19 your answer. Did you say that you see the
20 black smoke from all of them when you crank
21 them up?

22 MR. RICKY PARKER: Yes, sir.

23 Virtually, all of them when you crank them up.

1 Manbuses that have more hours on them than
2 others, you can see the smoke. That's one
3 reason we've been cited by MSHA is the smoke
4 that's being visible.

5 MR. JON KOGUT: Did you say that
6 you've only been cited once for that?

7 MR. RICKY PARKER: No, sir. Numerous
8 times.

9 MR. JON KOGUT: Specifically for --

10 MR. RICKY PARKER: One, for instance,
11 when the inspector was riding the bus himself.

12 MR. JON KOGUT: I see. Did you see
13 any relationship between the maintenance that
14 is performed on these manbuses and the smoke
15 that's visible?

16 MR. RICKY PARKER: Yes, sir. On
17 numerous occasions, as being a safety
18 committeeman at that mine and chairman of the
19 safety committee, I have brought forth to the
20 attention of the company that there is a
21 problem with the manbus smoking, exhaust pipe
22 being broken away. They were supposed to

23 direct the exhaust pipe occupants of the

1 manbus. On many occasions, the lack of
2 maintenance has been a problem. Whereas, if a
3 machine is gone over every day, like it should
4 be, things will be noticed and the proper
5 attention should be diverted towards that
6 equipment, send it outside, get it corrected,
7 and get it back underground, so it's safe to
8 use underground.

9 MR. JON KOGUT: Are the manbuses used
10 for hauling equipment? Is that what it's used
11 for?

12 MR. RICKY PARKER: Manbuses primarily
13 are used to haul supplies, workers, small
14 pumps, stuff like that.

15 MS. SANDRA WESDOCK: Mr. Parker, how
16 many diesel mechanics do you have at the mine?

17 MR. RICKY PARKER: Well, ma'am, on a
18 routine basis, all of our diesel shop is
19 outside, we would have two on day shift. They
20 primarily work on diesel equipment on day shift
21 right now. And our mine runs 24 hours a day.
22 And that's one of the things that we brought to

23 the company's attention. There's no way that

1 they can maintain this equipment in a proper
2 fashion with the manpower available at that
3 mine.

4 MS. SANDRA WESDOCK: And what type of
5 training do they get to work on this diesel
6 equipment at your mine?

7 MR. RICKY PARKER: They are certified
8 by Jim Walter, as far as being trained. We
9 have a committeeman at our mine that hopefully
10 will get to speak here shortly that is
11 certified in diesel-powered equipment, and he
12 can hopefully enlighten you further.

13 MS. SANDRA WESDOCK: Thank you.

14 MR. RICKY PARKER: You're welcome.

15 MR. GEORGE SASEEN: Sir, you
16 mentioned about CO and NO2 readings in the
17 feeder.

18 MR. RICKY PARKER: Yes, sir.

19 MR. GEORGE SASEEN: Do you have any
20 idea what kind of levels are typically there
21 when you have your ramcars in that area.

22 MR. RICKY PARKER: The only time that

23 I can comment on, sir, is like when we do a

1 bimonthly inspection, and I take a reading
2 myself of that ramcar. Other than that, you
3 have a foreman that gets in front of the
4 machine and he's holding the instrument in
5 front of him -- and I have taken on occasion to
6 ask him what it is reading. And on occasion he
7 has acknowledged me, he'll show it me or tell
8 me what it is reading. Other than that, I
9 really can't say what is coming out of the
10 machine itself.

11 MR. GEORGE SASEEN: What kinds of
12 levels when he showed it to you?

13 MR. RICKY PARKER: Well, you know,
14 you have a warning level. When you get 50 of
15 CO, take it out of service or 5 NO₂, and you
16 have a warning level which is 25 CO₂ and a
17 half, NO₂. On occasions, I have seen the
18 warning level be invoked as far as 25 on the CO
19 and 2.5 on the NO₂; other times I've seen,
20 especially in older ramcars, upwards over 40
21 PPM on the CO and upward levels of over two and
22 a half above the warning level on the NO₂.

MR. GEORGE SASEEN: Thank you.

1 MR. RICKY PARKER: You're welcome.

2 MR. THOMAS TOMB: Any other
3 questions? Thank you very much Mr. Parker.

4 Our next presenter Mr. Pate. I'm not
5 sure if I'm pronouncing it right. Jeffrey
6 Pate.

7 MR. JEFFREY PATE: I wish to pass at
8 this time after all of that.

9 MR. THOMAS TOMB: Okay. Did I
10 mispronounce it?

11 MR. JEFFREY PATE: It's Pate,
12 P-a-t-e.

13 MR. THOMAS TOMB: Oh, P-a-t-e. I'm
14 sorry.

15 MR. GARY TRAMELL: Excuse me, can I
16 take his place --

17 MR. THOMAS TOMB: Sure.

18 MR. GARY TRAMELL: -- if he don't
19 want to.

20 MS. SANDRA WESDOCK: What's your
21 name?

22 MR. GARY TRAMELL: Gary Tramell.

23

MS. SANDRA WESDOCK: Can you spell

1 that, please?

2 MR. GARY TRAMELL: G-a-r-y

3 T-r-a-m-e-l-l.

4 My name is Gary Tramell, G-a-r-y

5 T-r-a-m-e-l-l, local 2368 safety committeeman.

6 I work at Jim Walter Number 5, Brookwood,

7 Alabama.

8 One of my main concerns is I read in

9 some of your literature about these

10 high-pressured mines, and I've been listening,

11 too; each one of have asked a question about

12 the velocity of how many -- could we fit the

13 air inby the diesel pieces of equipment.

14 At Number 5 Mines, we've got areas

15 that are called dead areas; there would be

16 little or no air. And these pieces of

17 equipment on sections when they are changing

18 and waiting on one to load up and pull out,

19 they sit in a dead area with the engine running

20 and there would be little to no air. And those

21 operators are getting the particulates there.

22 At Number 5 Mines, we're probably

23 unique because we've got a fault hill (phonetic)

1 that probably runs somewhere in the
2 neighborhood 1,500, 2,000 feet, and it's on a
3 steep grade. When you get two motors with five
4 cars of tons of materials and things going into
5 the mines, these motors -- I've been there and
6 I've seen it, they are trying to push as hard
7 as -- you know the little train that just keeps
8 on chugging -- well, these things are trying to
9 pull that hill, and they smoke and you can't
10 hardly see the next operator, which is about
11 five cars up.

12 Those engines go through a lot of
13 wear and tear there. It's really hard to keep
14 them up.

15 Just like Ricky told you, I am in
16 maintenance. And at Number 5 Mines, I'm
17 certified in diesel equipment. The outby
18 motors -- there's one outby electrician at our
19 mine, and his job is to take care of all of the
20 beltlines, do as much as he can on the outby
21 equipment, take care of all the pumps, just
22 numerous jobs, which really there's not enough

23 underground maintenance on these outby pieces

1 of equipment.

2 Just like I said, we try to work on
3 them, but we got to keep the mines running and
4 we got to keep that running.

5 As far as types of diesel fuels, we
6 had a problem -- and, you know, when we first
7 went into diesel -- it's been 15 years ago or
8 maybe 12 -- we had diesel fuels that wasn't
9 colored. In other words, they wasn't bygrad
10 grad A, grad B, onroad or offroad diesel fuels.
11 And what we was having was a lot of motormen
12 crying that the fumes burning them, a lot of
13 motorman getting sick -- because I've been
14 there and had other motorman coming to me and
15 telling me something is just wrong.

16 And what I was finding out at that
17 time was the people outside was getting mixed
18 up on what grad of fuel. They were sending a
19 lower grad fuel down underground, which it
20 should have been a higher grad fuel. And we've
21 got that straightened out. I hope, and I hope
22 we don't go back to it. But now we use

23 different colored mixtures in our diesel fuels

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1 to make sure that it's adequate.

2 But there for a long time, we had
3 miners that were really complaining of sickness
4 and nose burns and eye burns.

5 And just like I said, when I was
6 certified, I had a one-week course at Jim
7 Walter Training Center. I think that's
8 supposed to be recertified effort once a year,
9 just like electrical retraining. And I haven't
10 been there to get that training again; it's
11 coming up soon. That's about the only question
12 I've got.

13 MR. THOMAS TOMB: Any questions?

14 MR. GEORGE SASEEN: Yes, sir. When
15 the study of the mechanic -- like if you have
16 fuel pump problems on the engines, do you send
17 them out? Do they have a rep come in, or do
18 you try to do any of that work?

19 MR. GARY TRAMELL: Are you talking
20 about fuel pumps?

21 MR. GEORGE SASEEN: Fuel pumps.

22 MR. GARY TRAMELL: Most of the time

23 we will send them out. We've been trained to

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1 do that, but with the extent of training that
2 we got -- you can go to the school and not
3 being a diesel mechanic -- I'm not a certified
4 diesel mechanic. I'm just trained in diesel
5 rigs and how to do the work on the underground
6 equipment. They did give us some training in
7 adjusting the burn, after-burn of an engine.
8 And just like I said, if you don't use it every
9 day, you lose it.

10 MR. GEORGE SASEEN: So, most of it --
11 if there's problems you send --

12 MR. GARY TRAMELL: Most of the time
13 we send it out.

14 MR. GEORGE SASEEN: -- send the
15 engines out?

16 MR. BOB HANEY: Bob Haney. The dead
17 area you mentioned is that along the big
18 crosscut, you said you run?

19 MR. GARY TRAMELL: That's on the main
20 intake track.

21 MR. BOB HANEY: On your sections, do
22 you have a big piller in the middle?

23

MR. GARY TRAMELL: Say that again.

1 MR. BOB HANEY: On the sections --

2 MR. GARY TRAMELL: Yes. We have
3 large pillers that you get out of the way, so
4 the one that you're loading will come out.

5 MR. BOB HANEY: Right. While he's
6 sitting in that crosscut?

7 MR. GARY TRAMELL: Right. He'll sit
8 there with his motor running for when that one
9 passes him, and he gets back in against the
10 miners as quick as can.

11 MR. BOB HANEY: Thank you.

12 MR. THOMAS TOMB: How much time does
13 he usually sit there?

14 MR. GARY TRAMELL: It depends on -- a
15 lot of times a very short while, and then
16 sometimes a matter of 15 to 20 minutes. It's
17 according to if the miner gases out or they
18 have to extend the line --

19 MR. THOMAS TOMB: If it's a long
20 period --

21 MR. GARY TRAMELL: -- numerous
22 things.

MR. THOMAS TOMB: If it's a long

1 period of time, do they turn it off, turn the
2 machine off?

3 MR. GARY TRAMELL: Sometimes they
4 will, if they know what's happening.

5 Sometimes, you know, it's according to how
6 far back they are, they'll leave them running
7 until they say, Well, they're just not going to
8 come back, so then they will. It all depends
9 on if they're communicating with each other.

10 MR. THOMAS TOMB: Do they always stay
11 with the machine?

12 MR. GARY TRAMELL: Yes. They need
13 to.

14 MR. RONALD FORD: If someone
15 complains of black smoke coming out, do you go
16 out and check out the machine?

17 MR. GARY TRAMELL: Yes, sir.

18 MR. RONALD FORD: And what do you do?

19 MR. GARY TRAMELL: Well, what our
20 ramcars are equipped with is magnahelic
21 (phonetic) gauges; one for the intake, and one
22 for the exhaust. And, usually, if that

23 magnahelic gauge goes out of range, then that's

1 kind of a single that your filters or your
2 scrubbers are not doing it's job.

3 MR. RONALD FORD: Do you ever just
4 take the machine out of service, just because
5 it's got black smoke coming out of it?

6 MR. GARY TRAMELL: I'm not on the
7 section. I haven't worked sections in a long
8 time. But as far as the motorman and stuff, if
9 they complain about it enough, then the
10 supervisor might or he might not. You're
11 always short of equipment. And they'll try to
12 run that thing as much as they can.

13 MR. THOMAS TOMB: One other question.
14 Do you have any on your surface shops, in your
15 service shop area? Is it well ventilated or do
16 you have any problems with ventilation in that
17 area?

18 MR. GARY TRAMELL: It's open door.
19 It's got two big doors opened. And as far as
20 ventilation, I don't think there's any fans on
21 it, and I think when it gets winter time,
22 they're going to pull in them doors there.

MR. THOMAS TOMB: Well, does that

1 cause a problem?

2 MR. GARY TRAMELL: Myself, they
3 haven't complained to me, as a safety member.
4 I don't know if they've had problems.

5 MR. THOMAS TOMB: Do you work there,
6 in the shop?

7 MR. GARY TRAMELL: No, I don't. I
8 work underground. I'm an underground certified
9 electrician.

10 MR. THOMAS TOMB: Any other
11 questions? Thank you very much. What I'd like
12 to do now is take a 15-minute break.

13

14 (Whereupon a 15-minute recess was taken,
15 after which the following proceedings were
16 had:)

17

18 MR. THOMAS TOMB: Okay, if we could
19 get started again, please.

20 Our next presenter Mr. Sartain.
21 Chuck is going to go first.

22 Our next presenter is Chuck Stewart:

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23

MR. CHUCK STEWART: Good morning. My

1 name is Chuck Stewart, C-h-u-c-k S-t-e-w-a-r-t.
2 I'm Mine Manager of Jim Walter Resources Number
3 7 Mine. I'm accompanied today by Dale Byram,
4 Manager of Safety; Larry Jordan, Coordinator of
5 Diesel Maintenance Training; Ted Sartain,
6 Senior Ventilation Engineer. We express our
7 gratitude to Ms. Jones and the Committee for
8 the opportunity to participate today in the
9 rule-making process.

10 We appear on behalf of Jim Walter
11 Resources, Incorporated, a subsidiary of Walter
12 Industries, which owns and operates four deep,
13 underground coal mines in west-central Alabama.
14 Jim Walter Resources produces approximately
15 eight million tons annually and employs around
16 2,000 people.

17 The four mines operate in the Blue
18 Creek seam and range in depth from 1,300 to
19 2,200 feet.

20 COURT REPORTER: I'm sorry. My
21 battery is dead and my machine is not recording
22 the data.

MR. CHUCK STEWART: Where do you want

1 to start?

2 MR. THOMAS TOMB: Just start over
3 again. So, she will have a complete record.

4 MR. CHUCK STEWART: Mr. Chairman and
5 members of the committee, my name is Chuck
6 Stewart, C-h-u-c-k S-t-e-w-a-r-t. I'm the Mine
7 Manager of Jim Walter Resources, Number 7 Mine.
8 I'm accompanied today by Dale Byram, Manager of
9 Safety; Larry Jordan, Coordinator of Diesel
10 Maintenance Training; and Ted Sartain, Senior
11 Ventilation Engineer. We express our gratitude
12 to Ms. Jones and the Committee for the
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23 Creek seam and range in depth from 1,300 feet

1 to 2,200 feet deep. The coal is soft, highly
2 fractured and very gassy. Therefore,
3 ventilation is a crucial aspect of our daily
4 operations. In fact, fresh air enters each of
5 our mines at rates ranging from 1.8 to 3.6
6 million cubic feet per minute, requiring between
7 9,000 to 14,000 fan horsepower, respectively.

8 Although Jim Walter Resources has
9 been utilizing diesel-powered air compressors
10 underground since the late 1970s, the first
11 piece of self-propelled, diesel-powered
12 equipment was introduced to a Jim Walter mine
13 in 1984. The employment of that first
14 rail-mounted personnel carrier opened our eyes
15 to the superiority of diesel-power over battery
16 or trolley-powered. Today Jim Walter operates
17 around 200 diesel-powered machines
18 underground. Breaking these 200 units down
19 into category, we have approximately 70 inby
20 units, 30 heavy-duty outby units, and about 100
21 light-duty outby units.

22 There are numerous reasons why Jim

23 Walter Resources and many other coal operators

1 have converted their haulage and support fleets
2 to diesel power. These include: improved
3 safety, reliability, versatility, and
4 availability. Reflecting back to when all of
5 our mantrips were battery powered, weak
6 batteries often resulted in coasting or pushing
7 the manbus to the section charger.

8 If an incident occurred early in the
9 shift requiring immediate evacuation, that crew
10 probably would have had a problem getting out
11 in a timely manner. However, diesel-powered
12 mantrips are almost always available, which is
13 a valuable asset in not only production, but
14 more importantly in emergency situations.
15 Having been involved in the evacuation and
16 recovery of three mine fires, I cannot
17 overstate the importance of the availability
18 and reliability provided by diesel equipment.

19 During the 1986 gob fire at Number 3
20 Mine, I remember trying to gather additional
21 fire-fighting equipment on a battery-operated
22 jeep that was going dead, wondering if I was

23 going to get back to the fire. But much more

1 important was the fact I would have had to walk
2 three to five miles to get back outside the
3 mine if things suddenly turned worse.

4 It's also quite possible that our Number
5 5 Mine would be sealed today had our outby
6 fleet been electric powered, during the fire of
7 1995.

8 We strongly believe that
9 diesel-powered equipment in our coal mines
10 provides distinct operational and safety
11 advantages and can be operated without
12 compromising the health and safety of our
13 workers. While there has been occasions --
14 occasional cases of excessive smoke due to
15 engine malfunction or incidental disruptions in
16 ventilation, these incidents are few and far
17 between and are corrected in a timely manner.

18 Jim Walter Resources utilizes the
19 cleanest burning engines available and probably
20 has the highest ventilation rates of any coal
21 mine in the country. At Number 7 Mine, where I
22 work, fresh air enters the mine at the rate of

23 3.4 million cubic feet per minute, and the

1 average airflow in the last open crosscut is
2 around 55,000 CFM. That's ten times the
3 name-plate requirement for gaseous emissions on
4 our ramcars. Airflow on our outby haulage ways
5 typically exceeds 100,000 CFM. MSHA's proposed
6 rule does not credit the operators' ability to
7 dilute and render harmless diesel particulate
8 matter in way of ventilation.

9 We realize that MSHA's received
10 comments suggesting that particulate filters be
11 required on all equipment, including equipment
12 classified as "light duty". Readings from our
13 mine-wide monitoring system indicate that CO
14 concentrations at the section belt tailpieces
15 normally stay around one part per million,
16 which is an indicator that outby diesel
17 equipment contributes only a small amount of
18 contaminants to the overall air stream.

19 We believe that safe exposure levels
20 can be maintained by applying an integrated
21 approach that involves: engine and fuel
22 selection, maintenance, training, ventilation,

23 and which may or may not include the need for

1 exhaust after-treatment.

2 Prior to final rule, safe exposure
3 levels for diesel particulate matter should be
4 scientifically established and operators should
5 be given the flexibility to use any of the
6 available options, including those outlined in
7 MSHA's Toolbox, to achieve compliance.

8 UCLA basketball coach John Wooden
9 once said, "All progress involves change, but
10 not all change is progress." This statement
11 summarizes our concern that MSHA is trying to
12 solve a problem that it claim to perceive, but
13 does not fully understand.

14 At this time I will turn this over to
15 Dale Byram.

16 MR. DALE BYRAM: My name is Dale
17 Byram, and I'm Manager of Safety and Training,
18 Jim Walter Resources.

19 In the preamble MSHA cites several
20 studies to justify the need to limit miners'
21 exposure to the DPM, and Jim Walter maintains
22 that MSHA has failed at this particular point

23 in time to substantiate through the studies

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1 that current level, exposure levels, of the DPM
2 do place our miners at risk. We believe that
3 the current diesel regulations have appropriate
4 guidelines to test and to insure the immediate
5 health and the safety of our miners. However,
6 at Jim Walter Resources, we support and
7 encourage the research to determine if there
8 are exposure limits there that should be set,
9 because we don't want anything in our mine that
10 could create a health hazard for any of our
11 miners.

12 We understand the difficulties of
13 developing rules that unquestionably insure the
14 health and safety of the miner, while at the
15 same time giving reasonable consideration to
16 the operators trying to implement these new
17 rules. The intent of the proposed rules is to
18 insure the health and safety of the miner, and
19 we support this concept completely, yet the
20 procedures appear to be a bit excessive and
21 some burdensome to the industry.

22 We understand that NIOSH and NCI are

23 currently conducting a comprehensive study

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1 involving the medical histories underground
2 miners in both metal and nonmetal mines. The
3 result of the study, when complete, will
4 constitute probably the best available
5 information, and this should be considered in
6 the risk assessments prior promulgation of the
7 rule.

8 I'd like to speak if I could about
9 two particular cases that I'm aware of to where
10 a workman's compensation situation developed
11 from exposure to diesel, to a diesel fuel.
12 You've already heard from Mr. Capley, and he
13 certainly is one of our employees and he went
14 through this event.

15 We had another employee at one of our
16 mines, Number 5 Mine, and he has a history of
17 similar reactions requiring medical treatments
18 with various other respiratory irritants, such
19 as smoke from an electrical fire, and then from
20 another situation from a chemical degreaser.
21 Co-workers in the same atmosphere at the time
22 that this gentleman had these separate

23 episodes, did not suffer the same adverse

1 reactions.

2 In review of this particular
3 situation, we would like for this not to be
4 generalized. This episode should be looked at
5 specifically. You know, is it possible that it
6 resulted from the individual's specific nature
7 of the idiosyncrasy of his lungs that respond
8 to any type of a respiratory irritant or some
9 other intolerant chemical in the air.

10 Moreover, we cannot concluded from
11 that one case of an individual. This
12 particular individual involved should not
13 substantiate the fact that diesel particulates
14 or diesel fumes can create this type of a
15 problem for any employee.

16 In reference back to Mr. Capley, I
17 think we heard with Mr. Capley -- and he can
18 correct me, please do, if I'm wrong on this --
19 that there had been a problem recognized in
20 review with that exhaust system on that
21 particular piece of equipment, and Mr. Capley
22 suffered lung irritation, which did progress

23 into pneumonia. And we regret this, as we do

1 any injury or illness that may take place in
2 our mines with any of our employees.

3 As Chuck mentioned earlier, we've
4 been operating diesel-powered equipment
5 underground for about 20 years. And for the
6 past several years, we've had about 200 pieces
7 of diesel equipment. Our medical records do
8 not suggest that we have chronic health
9 problems that's resulted from the exposure of
10 this diesel equipment or diesel exhaust. As in
11 the past, the medical history of Jim Walter's
12 employees, underground miners, will continue to
13 be monitored for signs of work-related health
14 risks.

15 JWR has always accepted it's
16 responsibility to provide a healthy work
17 environment, and agrees that safe levels of the
18 DPM, once determined, must be maintained. At
19 this point, we're not convinced that the DPM
20 exposure levels in our mines are placing our
21 miners at a health risk that warrants such
22 stringent requirements in the proposed rule.

1 proposed rule, is that there is yet a reliable
2 and accurate sampling device that can detect
3 the DPM at low levels. Based upon that
4 admission, we question, then, the credibility
5 of all the data, when you look at research that
6 we have in the Boriac (phonetic) case to where
7 it contradicts some of the epidemiology results
8 that was listed in the papers. Then we feel
9 that there is such contradiction out there that
10 we, as an industry, and the UMWA and the
11 agencies who work together to try and determine
12 what is adequate, what is for our people.

13 Also, missing from the risk
14 assessment equation is a scientifically-based
15 exposure limit. If sufficient evidence existed
16 to determine a quantifiable exposure level
17 presenting a health threat, we feel that NOISH,
18 ACGIH, and EPA, or some other agency would have
19 already established a PEL. To our knowledge,
20 this conclusive evidence does not yet exist.
21 Until that point and time, again, we should
22 work together and combine our efforts to

23 determine what these safe levels are.

1 Thank you. At this time I'd like to
2 bring Mr. Larry Jordan to the stand.

3 MR. LARRY JORDAN: Mr. Chairman, my
4 name is Larry Jordan, L-a-r-r-y J-o-r-d-a-n.
5 I'm Coordinator of Diesel Maintenance Training
6 for Jim Walter Resources. One of my primary
7 functions at Jim Walter Resources is
8 administering the underground diesel
9 qualification training and safety retraining
10 programs for all personnel that maintain diesel
11 equipment.

12 In addition, I'm involved with the
13 underground diesel compliance monitoring for
14 all four mines. I also work with several
15 committees in developing fire suppression
16 systems, on-board CO monitoring on inby and
17 outby equipment, and other systems relating to
18 existing MSHA requirements for underground
19 diesel-powered equipment.

20 A few years ago a man named Nobert
21 Paas introduced to the industry a product he
22 developed and currently sells called the DST

23 System, processing technology. Initially, he

1 claimed that the DST System, which is a
2 dry-system exhaust heat exchanger that
3 incorporates the use of a disposable
4 particulate filter, was capable of removing
5 more than 95 percent of a particle matter from
6 the engine exhaust. He also claimed that this
7 technology was applicable to the variety of
8 engines used in underground coal mines.
9 Although at that time I believe it had only
10 been tested on one particular engine. More
11 recent testing indicates that the DST System
12 can only be relied upon to provide 95 percent
13 reduction of the DPM.

14 The proposed rule is obviously based
15 on the premise that the DST, or similar device,
16 would be employed by the operators to achieve
17 compliance. Based upon that assumption, Jim
18 Walter Resources estimates the cost of
19 compliance to be at least 5,575,000. This
20 figure only represents the cost to retrofit the
21 existing 100 machines effected by this rule and
22 was derived from the estimate that of 36,500

23 per unit to retrofit 70 inby machines, and

1 64,000 per unit to retrofit the 30
2 locomotives.

3 The locomotive issue is the most
4 troublesome because retrofitting may require
5 engine replacement and major frame modification
6 to provide enough space to accommodate the DST
7 and after-treatment device.

8 In addition, to retrofit cost, we
9 estimate the annual filter replacement to be at
10 least 10,000 per machine, which equates to 1
11 million per year. These figures are based on
12 the three-shift filter life, however, we know
13 that a local coal mine, which utilizes the
14 disposable filters on ramcars, changes the
15 filters on a shiftly basis -- and I think that
16 was stated earlier. Changing filters three
17 times as often, will obviously costs three
18 times as much, to say nothing of the down-time
19 cost involved. Worse still, if MSHA mandates
20 the proposed rule for all the underground
21 diesel-powered equipment, including light duty
22 outby equipment, all the cost at JWR to

23 retrofit and maintain all the equipment will

1 double.

2 This is an exorbitant price to pay to
3 apply an unproven technology to solve a problem
4 that may not even exist.

5 Since MSHA issued the advance notice
6 of the proposed rulemaking, in '92, there's
7 been a flurry of activity in the area of
8 exhaust after-treatment development; however,
9 it seems that all have fallen short of the 95
10 percent mark. Our observation is that existing
11 technology is probably only capable of
12 providing reliable capture efficiencies in a
13 range of 60 to 80 percent.

14 I have information from NETT
15 Technologies, 3M Particulate Technologies, CEP
16 Products, Engelhard Emission Control Products,
17 and Johnson Matthey Environmental Products, all
18 admitting that the efficiency of the their
19 products is well below the 95 range that would
20 be required.

21 Also there is some inherent problems
22 associate with the use of disposable

23 after-treatment filters, such as a potential

1 fire hazard. Another area to consider with
2 after-treatment filters is the possible damage
3 that could result to the engine when the filter
4 begin to restrict the amount of airflow into
5 the combustion chamber. Improper airflow will
6 affect the engine components, such as valves,
7 injectors, and pistons, and these components
8 will show excessive carbon buildup.

9 Excessive carbon buildup will in turn
10 result in contamination of the lubricant.
11 Ultimately, contamination of the lubricant will
12 likely affect engine performance, ironically
13 producing higher CO and DPM levels.

14 MSHA's proposed rule is neither
15 technology nor economically feasible at this
16 time. Current after-treatment technology is
17 simply not capable of providing the 95 percent
18 capture efficiency required by the proposed
19 rule. Moreover, MSHA has grossly
20 underestimated cost of applying high-efficiency
21 filtration to the vast amount of existing
22 equipment subject to the proposed rule.

While all of these issues are being

1 resolved, JWR will continue to provide a sound
2 diesel maintenance training program that
3 promotes optimum engine performance.

4 Now I'd like to introduce Ted.

5 MR. TED SARTAIN: Hello, my name is
6 Ted Sartain, S-a-r-t-a-i-n. I'm the Senior
7 Ventilation Engineer at Jim Walter Resources
8 and also service the Company's delegate on the
9 National Mining Association's Diesel Task
10 Group, of which I have been an active
11 participant for past ten years. I'd like to
12 just take a few more minutes to summarize our
13 company's position on the proposed rule.

14 We maintain that diesel-powered
15 equipment offers distinct safety and
16 operational advantages over most of its
17 electrically powered counterparts. We strongly
18 believe that continued use of underground
19 diesel-powered equipment is essential for the
20 viability of the U.S. Coal industry in the very
21 competitive world market. The industry can
22 ill-afford over-restrictive and unduly

23 burdensome regulations, which could potentially

1 eliminate the use of diesel engines
2 underground.

3 The filter requirement that MSHA is
4 proposing is one of the primary components of
5 the Pennsylvania State Law, which has resulted
6 with two exception in the continued absence of
7 underground diesel equipment in that state.

8 Concerning the long-term health risk
9 associated with DPM, the jury is still out,
10 which is the reason why a PEL does not exist
11 today. JWR contends that the best available
12 evidence does not support MSHA's theory that
13 the current underground exposure to diesel
14 particulate matter place miners at risk of
15 material impairment of health or functional
16 capacity. In view of today's time constraints,
17 we have elected not to address the health risk
18 issue in full detail, but refer you to the
19 forthcoming post-hearing comments to have
20 National Mining Association, which we fully
21 sport.

22 On the issue of feasibility, as Larry

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23 discussed earlier, this proposed rule is

1 neither technologically nor economically
2 feasible. The agency has obviously
3 overestimated the capability of current
4 after-treatment technology, and we feel grossly
5 underestimates the cost to apply it.

6 Also by simply mandating a single
7 method of control technology, the agency fails
8 to promote other available industrial hygiene
9 practices. Sound industrial hygiene requires
10 three ingredients: a scientifically-based
11 exposure limit, an accurate and reliable
12 personal sampling method, and an integrated
13 approach to control exposure.

14 This proposed rule contains none of
15 these elements and quite frankly flies in the
16 face of sound industrial hygiene.

17 JWR realizes that as diesel usage
18 continues to increase, miners' exposure to the
19 exhaust contaminants must be maintained at safe
20 levels. However, MSHA should exercise prudence
21 in their endeavor to regulate diesel
22 particulate exposures. We encourage MSHA to

23 support efforts like th ongoing NIOSH/NCI

1 study, to determine exactly what the maximum
2 safe exposure level is, and to continue
3 research to develop an accurate and reliable
4 personal sampling method for use in underground
5 coal mines. Then adopt a performance-based,
6 integrated approach that is both
7 technologically and economically feasible and
8 will insure the highest level of protection to
9 the miner.

10 Thank you.

11 MR. THOMAS TOMB: Thank you. I don't
12 know whether the panel knows, but all these
13 gentlemen that have responded, any question to
14 their presentation. Any question?

15 MR. TED SARTAIN: You can give us
16 your questions, and we can decide who best to
17 answer them.

18 MR. JON KOGUT: I have a couple of
19 questions, first of all that relate to the
20 written comments that Mr. Sartain submitted
21 prior to this hearing. Well, maybe before I
22 get to that, I think you said that the first

23 mobile diesel equipment was introduced in any

1 of the Jim Walter Mines in Alabama in 1987. Is
2 that right?

3 MR. CHUCK STEWART: I think it was
4 '84.

5 MR. JON KOGUT: '84. And give you --
6 give us some idea of once that introduction
7 began how rapidly the process of dieselization
8 took place until you reached your current
9 levels?

10 MR. CHUCK STEWART: I think to give
11 you an accurate account, we would need to go
12 back and we could pull up the records and tell
13 you exactly when the equipment -- you know, got
14 each one, such as ramcars, locomotives,
15 rhombuses. I think we started basically
16 improving our haulage, rhombus fleet --

17 MR. TED SARTAIN: Our outby fleet was
18 first, and then at a later date, I would say,
19 probably late '80s or early '90s, we began to
20 introduce diesel-face haulage equipment.

21 MR. JON KOGUT: You began to
22 introduce it, and then how rapidly --

MR. TED SARTAIN: I would just

1 consider it a steady increase. I don't think
2 we just overwhelmingly introduced a large group
3 in a short time frame. I think it would be
4 best to categorize it as a steady increase over
5 the past 15 years or so.

6 MR. JON KOGUT: So, when would you
7 say you achieved your current level of
8 dieselization?

9 MR. CHUCK STEWART: I think it
10 continues to grow incrementally, but probably
11 the last couple of years. And we can give you
12 more accurate information.

13 MR. JON KOGUT: If it would be
14 possible for you to do that, I would very much
15 appreciate your submitting that for the
16 hearings. But in any case, you say that you
17 didn't introduce this equipment all at once in
18 the mid-'80s, so that in the case of lung
19 cancer, for example, which has a rather
20 notoriously long latent period, which sometimes
21 doesn't appear for 20 years after exposure. Is
22 it correct for us to assume that many of the

23 workers that are exposed to the diesel

1 equipment in your mines have not been exposed
2 for anywhere near 20 years? Is that right?

3 MR. CHUCK STEWART: I think most of
4 them would have been exposed to some part, you
5 know, to some percentage of diesel exposure.
6 It may have been one manbus that ran the
7 intakes, and it's just gradually increased
8 through the years. I'd have to agree as the
9 years have grown, the amount of exposure has
10 probably increased because of more equipment.

11 MR. TED SARTAIN: However, as some
12 have mentioned, we are doing things better
13 today, than we did 15 years ago, especially
14 since the adoption of the Federal Health and
15 Safety Regulations for diesel-powered equipment
16 used underground; better maintenance, better
17 training, better field selection, engine
18 selection. I think all of that has to be
19 considered. I don't think we can simply assume
20 that since diesel usage has incrementally
21 increased with time that exposure has also
22 followed that same trend, because we obviously

23 do things better today than we did 15 or 20

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1 years ago.

2 MR. JON KOGUT: Well, my main intent
3 in asking that question and in asking you to
4 try to provide us with some sort of historical
5 record of the progression of the dieselization
6 is that in the written comments that you've
7 submitted, you made a statement that to date --
8 I'm quoting now -- "To date the medical history
9 of our employees does not include a single case
10 of lung cancer, chronic illness, or material of
11 impairment of health due to exposure to diesel
12 exhaust." And in order for us to assess the
13 significance of that claim, I think we need to
14 know -- we need to have some idea of how long
15 the workers in your mines have actually been
16 exposed to diesel and to what extent. So, if
17 you could give --

18 MR. TED SARTAIN: We will try to give
19 you some type of historical account.

20 MR. JON KOGUT: The other thing is
21 that in reference to that same statement, when
22 you say that there hasn't been any indication

23 of a single case of lung cancer or chronic

1 illness or a material impairment, do you mean
2 that that none of the workers in any of your
3 mines have exhibited any lung cancer, there
4 have been no cases of lung cancer that have
5 developed in any of the workers at your mine?
6 What do you mean exactly?

7 MR. DALE BYRAM: I guess, when I made
8 reference earlier to the two individual cases
9 related to workman's comp, to my knowledge,
10 that's the only two workman's comp cases that
11 we've had --

12 MR. JON KOGUT: Was there --

13 MR. DALE BYRAM: I'll get to the
14 cancer question -- workman's comp cases
15 compensable to anything related to diesel
16 particulate or fumes in the respiratory
17 As far as carcinogen -- and looking at the
18 state of Alabama -- my concern is where cancer
19 where is one of the third leading causes of
20 death in Alabama, and has been so for over ten
21 years, we will -- when we employ 2,000 people,
22 on the average, say over the last ten years,

23 then we'll definitely have some employees who

1 will unfortunately suffer cancer, but to be
2 able tie that to a diesel incident, I think we
3 would first have to have a diesel workman's
4 comp incident, and then have physicians to
5 determine whether cancer was a result of that.

6 But to I guess and go back and answer
7 your question, I personally know no such
8 connection at this point and time. Now, Mr.
9 Capely made references to the fact that he has
10 been diagnosed with a spot on his lung -- and,
11 you know, I don't know anything about that -- I
12 certainly do not question Mr. Capely at all.
13 But to be able to say that there's been a
14 connection to the two, I think with his
15 comment, we can't guarantee that that's
16 happened.

17 MR. JON KOGUT: Well, the statement
18 doesn't exactly say that you haven't been able
19 to guarantee that there's a connection with
20 diesel exhaust. What it says, that there has
21 been no case of material impairment, and, in
22 particular, lung cancer due to diesel exhaust.

23 But now you're saying that probably there have

1 been cases of lung cancer --

2 MR. DALE BYRAM: I --

3 MR. JON KOGUT: What I hear you
4 saying is that you have no way of knowing
5 whether those were due to diesel exhaust or
6 not.

7 MR. DALE BYRAM: I think that
8 medically -- that medically, there would have
9 to be a diagnoses given from a physician, with
10 someone who has cancer, that says it was
11 directly related to, or even possibly strongly
12 related to the diesel particulate or to the
13 exposure to diesel for anybody to be able to
14 connect the two.

15 And then I said -- if you don't mind
16 to clarify, to try and put this in perspective.
17 In the state of Alabama, for several years,
18 cancer has been one of top three leading causes
19 of death. In a company that employs 2,000
20 people, on the average for the last ten years,
21 we certainly have unfortunately had some people
22 that have been diagnosed with lung cancer. But

23 to say that they have been directly related to

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1 a diesel issue, I have to say, "No. I'm not
2 aware of any cases," because again the only way
3 that you would see a connection would be if it
4 was tied in as some form of a workman's comp,
5 work-related illness. That would be diagnosed
6 by a physician as to the connection. Is that
7 -- am I wrong in thinking that?

8 MR. JON KOGUT: No. I just think
9 that what you're saying varies slightly
10 different from the implication of the sentence,
11 as you have it here.

12 MR. DALE BYRAM: I think the
13 implication says that we have not had any
14 history. Is that right?

15 MR. JON KOGUT: Well, I'll read it
16 again. It says, "To date, the medical history
17 of our employees does not indicate a single
18 case of lung cancer, chronic illness or
19 material impairment of health due to exposure
20 to diesel exhaust." And if I might interpret
21 what you're saying, you don't have any direct
22 evidence that any of these cases are due to

23 diesel exhaust?

1 MR. THOMAS TOMB: Or not?

2 MR. JON KOGUT: Or not --

3 MR. DALE BYRAM: I'm sorry.

4 MR. JON KOGUT: I gather from that
5 you also don't have any direct evidence that
6 any of the case that you've observed are not
7 from the diesel exhaust.

8 MR. DALE BYRAM: I guess that would
9 have to be -- I guess, in a way, I really don't
10 know how to respond to that, other than to say,
11 you know, you're asking me to prove that they
12 are or not --

13 MR. JON KOGUT: No. I'm not asking
14 you to prove anything. I'm just asking you --

15 MR. DALE BYRAM: Okay. Let me carry
16 this a step further in another direction, if
17 you don't mind. Unless an employee came to us
18 and disclosed that he has lung cancer and that
19 he felt that it was related to the diesel, the
20 company would not have any knowledge of that,
21 and due to patient confidentiality, even in the
22 claims and insurance departments, if they were

23 paying claims associate with cancer, lung

1 cancer, whatever, they couldn't assume and we
2 couldn't assume. It would have to be a direct
3 claim and then a diagnosis.

4 I guess to go back and try and
5 finally answer your question. At this point in
6 time, I do not know of any situation to where
7 -- and again I'll have to make reference to
8 workmens' compensation because that's where you
9 would have your related illness tied into a
10 company, the records, to where we have a lung
11 cancer situation directly related to or
12 indirectly related to diesel emissions.

13 MR. JON KOGUT: Okay. And apart from
14 the question of lung cancer, what about other
15 -- what about chronic respiratory diseases?
16 Have you experienced some instances of chronic
17 respiratory diseases among workers at your
18 mines?

19 MR. DALE BYRAM: Okay. I heard our
20 co-workers make reference to the effects that
21 they have suffered or that they have seen other
22 co-workers suffered, but to be statistically

23 correct, the only two workman's comp

1 compensable cases that I'm aware of where the
2 two that I made reference to.

3 So, if a guy or a lady has a problem,
4 and they bring it to us and they want to go to
5 the doctor, then certainly we will send them to
6 the doctor. We will never fail in that. I'm
7 not aware of any other cases that are
8 compensable other than the two that I made
9 reference to.

10 So, does it exist? I don't know.

11 MR. THOMAS TOMB: I'd like to tack on
12 a question similar to what Jon is leading to
13 here. Mr. Byram, in your presentation, I'm not
14 sure that I got the words exactly right, but
15 you indicated that your miners are monitored
16 for health risk. And my question is: What do
17 you have in place that monitors the miners for
18 health risk?

19 MR. DALE BYRAM: Just being generally
20 aware of any kind of a pattern that may
21 develop. Again --

22 MR. THOMAS TOMB: Using what kind of

23 data?

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1 MR. DALE BYRAM: You have to go off
2 of it, if it's work-related illness, you'd have
3 to go off of your reports to your safety
4 departments or your workman's compensation.

5 MR. THOMAS TOMB: You're getting back
6 to the workman's compensation?

7 MR. DALE BYRAM: Yes, sir. There
8 again there has to be some kind of a pattern to
9 develop to the point that if a pattern
10 develops, then there's a problem somewhere, and
11 you have to go to the root of the cause to
12 correct the problem.

13 MR. JON KOGUT: I just have maybe
14 one other comment, it's not really a question,
15 but may be you could address my comment. A
16 couple of you, I think, mentioned or implied
17 that the jury is still out on diesel
18 particulate. I just wanted to mention a couple
19 of events that have occurred, since the time
20 that we published this proposal, that aren't
21 really documented in the proposed rule.

22 The first one is that in the proposed

23 rule, we mentioned that the state of California

1 was looking at diesel exhaust at that time and
2 seeing if it should be classified as a toxic
3 air contaminant. Since the time of this
4 publication, the scientific advisory to the
5 California Air Resources, which is part of the
6 California EPA, unanimously recommended that
7 diesel exhaust -- that was their initial
8 recommendation was listed as a toxic air
9 contaminant in the state of California. And
10 that recommendation was ultimately adopted by
11 the California EPA with one modification, which
12 was that they changed the -- they changed it
13 from diesel exhaust to diesel particulate. So,
14 the state of Alabama now as of August 27th,
15 1998, has identified diesel particulate as a
16 toxic air contaminant.

17 And the second thing that's happened
18 since we published the proposed rule: Is that
19 the Federal Advisory Board to the National
20 Toxicology Program, scientific advisory board
21 to the National Toxicology Program, which is
22 the U.S. Government Agency that maintains the

23 National list of carcinogens, has recommended

1 that diesel exhaust be listed as a carcinogen
2 on that list. That particular recommendation
3 still needs to get approval from the secretary
4 of health and human services.

5 MR. CHUCK STEWART: I have a question
6 for you. Have they established permissibility
7 levels or threshold limits for this exposure?

8 MR. JON KOGUT: In the state of
9 California the advisory board concluded that
10 there was no evidence that there was any safe
11 level for diesel particulate.

12 MR. CHUCK STEWART: I wonder if this
13 is the same group that list rock dust as a
14 possible carcinogen also.

15 MR. JON KOGUT: Not to my knowledge.

16 MR. THOMAS TOMB: Sandra.

17 MS. SANDRA WESDOCK: I think it was
18 Mr. Sartain. You talked about the proposal
19 being economically and technologically
20 infeasible. Did the company do an analysis or
21 a study? What data are you using to support
22 your statement that the proposal is infeasible,

23 and if you have, you know, the data pertaining

1 to your company, would you be able to submit it
2 for the record?

3 MR. TED SARTAIN: Yes, we have some
4 quotations from vendors on exhaust
5 after-treatment cost, retrofit cost. And that
6 was the data that was used in Larry's
7 statements that we estimate retrofit; for
8 instance, the DST System to the equipment that
9 would be affected by the rule is in excess of
10 \$5 million. That's just a lump-sum cost
11 initially within the 18 month, or whatever,
12 time frame that we would be required to get
13 those systems in place, not to mention the fact
14 that filter replacement cost, with the
15 disposable filter replacement cost, are
16 estimated to be -- and these estimates are
17 based on data like the gentlemen from T&M
18 stated that they change filters once a shift.
19 Our estimates were based on manufacture claims
20 that you can get three shifts life out of a
21 filter, and they extrapolated out to \$10,000
22 per machine, per year. A hundred machine that

23 Jim Walter Resources would be affected would

1 result in a million dollars just in filter
2 replacement cost itself. Those numbers that
3 Larry used were from quotations and from real
4 experiences.

5 MS. SANDRA WESDOCK: Have you
6 submitted that for the record?

7 MR. TED SARTAIN: Well, Larry's
8 comments contained --

9 MR. LARRY JORDAN: Quotations I made
10 is --

11 MR. TED SARTAIN: -- contain those
12 numbers, but we can submit further information
13 with the quotation in our post-hearing
14 comments.

15 MS. SANDRA WESDOCK: And could we
16 have copies of your testimony, today's
17 testimony?

18 MR. RONALD FORD: I think what we're
19 trying -- or at least I'd like to see possibly
20 is: You quoted the numbers 36, -46,000, can we
21 get the derivations that arrives to those
22 numbers, as written out like on a piece of

23 paper, not now, but sometime later submitted to

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1 us.

2 MR. TED SARTAIN: Yes, sir.

3 MR. RONALD FORD: I'd like to talk a
4 little bit about those numbers now. And I
5 guess most of my questions might go to Mr.
6 Gordan (sic), but anybody can answer them. Mr.
7 Jordan, excuse me. The 36,000 per unit for the
8 inby -- and again the 46,000 per unit for the
9 outby, that's an average cost for the machine?

10 MR. LARRY JORDAN: Pretty much so.
11 We've got part of that information was from
12 Norbert Paas' information that he had given is
13 that retrofit each piece of equipment, the
14 biggest part.

15 MR. TED SARTAIN: The 64,000 came
16 from a quotation we received this week from a
17 vendor that we do business with on locomotives,
18 and that was a cost estimate or a quotation, if
19 you will, on what he sees the cost associated
20 with adding a DST System to a locomotive, which
21 would include an engine change and a major
22 frame modification.

MR. LARRY JORDAN: That's something

1 we've already looked into what it would take to
2 give them that such device on our equipment.

3 MR. RONALD FORD: That would answer
4 some of the questions I have coming up. Let's
5 go back a little bit. The 36,000, that's the
6 cost of purchasing the --

7 MR. TED SARTAIN: That's a quotation
8 for an installed DST System or retrofit on a
9 existing 4110 ramcar.

10 MR. RONALD FORD: That includes not
11 only the purchase price of the equipment, but
12 also any frame modification and instillation
13 cost.

14 MR. TED SARTAIN: That's correct.

15 MR. RONALD FORD: Does anything else
16 have to be put on that machine besides the
17 filter. I mean, you have to modify the frame,
18 but can you tell about 36,000? Do you have to
19 redo the radiator or --

20 MR. LARRY JORDAN: Yes. The radiator
21 will have to be changed and also there are some
22 safety shut-down systems that would have to be

23 applied to our existing units to check the

1 system out as it's being used. Another thing
2 that will have to be put on there is an attempt
3 shut-down device that be required, and there
4 would be some changes in some of the other
5 safety shut-down systems on the equipment, as
6 what we are using right now is what we would
7 have to go to.

8 MR. RONALD FORD: Okay. So, my
9 understanding is that for the 36,000 that would
10 have to be done is the radiator change, safety
11 system shut-down systems, frame modification,
12 and the DST filter; and no change to the engine
13 or nothing to the engine.

14 MR. LARRY JORDAN: Well, on the
15 intake and exhaust manifold would also have to
16 be changed.

17 MR. RONALD FORD: Okay. Let's go to
18 \$46,000, again that's an average price per unit
19 per outby piece of equipment.

20 MR. TED SARTAIN: It's 64.

21 MR. RONALD FORD: I'm sorry. It's
22 64.

23

MR. LARRY JORDAN: 64, yes.

1 MR. RONALD FORD: And as Mr. Sartain
2 said, I guess, the 64,000 is related to fitting
3 a locomotive with a DST System, and again some
4 changes to the engine and frame modification.

5 MR. TED SARTAIN: That's correct.

6 MR. RONALD FORD: Now, that's a
7 heavy-duty piece type of equipment. Right?

8 MR. TED SARTAIN: Yes, sir.

9 MR. RONALD FORD: Let's first stick
10 with that first of that. Does anything else
11 have to be done that encompasses that \$64,000
12 besides what I just mentioned?

13 MR. TED SARTAIN: If I recall
14 correctly the quotation included all the
15 necessary changes required to accommodate the
16 DST System. I'm not at this point familiar
17 with all the details that would be required,
18 but we can provide that with the quotation
19 information in our subsequent comment.

20 MR. RONALD FORD: And again, we're
21 talking about purchasing of the equipment and
22 installing it?

MR. TED SARTAIN: Correct.

1 MR. RONALD FORD: Now, I'm just a
2 little bit confused here in that the 64,000 was
3 per unit outby price, which is average, which I
4 thought would encompass heavy duty -- and I
5 guess I thought maybe light duty, but you're
6 talking about heavy duty --

7 MR. TED SARTAIN: We're talking about
8 what in relationship to the proposal.

9 MR. RONALD FORD: I want to ask some
10 questions about the \$10,000, which Mr. Sartain
11 has already entered some of that. Again that
12 \$10,000 is the maintenance cost of the DST
13 System for one year on one machine.

14 MR. TED SARTAIN: That's estimated
15 cost for the filters alone; does not include
16 labor. It's based on three shifts per filter.

17 MR. RONALD FORD: Right, right. But
18 based on changing of the filter --

19 MR. TED SARTAIN: It's somewhere
20 between 30 and -40 dollars per filter at a
21 frequency of three shifts per filter. What's
22 disturbing is, we're hearing that the filter

23 life could be reduced to possibly one shift per

1 filter, which would triple that cost.

2 MR. RONALD FORD: I understand.

3 You're saying that 10,000 is based on the three
4 shifts.

5 MR. TED SARTAIN: Yes, sir.

6 MR. RONALD FORD: And 30 to 40
7 dollars cost per filter.

8 MR. TED SARTAIN: Yes, sir.

9 MR. RONALD FORD: And it does not
10 include the labor to change that filter.

11 MR. TED SARTAIN: Right.

12 MR. RONALD FORD: That doesn't matter
13 whether it's inby or outby piece of equipment;
14 it's the same \$10,000.

15 MR. TED SARTAIN: Correct.

16 MR. RONALD FORD: You mentioned early
17 -- I don't know if you can answer this question
18 -- but you mentioned earlier that the cost of
19 the 5.6 million that's all four mines,
20 equipment in all four mines. Right?

21 MR. TED SARTAIN: Correct.

22 MR. RONALD FORD: And then you

23 produce eight million tons annually, for all

1 four mines.

2 MR. TED SARTAIN: Yes.

3 MR. RONALD FORD: Can you tell me, on
4 an average, what is the average price for a ton
5 of coal that you get when you sell that?

6 MR. TED SARTAIN: No, sir, I don't
7 that.

8 MR. RONALD FORD: Anyway you can
9 supply that?

10 MR. CHUCK STEWART: I'd have to check
11 with my boss first.

12

13 (Discussion off the record.)

14

15 MR. RONALD FORD: You don't know or
16 can you tell me what percentage of your total
17 revenue is related to operating, maintenance,
18 and taxes?

19 MR. CHUCK STEWART: Can you say that
20 one more time?

21 MR. RONALD FORD: What percentage of
22 your total revenues is related to operating,

23 maintenance, and taxes?

1 MR. CHUCK STEWART: No, not right off
2 the bat I can't.

3 MR. RONALD FORD: Can you think about
4 maybe supplying that information, if it's
5 possible to get?

6 MR. TED SARTAIN: Yes, we will look
7 into that.

8 MR. CHUCK STEWART: One more time, so
9 I can make sure I get this down exactly the way
10 you want it. What percent of --

11 MR. RONALD FORD: What percent of
12 your total revenues is related to operating and
13 maintenance cost and taxes.

14 MR. CHUCK STEWART: Operating and
15 what?

16 MR. RONALD FORD: Operating and
17 maintenance.

18 MR. CHUCK STEWART: Thank you.

19 MR. RONALD FORD: And I've just got
20 one last area, or just one question, I hope. I
21 didn't understand a little bit about when, I
22 think Mr. Gordan (sic), Jordan talked about the

23 problems with the disposal of the filters. Is

1 the problem that it's a fire hazard if the
2 filter is not changed and it's still on the
3 machine?

4 MR. LARRY JORDAN: Yes. If any of
5 the safety devices were to fail, like temp
6 shutdown, which is required to put the filter
7 on. If that system fails, then there is a
8 potential for a fire. Now, we have to look
9 back at the he water-exhaust-scrubber tank that
10 we are using, if something happens to the flow
11 of water into the system, and the temp shutdown
12 does fail, there is a potential there for fire
13 hazard.

14 MR. RONALD FORD: Okay. But what
15 we're talking -- what I'm trying to get at is
16 that's a problem when the filter is still on
17 the machine? Right?

18 MR. LARRY JORDAN: Yes, sir.

19 MR. RONALD FORD: But the way you
20 termed is as a "disposable" a problem with
21 disposal of the filter. When the filter is
22 actually taken off the machine, you don't have

23 a problem -- you don't foresee any problem with

1 disposing it?

2 MR. LARRY JORDAN: After it's taken
3 off the machine, there's proper handling;
4 that's about the only problem I foresee, you
5 know, in disposing the filter.

6 MR. RONALD FORD: Let me ask one
7 additional question. You have filters on the
8 machines now. Right?

9 MR. LARRY JORDAN: Intake filters.

10 MR. WILLIAM McKINNEY: I have one
11 question. I think probably Mr. Byram would
12 answer it. You obviously had two occupational-
13 illness claims have been filed, 7001 forms have
14 been filled out for the two incidents that you
15 indicate were compensable. Have you had any
16 other 7001 forms filled out for any other
17 occupational illnesses that someone has alleged
18 has occurred, as a result of being exposed to
19 diesel particulate or diesel exhaust?

20 MR. DALE BYRAM: I would have to say
21 that's a possibility. And what we would do is
22 we can go back and check our records and

23 provide that to you. But to my knowledge right

1 this particular point in time, I'm not -- I
2 personally am not aware of it, but that doesn't
3 mean there's not a potential to exist. We're
4 talking about four separate with four safety
5 supervisors that would handle those records at
6 each mine.

7 MR. WILLIAM McKINNEY: But other than
8 the only two compensable claims, those are the
9 only two that you are aware of --

10 MR. DALE BYRAM: That I'm aware of.

11 MR. WILLIAM McKINNEY: -- right now?

12 MR. DALE BYRAM: Yes, sir.

13 MR. BOB HANEY: Mr. Byram, you had
14 mentioned that you disagree with our analysis
15 of 17 epidemiology studies that show an
16 increased risk of cancer with exposure to
17 diesel. Is that your opinion, or do you have
18 some studies that would support that?

19 MR. DALE BYRAM: I do not have
20 studies. I was using a comparison Boriac
21 studies from Yale University to where they made
22 reference to questioning the selectiveness of

23 the material that was used to create that

1 statement in the proposed regs. And the
2 position that I'm taking on it is if we have
3 two recognizable groups or agencies that have
4 done research and they're in opposition with
5 each other, then further research must be done
6 to identify accurately what we are trying to
7 deal with. And then once we do that, then set
8 the appropriate levels.

9 MR. BOB HANEY: Could you provide us
10 information on the that Boriac study?

11 MR. DALE BYRAM: Certainly, yes. We
12 have it; we can do that. May I ask a question?
13 Excuse me, go ahead.

14 MR. BOB HANEY: I was going to ask a
15 few questions to Mr. Jordan. How often do you
16 have to rebuild the diesel engines that you
17 have?

18 MR. LARRY JORDAN: It's dependent
19 upon the maintenance that the engines get.
20 Normally, an engine should last around 8,000
21 hours, which could, you know, equate to a year,
22 year and a half, just according to how long

23 they've been used and run, and what kind of

1 maintenance that they do get.

2 MR. BOB HANEY: Okay. And do you
3 have any idea what the cost of rebuilding that
4 engines is?

5 MR. LARRY JORDAN: Rebuilding the 916
6 engine right now, just the engine itself, is
7 anywhere from 12 to -14,000, just for the
8 engine rebuild, not including any add-on
9 equipment.

10 MR. BOB HANEY: You had mentioned
11 that you have some reservations about the DST
12 being an unproven technology. What about the
13 wet scrubber with the filters, which are
14 commonly used in other Alabama mines?

15 MR. LARRY JORDAN: Ask that question
16 again, if you would, please.

17 MR. BOB HANEY: You had stated some
18 reservations about the DST System being an
19 unproven technology. What are your feelings
20 about using the wet scrubber systems with
21 filters that are currently being used in other
22 Alabama mines?

MR. LARRY JORDAN: Well, if you look

1 back at the statement that, I believe, the guy
2 made from T&M that the manufactures did claim
3 about 20 hours of usage for that particular
4 filter. Realistically, if you look at it, it's
5 boiling down to around eight hours of use
6 that's about all you get before it really
7 starts choking the machine off and you start
8 having problems.

9 So, instead of getting three-shift
10 use out of it, you're looking at one shift,
11 which in turn equates to down in equipment and
12 it also equates to more labor cost that would
13 be involved.

14 So, my personal opinion that, you
15 know, there's probably other -- research is
16 being done out there that we might be able, in
17 the future, to look at other type of cleaning
18 devices that would be a lot more -- or
19 realistically to clean the engines.

20 MR. BOB HANEY: You had mentioned the
21 \$5 million cost for -- initial cost for all of
22 the engines. Typically, what time frame would

23 you amortize that cost over?

1 MR. LARRY JORDAN: Well, if you're
2 looking at approximately 100 units in an
3 18-month time frame, I don't really believe it
4 would be enough, because getting just the parts
5 to, you know, comply in 18 months would be -- I
6 think would be something that we would really
7 have to look into. As you well know at this
8 day and time, manufacturers just don't keep
9 components and stock parts like it used to be.

10 MR. BOB HANEY: I'm sorry. You
11 misunderstood the question.

12 MR. TED SARTAIN: I'm not sure we're
13 capable of answering. That's more of an
14 accounting question, and I'm not sure what time
15 frame that would be capitalized over.

16 I know most -- I can say this: Most
17 of the expenditures and things we have to
18 purchase to comply with the '96 health and
19 safety regs for diesel use were placed on cost,
20 they were just an up-front cost they went
21 directly -- they were not capitalized. And
22 that approached a million dollars within the

23 first few months of that regulation being

1 enforced.

2 MR. BOB HANEY: Mr. Stewart, as far
3 as the usage of the outby equipment, we've
4 heard other people say that it's used almost
5 regularly for the full shift. Would you
6 characterize it in the same way?

7 MR. CHUCK STEWART: No. I think
8 that's too general. I think there is some
9 equipment that transports a crew to a section,
10 may sit there the whole shift, as other crews
11 that maybe transporting supervisor and bosses
12 around that may run the majority of the shift.
13 Without some type of study, I don't think I can
14 give you a percentage of which units may run
15 full shifts, which ones don't. But I think
16 they have a mixture.

17 MR. BOB HANEY: And Mr. Sartain,
18 we've heard that you run between two and four
19 ramcars on a section at a time. Does the
20 airflow remain constant, or when you run four
21 ramcars, do you have more airflow than when you
22 run two ramcars?

MR. TED SARTAIN: The airflow pretty

1 much remains constant, but maintains that
2 sufficient level regardless of how many ramcars
3 we have. We already have in our ventilation
4 plan the minimum requirements for various
5 numbers or various scenarios of diesel
6 equipment operating at any given time. But
7 most of time that which is normally provided
8 for the purpose of diluting methane in a face
9 will accommodate three or four ramcars
10 operating simultaneously.

11 MR. JON KOGUT: Just a follow-up
12 question to what you just said. You said there
13 was a sufficient amount of air in your
14 ventilation plan to dilute up to four ramcars.
15 When you say "sufficient" can you explain?

16 MR. TED SARTAIN: The gas --

17 MR. JON KOGUT: The gas hits --

18 MR. TED SARTAIN: -- hits the
19 emission's requirement to the current safety.

20 MR. JON KOGUT: Can you give us some
21 idea what that would bring the particulate
22 emissions down to?

MR. TED SARTAIN: No, sir.

1 MR. THOMAS TOMB: I have a follow-up
2 question on that also. I think Mr. Stewart,
3 you said that your mine gets 50,000 CFM, the
4 last crosscut?

5 MR. CHUCK STEWART: That was the
6 average for the Number 7 Mine.

7 MR. THOMAS TOMB: Yes, okay. Because
8 other comments today implied that for other
9 mines, it might be less than, like 20,000. Is
10 that --

11 MR. CHUCK STEWART: I can speak for
12 Number 7.

13 MR. THOMAS TOMB: Your comments were
14 only for number 7.

15 MR. CHUCK STEWART: Yes, sir.

16 MR. THOMAS TOMB: Any other
17 questions?

18 MR. GEORGE SASEEN: I think this will
19 go to Mr. Jordan. Sir, did you receive any
20 cost for upgrading or adding the filters, from
21 Jeffrey, on adding filters to current fleet of
22 4110 ramcars?

23

MR. LARRY JORDAN: Yes, sir.

1 MR. GEORGE SASEEN: Could you supply
2 us with those cost?

3 MR. LARRY JORDAN: I believe the cost
4 was approximately \$5,500 per unit, and that's
5 not including labor, that's just the cost of
6 add-on equipment.

7 MR. GEORGE SASEEN: Could you, maybe,
8 possibly estimate or supplies us, you know,
9 what the labor cost would be?

10 MR. LARRY JORDAN: Yes, sir.

11 MR. GEORGE SASEEN: Thank you.

12 Also, Mr. Jordan, you mentioned in
13 your presentation, you talked with various
14 aftertreatment manufacturers, and you got kind
15 of a range of current technology from 60 to 80
16 percent filtration. Could you share that data
17 with us from those manufacturers?

18 MR. LARRY JORDAN: Yes, sir.

19 MR. GEORGE SASEEN: Okay. Thank you.

20 MR. THOMAS TOMB: Any other
21 questions? Do you need any clarifications on
22 the things that we asked for?

MR. DALE BYRAM: Yes, sir, if you

1 don't mind.

2 MR. THOMAS TOMB: Okay.

3 MR. TED SARTAIN: Since we found out
4 we can ask questions.

5 MR. CHUCK STEWART: I learned a lot
6 from Hacksaw while ago.

7 MR. THOMAS TOMB: Just remember, the
8 seventh time, you come up on the panel.

9 MR. DALE BYRAM: If I understand you,
10 sir, correctly, you said that the state of
11 California had a made a final decision, saying
12 that diesel particulate, in reference, to
13 diesel particulate that there was no safe
14 exposure level?

15 MR. JON KOGUT: They didn't make that
16 -- no, I'm sorry I may have misstated. That
17 they didn't make an explicit statement to that
18 effect. What they did was adopt an exposure
19 response curve. So, they based their
20 conclusion that diesel was a toxic air
21 contaminant on a dose response that included no
22 threshold.

MR. DALE BYRAM: And that same

1 research is being reviewed by the Secretary of
2 Health and Human Services.

3 MR. JON KOGUT: I don't know that
4 it's the same research. It's the U.S.
5 Secretary of Health and Human Services. The
6 listing as a toxic air contaminant was the --
7 excuse me -- state of California Environmental
8 Protection Agency in the state of California.
9 So that's an independent determination.

10 MR. DALE BYRAM: Okay.

11 MR. TED SARTAIN: Is that information
12 published to where we can --

13 MR. THOMAS TOMB: You can get that --

14 MR. TED SARTAIN: Is it on your
15 website?

16 MR. THOMAS TOMB: -- on the website.
17 Yes. It's under --

18 MR. GEORGE SASEEN: Diesel net has
19 some information.

20 MR. THOMAS TOMB: Diesel net also has
21 some information on that.

22 MR. TED SARTAIN: I think we are

23 done.

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1 MR. THOMAS TOMB: Thank you
2 gentlemen. And really the information if you
3 could supply to us what we asked for -- this
4 is all things that are going to be used in
5 consideration of the rule.

6 MR. CHUCK STEWART: Can I make one
7 file statement?

8 MR. THOMAS TOMB: Sure.

9 MR. CHUCK STEWART: And there's been
10 a lot of questions and that's the purpose of
11 these and I appreciate that. This is for
12 clarification for both sides. You know, I've
13 got to employees here, and I want to make sure
14 they understand where our position is. You
15 know, we're not coming in here today and saying
16 that exposure to DPM is safe. We question
17 "What is a safe level." We've questioned
18 whether there is systems out there that provide
19 95 percent reduction that would meet the
20 regulations. And we question whether there are
21 not other tools that can be used once a safe
22 level is determined to achieve those rates.

MR. THOMAS TOMB: Thank you very much

1 for your comments.

2 I know it's sort of late and running
3 into our lunch time here, but we have three
4 more presenters that look like -- that the time
5 should not run us too much longer. So, what I
6 propose is to go ahead and have these three
7 people make their presentation before we take a
8 lunch break.

9 Our next presenter will be Mr. Patts:

10 MR. Larry Patts: Thank you Mr.
11 Chairman, ladies and gentlemen of the panel.
12 My name is Larry Patts, P-a-t-t-s, and I'm a
13 representative of Consol, Incorporated.

14 Consol believes in the use of
15 diesel-powered equipment in underground mines
16 must be encouraged. After a thorough analysis
17 in several states, we conclude safety can be
18 enhanced by using diesel-powered equipment
19 underground without introducing a new health
20 hazard for our employees.

21 In very large underground mines,
22 where coal is transported by conveyer belt, the

23 power option for choice for the movement of

1 personnel and supplies is diesel. It is our
2 opinion the introduction of diesel-powered
3 equipment has been a significant contributor
4 to the improvement and safety performance in
5 underground coal mining during past decade.

6 Since 1972, 18 Consol employees have
7 died, as a direct result of the exposed
8 overhead direct current trolley line. There
9 have been many other fatalities and serious
10 accidents in the American coal industry similar
11 to Consol's.

12 The use of diesel equipment -- and I
13 mean here: locomotives, mantrips and jeeps
14 eliminates the trolley wire and the trolley pole.
15 If diesel had been used, all of the 18-Consol
16 fatalities could have been eliminated.

17 The use of diesel shuttle cars
18 eliminates the trailing cables, as a result,
19 the tripping hazards and the injuries caused
20 from struck by the cable can be eliminated,
21 along with the electrical accidents and fires
22 caused by the cable.

1 as trolley poles and trailing cables contribute
2 to a number of injuries, where the cause is
3 nonelectrical. For example, injuries have been
4 caused when the trolley pole became and
5 disengaged from the wire and struck the
6 operator. Even more serious were the fires and
7 ignitions, which have been caused by electrical
8 equipment.

9 Consol experienced such an incident
10 in 1972, when a carrier moving equipment in the
11 mine came in contact with the trolley wire, a
12 fire resulted and nine men lost their lives.

13 As just one example of the potential
14 for fire from the trolley wire, a major
15 southwestern Pennsylvania coal mine experienced
16 at least three fires from the trolley wire; two
17 of which caused the mine to be shutdown for
18 substantial periods of time, at great economic
19 loss to the community.

20 Another example is from southwestern
21 Virginia, where a part of the trolley wire
22 ignited gas from an underground pipeline. Now,

23 fortunately no fatalities in this incident, but

1 the mine was closed, resulting in a loss of
2 jobs and economic hardship.

3 Battery-powered equipment is used in
4 many mines for the transportation of men and
5 supplies, and as scoops for cleanup work and
6 miscellaneous jobs. Battery equipment like
7 diesel equipment can eliminate the trolley wire
8 and the trailing cables. However, battery
9 equipment also has well-known hazards, which
10 have caused numerous injuries. Batteries
11 produce hydrogen gas, which have caused
12 explosions underground, sparks from batteries
13 have also caused methane ignitions underground,
14 such as the Schocia (phonetic) Mine disaster.
15 Other injuries have been the result with
16 battery acid and the physical handling of
17 batteries.

18 Diesel equipment does have the
19 potential to significantly reduce injuries by
20 eliminating electrical components, such as the
21 trolley wire, the trolley pole, and trailing
22 cables.

1 about the potential hazards created by diesel
2 equipment. Many of these concerns have
3 resulted from a lack of knowledge about the
4 design and the operation of diesel.

5 The items most frequently mentioned
6 is the possible increase in fire hazard and
7 ignition hazard, resulting from hot exhaust
8 gases and hot services. Strict MSHA and State
9 regulation guard against potential fires in the
10 face and outby areas of the coal mine.

11 In the face area, the equipment is
12 designed to pull the diesel exhaust and then
13 quickly dilute it with air. Potentially hot
14 surfaces, such as the exhaust manifold and the
15 exhaust pipe are fully water jacketed in order
16 to prevent the emission of coal dust or diesel
17 fuel.

18 Rigid permissibility tests are also
19 required by MSHA approval. As with face
20 equipment, MSHA and State regulations also
21 govern the use of outby diesel-haulage
22 equipment.

1 equipment, which does not have to pass
2 explosion tests or eliminate hot surfaces,
3 regulations for diesel outby haulage equipment
4 are not as stringent as those for face
5 equipment.

6 MSHA has recently promulgated even
7 more comprehensive safety regulation for the
8 design, approval, and use of diesel equipment
9 in underground coal mines. And by this
10 reference, I mean the October 1996 regulations.

11 Fuel storage and handling is another
12 concern with diesel equipment. MSHA, in its
13 latest diesel regulations, provide stringent
14 standards for fuel storage and handling. Many
15 of the standards are already enforced by state
16 agencies where diesels are used. Most of the
17 regulations are simply normal precautions one
18 would take when handling flammable hydraulic
19 oil.

20 Underground fuel storage units must
21 be well ventilated to prevent leaks. The units
22 must be kept in well-ventilated locations with

23 the air not allowed to pass through the active

1 ways.

2 The charging stations for battery
3 powered also require such ventilation. The
4 fire protection must also be supplied at
5 refueling points, as well as incombustible
6 material for absorbing spilled fuel.

7 Personnel must be trained in
8 refueling and storage procedures, and only
9 those qualified personnel allowed to perform
10 such active.

11 The National Institute of
12 Occupational Safety and Health has determined
13 diesel particulate matter to be potential human
14 carcinogen. Recent studies have established
15 causal relationships between long-term
16 relatively high-concentration exposure to DPM
17 and lung tumors in rats, and a slight infer
18 increased risk to the development of lung
19 tumors in humans.

20 Present State and Federal regulatory
21 agencies are proved ventilation and equipment
22 maintenance plans are in place to prevent such

23 high concentration exposures in underground

1 coal mines.

2 The use of diesel outby-haulage
3 equipment can improve mine ventilation. In
4 mines using trolly wire, the significant
5 ventilation problems have been associated with
6 required isolated intake, escapeway and
7 regulated track entry.

8 The final results are man-made
9 restrictions on both the isolated intake and
10 track air courses, to insure positive air
11 movement to the face areas.

12 Typically, in mines where track air
13 velocities are limited by MSHA regulations to
14 250 feet per minute. Air tends to flow up the
15 isolated intake and reverses into the track
16 entry. To prevent this occurrence, the
17 isolated escapeway, as well the track, must be
18 regulate.

19 However, with the diesel system --
20 and with this situation, all intake air is
21 restricted and the overall ventilation is,
22 therefore, reduced.

However, with the diesel system,

1 restrictions caused by entry isolation can be
2 removed and the intake air would be completely
3 unrestricted. The result is a more overall or
4 positive air flow to the working faces.
5 This also provides for better shaft
6 utilization.

7 In summary, the safety advantages
8 brought about by diesel equipment, definitely
9 outweigh the possible disadvantages. Hot
10 surfaces, exhaust, and other possible emission
11 sources are controlled by MSHA regulations and
12 rigid permissibility tests.

13 Fuel storage and handling require
14 care and training. However, normally
15 precautions associated with flammable hydraulic
16 oil are sufficient to prevent such hazards and
17 spillage and fires.

18 Diesel equipment does have the
19 potential to significantly reduce injuries.
20 Many injuries are related to electrical
21 components, as I mentioned the trolley wire, the
22 trolley pole. They can be eliminated with diesel

23 locomotives, personnel carries, and shuttle

1 bus.

2 Elimination of the trolley wire also
3 improves the overall mine ventilation providing
4 a highly significant advantage in -- system.
5 This should never be underestimated. Console
6 believes that introduction of diesel equipment
7 into coal mines has been a significant
8 contributor to improvement in safety
9 performance in American underground coal mines
10 during the last decade.

11 Consol also believes that the
12 expanded use of diesel equipment will continue
13 to improve the safety performance of
14 underground coal mines in the future. We
15 believe that MSHA's proposed regulation to
16 require 95 percent efficiency for DPM on all
17 permissible and heavy-duty nonpermissible
18 diesel equipment is unwarranted and
19 impractical.

20 Recent laboratory testing are
21 currently available, DPM filter confirm that 95
22 percent filter efficiency is not practically

23 achievable. Consol advocates an integrated

1 approach to control exposure to diesel exhaust,
2 using low-emission engines, low-sulfur fuels,
3 catalytic converters, diesel engine maintenance
4 programs, and ventilation.

5 MSHA has also proposed this method to
6 reduce exposure to diesel exhaust in their
7 Toolbox approach. However, if filters are
8 mandated, the incentive to lower exposure,
9 using such tools is eliminated. Under the
10 present MSHA proposal, the Toolbox contains
11 only one tool, and that is after-treatment
12 devices.

13 During the past decade Consol has
14 proven that diesel equipment in underground
15 coal mines can be operated without sacrificing
16 miners' health while improving their safety.
17 State as well as Federal regulations governing
18 the approval and use of such diesel equipment
19 have proven adequate to insure safe and
20 healthful use by responsible operators.

21 Additional requirements imposed on the
22 use of diesel will discourage the use of diesel

23 equipment and will promote the use of trolley

1 equipment, which has in the past proven less
2 safe to our employees.

3 I'd like to thank you for the
4 opportunity to speak this morning. Thank you.

5 MR. THOMAS TOMB: Thank you.

6 MR. BOB HANEY: Mr. Patts, do you
7 know of any inference by the engine
8 manufacturers to produce a lower emission
9 permissible engine?

10 MR. LARRY PATTS: I know for a fact
11 that it is difficult for -- with a quantity of
12 engines that are used for the engine
13 manufacturers to get approval on even lower
14 emissions engines. I don't of any specific
15 efforts going on right now to produce lower
16 emission engines.

17 MR. GEORGE SASEEN: Mr. Patts, do you
18 have any -- you mentioned 95 percent was, in
19 your opinion, from data, unachievable. Do you
20 have a range of filter efficiency that could be
21 supported by data that could be achievable?

22 MR. LARRY PATTS: I believe the data

23 that was submitted and the work was done at the

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1 West Virginia University will show a range of
2 filter efficiency probably between 70 and 80
3 percent.

4 MR. GEORGE SASEEN: Thank you.

5 MR. THOMAS TOMB: Okay, thank you
6 very much.

7 Our next representor will be Dr.
8 Pramod Thakur:

9 DR. PRAMOD THAKUR: My name is Pramod
10 Thakur. I have a bad throat. I gave you may
11 card, so you can read from my card what my name
12 is.

13 I just wanted to offer a few
14 gratifications. I want to thank the gentlemen
15 and the committee to let me attend all these
16 four hearings and speak whenever I wanted to
17 highlight something.

18 I have heard on these four meetings
19 how people have suffered from the diesel
20 exhaust. And if I enlighten all that I heard
21 properly; I hear two problems: Instantaneous
22 problems, like watering of eyes, irritation in

23 the throat, headache, and things like that.

1 And it had often been mentioned that we could
2 do something to eliminate these symptoms.

3 I would like to offer to the
4 Committee that all these symptoms are related
5 to the gasses components of the diesel exhaust,
6 and in all probability DPM has nothing to do
7 with it. This is not to say that this would be
8 complacent about the longer-term health factor
9 about the particulates in the diesel, but I
10 would just like to clarify. And it also helps
11 us in planning our new strategy: How do we
12 make diesel engines helpful and safe in our
13 mines.

14 Picking up on what Larry said, you
15 know, I think there is no question in the
16 mines, in labor, or industry that this is a
17 safer piece of equipment for our underground
18 mines, particularly in gassy mines. So, how do
19 we tackle this problem? We buildup on what I
20 submitted to you in Beckley. I'd like to say
21 that solution lies not so much in installing a
22 filter on every piece of diesel equipment and

23 installing a well-designed oxidation catalyst

1 or catalyst converter. And the reason I say so
2 -- because I have talked and I have seen with
3 results for a year and a half at -- and
4 Commissioner of West Virginia Coal Commission
5 in West Virginia. I have seen the opportunity
6 to look at firsthand. results

7 I am very interested, Mr. Chairman
8 and members of the committee, with the
9 performance of the oxidation catalytic. For
10 example, it takes out 90 percent of carbon
11 monoxide, 95 percent of unburned hydrocarbons,
12 which gives you watering eyes, irritation in
13 the throat. Perhaps the most important thing
14 it does -- analyze it, but the carbon factor on
15 which you get some chemicals called polynuclear
16 hydrocarbons. Coal particle is no more
17 dangerous -- or soot particle is not more
18 dangerous than the coal dust, but the potential
19 for damaging human beings is a lot more fragile
20 vapors classified as class 32 SPAH. Wouldn't
21 you be happy to know that his oxidation
22 catalyst will burn 95 percent PAH and convert

23 it into water, a harmless CO₂.

1 Now, the current results that I have,
2 it reduces 25 to 35 percent of the particulate.
3 And I cannot tell how much of carbon and how
4 much of this SOF, which soluble -- containing
5 all the harmful ingredients, but it does -- if
6 you follow the trend, I think it does remove
7 most of the things which are immediately
8 harmful to people and that will hurt people in
9 long range.

10 And in the same breath, I'd like to
11 add, we're not quite done with the development
12 of oxidation catalyst; some of the
13 manufacturers' name we heard like Johnson
14 Matthey, Engelhard. We're working to enhance
15 the performance of this. But I just want to
16 offer my recommendations that to all of them
17 asking for a filter for every single unit, we
18 should be asking for an oxidation catalyst,
19 which will do whole lot more good than a fuel
20 duct 10. From practical experience I can tell
21 you, you install that DST filter on a unit and
22 you don't have an oxidation catalyst, you're

23 still not there. I've been there, I've

1 stood by the engine, I've had my experience
2 directly; I didn't read any book. And this is
3 again really emphasizing the things I said.

4 The second thing I would like to
5 submit to, and it's not enough to criticize,
6 but I think it will offer some solution as
7 well. I'd like to reemphasize at that point
8 and time when we don't have an instrument to
9 distinguish the coal dust, like somebody was
10 asking, and DPM in the mines. Perhaps to best
11 maintain uniformity and some degree of control
12 throughout the Nation, and, of course, in the
13 individual states, would be to accept the
14 proposal prepared by the West Virginia Vehicle
15 (phonetic) Equipment Commission, take the
16 integrated approach, use the cleanest engine --
17 you ask, How clean the engine is? Right now if
18 you go into the market, a very small consumer
19 -- the way you define a clean engine is the
20 specific DHPR. The number from data from
21 Georgia Lab is .2 and .3 that's all we can get,
22 for haulage engine you can .1, but we cannot

23 get .1 for a small consumer like us. Nobody

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1 would go and develop such engines. That's what
2 this Deutz 916 engine, very clean -- I'm sorry.
3 916 MWM, was bought by Deutz. They manufacture
4 6,000 they sell only 60, so what they did, they
5 stop manufacturing anymore.

6 How do you go about it? It's just
7 like they say, You can't hire a person without
8 experience, then how do you get experience
9 unless you get hired.

10 If you open up the door and we start
11 using things like Jim Walter is doing and other
12 areas of the country, where we have gassy mines
13 or we have concerns for adjustments. Then at
14 one stage we may have enough -- to go
15 collectively and say, Okay, we're going to buy
16 five haulage units and give us engines that's
17 maybe .1 gram.

18 So, I submit to you to help us like
19 U.S. Army helps those people that don't have
20 any experience.

21 My throat is dry; you'll have to bare
22 with me. Like I say, just to complete the

23 thought, I said, that the best way to certify

1 the diesel equipment would be to start with
2 clean engine, and use the oxidation catalyst in
3 different part of the equipment, and then
4 specify sufficient amount of air, when you can
5 provide that and anybody in the mine violation,
6 and many of sitting there, I know that for a
7 long time; nobody has to tell you, you already
8 know that what you have, you don't have enough
9 air. If you don't enough air, you have no
10 recourse, but to use a filter; like heavy-duty
11 equipment, outby and inby equipment.

12 And I think in West Virginia -- and I
13 can be corrected by Jeff here -- an industry,
14 both to accept this outline of this approach,
15 this protocol. The only difference is: We are
16 saying .5, and somebody is asking for .1 and
17 .2. And my answer to that is that I try to
18 investigate: Can we achieve .1 and 2? There
19 are only two ways you can get .1 and 2. If you
20 have commercially available system that could
21 give you 95 percent plus, you could, or if you
22 had engines with a very low emission, less

23 than. 1 gram per HPH, to the best of my

1 knowledge, or last year and a half effort
2 indicate that we don't have such engines; we
3 don't have such engines. So, we have to have a
4 number we can live with, which is technically
5 crucial.

6 I would again say that we should
7 leave the door open. We should immediately
8 remove this trolly wire hazard by introducing
9 diesel. And we should leave the door open for
10 improvement in all areas, as a large buyer
11 industry that we can negotiate with
12 manufacturers to get cleaner engines. We
13 should encourage the research in blending with
14 -- other sources like FT, or ultralow sulfur
15 fuel. And study their impact on engine life,
16 because if you reduce the sulfur to almost
17 nothing, engine life is obtained.

18 So, we should ask manufacturers to
19 recommend to us the right equipment here, which
20 would minimize the use of DPM and yet will
21 expand the life of the engine.

22 To repeat again: We should continue

23 to improve the performance of oxidation

1 catalyst. It's just a nice thing -- I cannot
2 overemphasize the importance of this.

3 And last, but not the least, I think
4 in some cases we will need certain filters.
5 The ones we have right now, they are not ideal.
6 DST, for example, is too large for small
7 equipment, neither does it delivers to promise
8 95 percent in all cases.

9 Filters can be improved too. So, Tom
10 I will address it to -- if MSHA has fundings,
11 you should it encourage in this area -- this
12 may seem out of line, but I strongly feel that
13 there is room for improvement and some day we
14 can have a system we can all be happy with.

15 Thank you again for giving me the
16 opportunity.

17 MR. THOMAS TOMB: Thank you Dr.
18 Thakur. Any questions.

19 MR. GEORGE SASEEN. Dr. Thakur,
20 refresh memory, but the catalyst converter
21 studies done at WVU, was that submitted in
22 Beckley? Is that all --

1 MR. GEORGE SASEEN: -- part of that?

2 DR. PRAMOD THAKUR: Yes, it's in the
3 record. Twenty-five to 35 percent, but there
4 are other -- and you know me, I don't trust
5 anybody. I like to have -- well, like anybody
6 else, I like to have duplicates. You have one
7 data form and apply the law on the basis of
8 that. I want to have several repetitions.

9 MR. THOMAS TOMB: Any other
10 questions?

11 MR. JON KOGUT: Dr. Thakur, you said
12 that in your opinion that the acute effects of
13 diesel exhaust -- and I think you singled out
14 or you mentioned specifically eye irritation --

15 DR. PRAMOD THAKUR: Yes.

16 MR. JON KOGUT: -- were attributable
17 to the gaseous component rather than the
18 particulate.

19 DR. PRAMOD THAKUR: Yes.

20 MR. JON KOGUT: Were you referring to
21 all of the acute responses that have that we
22 discussed in the risk assessment, or are you

23 referring specifically to eye irritation.

1 DR. PRAMOD THAKUR: Well, Jon, you
2 know I'm not a medical doctor, so don't ask me
3 difficult questions. The symptoms -- I've been
4 in the mines for 30 years and I have seen a lot
5 of problems. I would -- it's my best judgment
6 that all the acute problems like eye
7 irritation, throat irritations, possible
8 headaches, you know, is probably gaseous
9 components. I have exposure to CO, NO enough
10 that I don't like to see that. I have seen
11 people dying out of CO and NO2. I base my
12 judgment on that.

13 As far as DPM is concerned, yes, it
14 is no different from coal dust. So, that's
15 your chronic problem. And like many members
16 said here, we certainly would like to know some
17 day what is a safe level. Right now my
18 position is -- or in at least in West Virginia
19 is that minimize particulate to the minimum, we
20 can minimize.

21 MR. JON KOGUT: Okay. Well, in
22 response to that, you know, your opinion about

23 the acute effects, I just want to point out

1 that there is body of evidence that relates
2 diesel particulates specifically to acute
3 responses. And I'm just going to quote a
4 sentence out of the proposed rule. It appears
5 on page 17530 of the Federal Register Notice.
6 It says that "There have been a number of
7 recent studies indicating that DPM exposures
8 can induce bronchial inflammation and
9 respiratory immunological allergic responses in
10 humans. These are reviewed in Perterson and
11 Saxon, in 1996, and Diaz-Sanchez, 1997."

12 DR. PRAMOD THAKUR: I'm not aware of
13 it. I'm just speaking from practical
14 experience in the mines.

15 MR. THOMAS TOMB: I have one
16 question. In your recommendation for diesel
17 catalyst converters, there's a presentation
18 made in Beckley by, I think, a Mr. Smith, that
19 questioned that application because of the
20 operating temperature in the engines in a lot
21 of the places in the mines?

22 DR. PRAMOD THAKUR: Mr. Chairman

23 whenever a manufacturer makes a comment about

1 technology, you can suspect some personal
2 bias. Mr. Smith makes a system where they
3 don't have oxidation catalyst as compared to
4 DST. They sell that equipment without the
5 benefit of oxidation catalyst, simply because
6 they cannot provide, they cannot refute the
7 scientific data -- that tremendous job -- what
8 did you say? Gaseous toxic agents in the
9 diesel exhaust.

10 MR. THOMAS TOMB: Okay. Thank you.

11 DR. PRAMOD THAKUR: Thank you again.

12 MR. THOMAS TOMB: Our next presenter
13 will be Mr. Cauvle?

14 MR. MIKE CAUVLE: Yes, sir. My name
15 is Mike Cauvle, M-i-k-e C-a-u-v-l-e. I'm the
16 UMWA member on the safety committee for U.S.
17 Steel Mining, with 30 years experience.

18 Okay. I work at Concord preparation
19 plant, which is not covered under this law.
20 Inside our plant we have forklifts and Bobcats,
21 which are diesel, with no scrubbers; we don't
22 make no test and no test is required. We have

23 three bulldozers, two front-end loaders that

1 puts out exhaust, depending on the location of
2 equipment and the wind comes through the
3 windows and the doors and all. I personally
4 work at the thermodryer, where we use diesel to
5 spray on the coal to ignite our fire to begin
6 with and throughout the day, you have to add
7 diesel to maintain your fire.

8 We have in the winter time, we have
9 different type heaters, but we have some
10 heaters in our plant that's called Salamanders
11 (phonetic) all it is, it's just basically
12 diesel burning if barrel is what is amounts to,
13 it puts out black smoke at times.

14 We add diesel to our water system
15 inside the plant for flotation -- I know this
16 is getting away from actually burning of it,
17 but the pumps and all makes the diesel hot.
18 And inside our plant at times, you have your
19 eyes burning, you have headaches, and shortness
20 of breath.

21 We've had roughly 10 to 12 miners in
22 the last ten years that I know of come down

23 with cancer. And I was just wondering --

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1 MR. THOMAS TOMB: Ten to 12 miners in
2 the last --

3 MR. MIKE CAUVLE: Ten years.

4 MR. THOMAS TOMB: -- ten years.

5 MR. MIKE CAUVLE: And I was just
6 wondering roughly what can y'all do to help the
7 miners that work outside on this diesel
8 problem.

9 And that's it. Thank you.

10 MR. THOMAS TOMB: Any questions. I
11 guess I have one question. All this equipment
12 that you talked about, your Bobcats, and so
13 forth, are these all operating in the open
14 environment?

15 MR. MIKE CAUVLE: I'm sorry. What
16 now?

17 MR. THOMAS TOMB: Yes. On the
18 equipment that you said at your service
19 operation, is this equipment all operating in
20 open environment?

21 MR. MIKE CAUVLE: The rock trucks,
22 the front-end loaders, and bulldozers are, but

23 the Bobcats and the forklift and all work right

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1 inside the building, and elevators, you know,
2 lifting equipment.

3 MR. THOMAS TOMB: Do they have any
4 kind of control equipment on them?

5 MR. MIKE CAUVLE: Sir?

6 MR. THOMAS TOMB: Do they have any
7 kind of control equipment on them?

8 MR. MIKE CAUVLE: No, sir. Just like
9 a Bobcat or a forklift you see in a warehouse.

10 MR. THOMAS TOMB: There's not
11 converters or anything on them?

12 MR. MIKE CAUVLE: No, sir, none
13 whatsoever.

14 MR. WILLIAM McKINNEY: Approximately,
15 how many people work at your freight plant.
16 You said you had 10 to 20 cases of cancer --

17 MR. MIKE CAUVLE: Probably from --

18 MR. WILLIAM McKINNEY: -- how many
19 people work there?

20 MR. MIKE CAUVLE: Sixty-two People
21 work at the prep plant on three shifts. But
22 now some of them at this point is done retired.

23 My father had colon cancer, and he's already

1 retired, which that's been with the last two
2 years. President of our local, Mr. Ray Pate,
3 has had had kidney any cancer, in the last ten
4 years. He's here today.

5 I'm not saying that all of this has
6 to do with diesel, but when you have that many
7 people in that small group, you know, something
8 is causing it. Thank you.

9 MR. GEORGE SASEEN: Is maintenance on
10 this equipment done indoors, in the garage, or
11 is it done on the outside?

12 MR. MIKE CAUVLE: Pretty much inside.

13 MR. GEORGE SASEEN: Is there anything
14 that -- is the exhaust emitted inside, or do
15 they try to pipe it to the inside?

16 MR. MIKE CAUVLE: It's inside.

17 MR. GEORGE SASEEN: It stays inside?

18 MR. MIKE CAUVLE: Yes, sir. And when
19 it's running, it's inside. When you crank it
20 up and you get smoke, when you moving it, they
21 smoke. You know because it's -- we've never
22 thought that much about it. You know, like I

23 said, it's been an inside issue, but now -- and

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1 you opened the door up awhile ago about when
2 you asked a question about the outside people.
3 And like I said, I can see where we might be
4 having a real problem.

5 MR. THOMAS TOMB: Okay. Thank you
6 very much. Is there anybody else at this time
7 that would like to make a presentation. Okay,
8 Mr. Duncan.

9 MR. JEFFREY DUNCAN: Good afternoon.
10 My name is Jeffrey A. Duncan. I gave you my
11 business card. I'm the Deputy Administrator of
12 the Department of Occupational Health and
13 Safety for United Mine Workers of America.

14 I just want to touch on a few things
15 today. I'd like to clear up some things that
16 may have been misunderstood, may have been
17 misrepresented. But before I start, I would
18 like to thank this Panel for permitting me to
19 share my comments today, and I'd also like to
20 thank the Panel and the Agency for taking this
21 important rulemaking on.

22 I will submit to the record, prior to

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23 February 16th, final written comments from the

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1 United Mine Workers. But some of the things
2 that I've heard here and the two other hearings
3 that I attended and got a report back from Mt.
4 Vernon here kind of left me puzzled about some
5 things.

6 I've heard mine operators say that
7 they would like to be given the flexibility to
8 use the integrated approach to control diesel
9 particulate exposure. They want to use one or
10 more of the measures contained in the MSHA
11 Toolbox. They want to be able to pick and
12 choose which of those measures that will apply.
13 And, you know, I've a little bit of a problem
14 with just a random approach.

15 I think it would be very difficult to
16 verify and very difficult to enforce. But I
17 guess, the thing that puzzles me the most about
18 what the operators have said: They keep
19 saying, Give us the flexibility. My question
20 to the operators is: What's stopping you from
21 doing it right now. The Toolbox has been out
22 there for quite some time. Most of that stuff

23 came from that meeting the Beckley, West

1 Virginia, but the Toolbox has been published.
2 There is absolutely no regulation that
3 prohibits the operators from using what is in
4 that Toolbox right now. All those other
5 things. I don't think a lot of them are being
6 used.

7 As with ventilation and fuel quality
8 and maintenance and clean burning engines, I
9 don't think those things are stand-alone
10 methods for controlling diesel particulate
11 matter. And I don't think they can always be
12 relied on. Clean burning engines, if they're
13 not maintained are going to produce a lot of
14 diesel particulate. It will emit the higher
15 levels DPM. If ventilation -- and we've heard
16 a lot of information in the four public
17 hearings from mines about how we can't rely on
18 ventilation, and there's got to hundreds, maybe
19 thousands of citations that have been entered
20 into the record; ventilation citation.

21 We really can't rely on ventilation
22 to protect miners. If we have a series of

23 engine faults, if we've got a restriction in

1 the intake, that can cause particulate
2 emissions to increase. But the one thing that
3 kind of serves as the catchall is that filter
4 that the exhaust has to pass through
5 immediately before it's emitted into the mine
6 atmosphere. Excuse me, I think I'm getting dry
7 like Dr. Thakur.

8 We do agree with the integrated
9 approach to control this diesel particulate
10 matter. But the fact of the matter is we
11 believe that the -- an integrated approach, a
12 fully integrated approach includes a
13 requirement for diesel particulate filters on
14 every piece of diesel-powered equipment. And
15 that's where -- and, you know, I really
16 appreciate everything that, you know, MSHA has
17 done this rulemaking. I just wish you would
18 have gone further. I don't think you quite got
19 to where you need to be. And, you know, if we
20 filter one-third of all diesel in underground
21 coal mines, and leave the other two-thirds out
22 there, then we're certainly not where we need

23 to be.

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1 Clearly, you've heard a lot of
2 testimony from miners that have talked about
3 maintenance being a problem. Maintenance is an
4 even bigger problem for outby equipment,
5 because there is no requirements for
6 permissibility test. MSHA inspectors don't
7 inspect outby equipment for permissibility.
8 And often times outby equipment -- and this
9 hasn't changed for 20 years. It was like this
10 when I first started in an underground coal
11 mine. Outby equipment gets operated until it
12 breaks, then it gets repaired.

13 So, we need to make sure that we're
14 doing something to protect miners from the
15 emissions coming off of those outby-diesel
16 engines.

17 I heard Mr. Patts' comments earlier,
18 and he stressed the fact that diesel eliminates
19 trolly. I found out after the Beckley hearing,
20 talking to one of the miners that works at VP 8
21 Mine that they've had diesel-powered equipment
22 in the VP 8 Mine, Consol Mine, for quite some

23 time and still have energized trolley wire. So,

1 it doesn't necessarily eliminate trolley. And,
2 I guess, that raises another safety concern of
3 mine when we've got diesel fuel being
4 transported in a mine that's got a trolley
5 wire. So, it isn't necessarily an either/or.

6 Miners have also addressed the issue of
7 what MSHA considers as light duty not
8 permissible diesel-powered equipment. And I
9 could tell by the question that several of you
10 were real interested in this question. The
11 issue about how often it's run and how hard it
12 gets run, what kind of load it's placed under.
13 I think that the answer that you got from the
14 miners is that light-duty outby or light-duty
15 nonpermissible diesel-powered equipment is run
16 often and it's run hard.

17 We really need to consider that when
18 you prepare the final rule. It doesn't get run
19 for only brief periods of time each shift, and
20 it's not operated at low speed and with little
21 or no load.

22 I understand that at least one of the

23 public hearings there was an issue raised about

1 a Rohmac ceramic- type system, and how the type
2 system sat in a lab at West Virginia University
3 for two or three months. This was part of the
4 West Virginia Diesel Equipment Commission
5 study. My response to that is: Were real
6 anxious to get that thing tested. As a matter
7 of fact, on a few occasions, I contacted Dr.
8 Giedum (phonetic) myself and asked him about
9 the status of the test and why the engine
10 wasn't being tested. It was on the original
11 work-plan, February 1. And come to the find
12 out that some of the operators had been be
13 contact with Dr. Giedum and made adjustments to
14 the work-plan, they kind of pushed it back
15 somewhat.

16 I think that Rohmac, and there maybe
17 some other exhaust after-treatment
18 manufacturers are up and coming. I think that,
19 you know, they're producing a good product,
20 that product, from what I understand, is going
21 to be the subject of a meeting in Pennsylvania
22 next Wednesday; I believe it's the 23rd. I

23 think, from what I understand is correct, that

1 Rohmac is going to approach the West Virginia
2 Diesel Technical Advisory Committee and may
3 even be in a position to submit something for
4 approval.

5 MR. THOMAS TOMB: West Virginia or
6 Pennsylvania?

7 MR. JEFFREY DUNCAN: Pennsylvania. I
8 think the meeting is Uniontown, Pennsylvania,
9 on the 23rd. And there's also a -- I've heard
10 each and everyone of these hearings that, you
11 know, there's only two pieces of diesel-powered
12 equipment in Pennsylvania, and right now that's
13 accurate. I'll say this first: When it comes
14 into Pennsylvania; it's going to come in the
15 right way, and we are not going to hurt minors
16 with it.

17 But I'd also like to share with you
18 that there's a company -- Bob Murray, I believe
19 the name of the operation is CRG; it's near
20 Black Lick, Pennsylvania. And they're in the
21 process right now of getting a DST-equipped MWM
22 Deutz ready for approval in Pennsylvania. And

23 this isn't a big operators. I think the mine

1 probably employees about 30 or 40 miners, maybe
2 a growing operation. But there is going to be
3 more diesel-powered equipment in Pennsylvania.
4 There may be some things and the Pennsylvania
5 Legislation that need adjusted. For instance,
6 the ventilation rates that we use for
7 Pennsylvania rely on old MSHA regulations.
8 But miners in Pennsylvania when diesel
9 equipment is issued are going to be protected.

10 Now, Cyprus (phonetic) operates the
11 Emerly and Cumberland (phonetic) Mines in
12 Pennsylvania. They've indicated to me several
13 times, over the that several months that they
14 also intend to bring more diesels into their
15 operations.

16 And there is one other operator that
17 I would consider a large operator in
18 Pennsylvania. We used to have three, now
19 there's only two. But I was told -- I was told
20 emphatically that that operator would never
21 purchase a DST, and I don't think it had
22 anything to do with -- anything more than the

23 technology, a partner in that technology is

1 another coal operator.

2 I got just a few other things I'd
3 like to run one through. I understand there's
4 been some comments made about the -- some
5 complaints about the requirement for the diesel
6 -- or information you put into the ventilation
7 plan, and I think that's absolutely necessary.
8 The requirements -- and they didn't -- you
9 know, I reviewed those requirements; they
10 didn't seem extreme to me. I think that
11 clearly, like the respirable dust
12 requirements, that we need to be able to track
13 that information and track it through the
14 ventilation plan. I think that if it's in the
15 plan, then everybody should be aware of what
16 the requirements are.

17 I've also heard that the training
18 requirements are too broad. And I'm not sure I
19 understand that. In Pennsylvania -- and I
20 believe that the Pennsylvania Legislation was
21 submitted at an earlier public hearing, maybe a
22 couple of them. But in Pennsylvania we got

23 very specific about training for both the

1 operators and mechanics.

2 The requirements in this regulation,
3 I believe, are, you know, much less strict than
4 what we did in Pennsylvania. I think that the
5 information -- and there's only about four
6 things that they're really required to cover,
7 and I think they're all important. I think the
8 miners should know what health risk associated
9 with exposure to diesel particulate matter
10 are. I think that they should be aware of the
11 methods that are used in the mine to control
12 diesel particulate.

13 I think they should know who's
14 responsible for maintaining the controls. And
15 I think they should be trained on the actions
16 that they personally have to take to assure
17 that those controls are working.

18 In response to -- I think Bob had a
19 question that I really wanted to clear up or
20 statement that he made. Give he just one
21 minute here. Bob, you mentioned for outby
22 equipment that the outby ventilation

23 requirements would be taken care of by the

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1 diesel-safety standards. That is a problem,
2 that is a problem. And the reason it's a
3 problem is that the ventilation requirements
4 for operation of multiple units of
5 diesel-powered equipment on working sections
6 than in areas where recognized mining equipment
7 is being installed and removed. They are
8 established in 30 CFR part 75.4.5 G have --
9 that's 100 percent, 100 percent, 100 percent
10 rule. But unlike those requirements for
11 diesel-powered equipment that's operated outby,
12 there are no additional requirements requiring
13 more air than the amount required for a single
14 unit of diesel-powered equipment. On multiple
15 pieces of diesel-powered equipment are used
16 outby the section loading point. Even though,
17 many of the same basic engines are used to
18 power both inby and outby diesel-powered
19 equipment, the standard makes a distinction and
20 requires much less air for the machines
21 operated outby.

22 And since we are talking about

23 ventilation in outby equipment, when we look at

1 the diesel particulate index, we see another
2 significant weakness in the ventilation
3 requirements for diesel-powered equipment. MSHA
4 regulations establish approval
5 plate-ventilation rates for all diesel engines
6 used in underground coal mines. The approval
7 plate-ventilation rates are calculated on the
8 basis of the quantity of air necessary to
9 dilute of the gaseous components of the
10 emissions to levels established by the
11 regulations. The approval-plate rates do not
12 address a pollution of diesel particulate
13 matter.

14 And as mentioned in the preamble to
15 the proposed rule, the particulate guide index
16 is a guide for the mining industry to use, to
17 compare engines. The particulate index
18 provides a comparison based on the quantity of
19 air that would be required to dilute the
20 particulate emissions to a concentration of
21 one milligram per cubic meter.

22 Now, I've heard a lot of people say

23 that, you know, no one has set a PEL, and I

1 agree. And I don't know that, you know, we are
2 in a position to set an a PEL. But I would
3 like to believe that if we were going to set a
4 PEL right now, right today, that it wouldn't be
5 1.0 milligram per cubic meter. I mean, that is
6 such a high concentration. And we can do so
7 much better. And I think all of the evidence
8 -- and Dr. Weeks summarized it in his comments.
9 I think all the evidence indicates the
10 concentrations that miners are exposed to
11 should be much lower, emphatically protected.

12 But, anyway, on the particulate index
13 does not establish the exposure level. It does
14 provide a simply methodology for comparing
15 particulate emissions. And if we use the air
16 quantity requirements for comparing diesel
17 particulate emissions, using those, is a method
18 that we can -- that can easily be used by the
19 industry to make a comparison of the engine.

20 The weakness in the ventilation
21 requirements is revealed in the comparative
22 approval-plate ventilation rates with the

23 particulate index. On the ventilation

1 requirements, in 75325, only make ventilation
2 requirements fixed by the approval-plate
3 ventilation rate. In many cases, the
4 particulate index indicates the quantities two
5 to three times higher than necessary to just
6 dilute the particulate down to one milligram.

7 Without particulate filters, this can
8 cause a situation where miners are exposed to
9 very high concentrations to diesel particulate.
10 This problem is compounded, when we consider
11 that the ventilation regulations for multiple
12 units of light-duty diesel-powered equipment
13 that are operated outby the working section,
14 only require the approval-plate ventilation
15 rate of one unit to be provided. To just of
16 kind of give you an example, if we were to use
17 example of two light duties tractors -- and
18 light duty only by MSHA definition in the Cat
19 3306 -- the ventilation regulations, if those
20 two pieces of equipment where operated in the
21 same entry, in the same split of air, the
22 ventilation requirement would be 7500 CFM,

23 using the particulate index -- and by the way

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1 the particulate index is 23,000 CFM for a Cat
2 3306 150-horsepower diesel engine. These got
3 particulate index, just to get to 1.0 milligram,
4 would require 46,000 CFM of air. And that's
5 pretty huge difference. And, you know, I think
6 that even if the equipment isn't operated eight
7 hours a day or eight hours a shift, that the
8 levels are so high, and the ventilation
9 requirements are so low, that we are not even
10 coming close to protecting miners.

11 Another thing I'd like to encourage
12 the Panel to look at is an on-board engine
13 performance and diagnostic system. I don't
14 think this is a high-cost item, but I think it
15 does -- particularly where we are requiring
16 filters, I think it does pay some benefits.
17 You know most miners are not diesel-engine
18 mechanics. They don't have the tools to
19 analyze diesel engine's performance, but you
20 give them a couple of simple tools in their
21 cab, they can tell a lot about the operation or
22 how the engine's operating.

1 some gauges that are routinely provided.
2 Excuse me. They need to be able to determine
3 the engine speed, naturally, and the operating
4 hours. But when we start looking at things
5 like total intake and restriction and total
6 exhaust-back pressure, the exhaust/gas
7 temperature, engine oil pressure, temperature
8 -- engine oil temperature, I think that, you
9 know, for a miner that, you know, that can see
10 a red line -- and these are any gauges that I'm
11 speaking of, like what you have in your
12 automobile.

13 But if he can see when that thing is
14 going out of range, it tells him that he needs
15 to seek out a maintenance person, and he needs
16 to have the system checked out.

17 Now, if the intake restriction is too
18 great, we are going to have a fuel situation,
19 and we are going to increase the particulate.
20 If the back pressure is too great -- actually,
21 I think the operators would like to hear this
22 -- but a back-pressure gauge would tell them --

23 would warn the equipment operator before the

1 back pressure gets so great that it actually
2 damages the engine.

3 But I honestly think that the
4 on-board engine performance diagnostic system
5 is relatively simple. A thing that we can put
6 on diesel equipment that it will help provide
7 some protection to miners.

8 I think that pretty much -- well,
9 actually, there are just a couple of things.
10 I'd like to say for the record that this is a
11 legal proceeding under the Mine Act and that
12 all miners that are here, have a legal right
13 and, as a matter of fact, a protected right to
14 come here and offer comments. We've had
15 several do that. But I would like to caution
16 anybody, because we have had some situations
17 where miners have been retaliated against for
18 offering testimony at different proceedings.
19 But I would like to caution everyone that this
20 is a protected activity, and section 105 C of
21 the Mine Act protects miners of such
22 retaliation.

I'm ready for some questions.

1 MR. THOMAS TOMB: Thank you Mr.
2 Duncan. Questions? I guess there are no
3 question. Thank you very much.

4 MR. JEFFREY DUNCAN: Thank you.

5 MR. THOMAS TOMB: Is there anybody
6 else in the audience that would like to take
7 this opportunity before we close the meeting to
8 make a statement or presentation?

9 MR. WILLIAM SAWYER: If you allow me,
10 sir, one more chance. It's like everything
11 else, when you sit here and listen, some things
12 come back to you. I'm William Sawyer, local
13 1926. I'd like to apologize to Dr. Cantrell
14 for not recognizing him. I believe he's played
15 a big part in getting our regs set up for our
16 diesels now.

17 MR. THOMAS TOMB: When you mentioned
18 his name, he slumped down in the chair there.

19 MR. WILLIAM SAWYER: Second, I've
20 also noticed a change of heart in Dr. Thakur.
21 I believe it was in '95, that he did not have
22 any confidence in the dry-bed system and now I

23 hear him promoting catalytic converts, so

1 that's a plus.

2 Also in that hearing up there, there
3 was a brother from Canada that questioned a
4 member of the Panel that was a representative
5 of Mr. McAteer and the Canadians keep a record
6 of their coal miners. If they died during
7 their work years or after their work years,
8 they know what caused.

9 It came up about workman's comp, our
10 miners in Alabama -- and this is not offensive,
11 but we were ignorant to the fact of the results
12 of diesel until all of these tests started
13 coming out. So, naturally, we wouldn't go
14 report sick if we came down with some kind of
15 -- like me, I've got bronchitis continuously.
16 I have acute bronchitis occasionally, and I
17 also have bronchial asthma that I used to
18 didn't have. Okay. And I've got a stack of
19 medical records on it this think (indicating)
20 but I'm unique situation. I've been exposed to
21 three things that causes this and nobody knows
22 what caused it is. Is there any plans of that

23 were if people -- if we did have a rash of

1 cancer deaths, which I believe we have
2 different type cancers, that we would have a
3 record of peopling passing away with cancer.
4 You know lung cancer is the main issue that
5 I've heard today, but there is also, I believe,
6 two other type of cancer that are linked to the
7 results of diesel particulate. I think kidney
8 is one and there's another one.

9 So, is there any plans for that?
10 Another question, and I'm sorry, but these
11 things are coming. I asked some of these
12 questions in '94, '95, and I'm still without
13 answer, or even to take into consideration.

14 Another thing I happen to hear: the
15 burning eyes, the irritated throat, the
16 irritated lungs, but I haven't heard sleepiness
17 or becoming sleepy while you're operating
18 these diesels. And it is a fact -- and if my
19 brothers could testify again, they would say
20 sleepiness is one of the major things while
21 you're running diesel equipment. We have no
22 record of miners that have had wrecks after

23 they have got their shifts. We have had

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1 records of miners falling asleep operating this
2 equipment.

3 The fifth thing is training. Now, I
4 happen to participate in the training under the
5 regs for diesel now. And I know what I'm
6 suppose to check, as to what the regs require,
7 but, as brother Jeff said, I don't believe it's
8 sufficient. The main concern we are looking at
9 to see if that equipment engine is getting into
10 a danger state. And it's being done, but as
11 far as the diesel particulate, the smoke is
12 there. The diesel smoke is there. And when it
13 gets to a point where people complain about it,
14 that's when it becomes an issue. But is our
15 training adequate, as to our regs?

16 The last thing I would ask that I
17 told you -- you know, y'all are the Panel and
18 y'all are listening to the testimony, and I
19 would ask that y'all do an adequate job, not
20 that you're not. But I've been asking were the
21 Federal Government -- and I recall your
22 recollection back to '68, '69, '70, '71, and

23 '72 -- sprayed in Vietnam. People died from

1 it, but at the time it was a good thing.

2 Second, there was a more common thing
3 Rock Loc (phonetic), which was a good thing,
4 but then after it was a good thing, peoples'
5 health started getting involved.

6 Diesel, diesels are good, but they
7 have to be to where they're not a hazard to the
8 miners. We put diesels in the mines without
9 thorough investigation, research, and test of
10 this equipment. We are far above where we
11 were, but are we far enough.

12 I asked a question in '94 and '95
13 from an environmental man that was concerned
14 about the mines -- and I've heard it asked
15 today -- When you get this diesel equipment at
16 95 percent diesel particulate free, and that
17 five percent that's still out there, how long
18 does it take for that to hurt a man? I don't
19 think there's an answer to that, are there?

20 So, consider all things, and make our
21 mines a safe place for our brother and sisters
22 to work. As I stated up there in that hearing

23 -- at that time my son was getting ready to

1 enter the field of labor. At that time, I
2 would not have had him go into mining because
3 of all of the hazard. Diesel is a hazard. The
4 test show that diesel can cause human harm.

5 Please research, and when you come up
6 with findings on these rules, have diesel to
7 where I it is a safe piece of equipment that
8 can run in our mines and not damage our
9 health.

10 I thank you.

11 MR. THOMAS TOMB: Would you like to
12 answer his questions?

13 MR. WILLIAM McKINNEY: Chances are
14 your sleepiness is caused by carbon monoxide.

15 MR. THOMAS TOMB: I didn't quite
16 understand what you were -- I thought it was a
17 question about other cancers besides lung
18 cancer.

19 MR. WILLIAM SAWYER: Well, back then
20 NIOSH had a study of diesels that were kind of
21 being ignored that the did a study, I believe,
22 back in the late '60s or in the '70s. There

23 was a book that was up there. But MSHA wanted

1 to do their own studies, and rightfully so,
2 because I've worked under NIOSH law, too. Were
3 they not -- I may be wrong, but if I'm not far
4 off, there were different types of cancer
5 associated -- or risk of cancers associated
6 with diesel particulate.

7 MR. THOMAS TOMB: Well, there are --
8 is the question whether there were different
9 types of cancer?

10 MR. WILLIAM SAWYER: Apart from --

11 MR. THOMAS TOMB: There has been some
12 -- I'd say, the way that the risk assessment
13 that we published characterizes is that it's
14 not conclusive evidence. There has been some
15 association and some studies of exposure to
16 diesel emissions with bladder cancer, but the
17 conclusion of the risk assessment was that that
18 evidence was not strong enough to led you us to
19 identify bladder cancer as something caused by
20 exposure to diesel particulate.

21 MR. WILLIAM SAWYER: What I was
22 talking about, they did their studies on like

23 diesel mechanic workshops outside. It had to

1 do with all -- you know in bus terminals, where
2 they did the studies on the bus and all. But I
3 remembered that there was more than just lung
4 cancer that were mentioned in that study.

5 MR. THOMAS TOMB: Right. There have
6 been -- in many of the studies that have been
7 carried out, the authors of the studies have
8 looked a variety of different effects, not just
9 lung cancer, but other forms of cancer and
10 other conditions that might be developed, and
11 those are addressed in the risk assessment, but
12 the attentive conclusion that MSHA came to,
13 after reviewing all of these studies, was that
14 the only form of cancer for which there is
15 strong evidence that there's an association
16 with that is caused by exposure to diesel
17 emissions is lung cancer.

18 Now, it might be that there is an
19 effect on other forms of cancer, also, but
20 there isn't strong evidence showing that.

21 MR. WILLIAM SAWYER: Substantial
22 evidence showing that?

MR. THOMAS TOMB: Yes.

1 MR. WILLIAM SAWYER: See, as a rep
2 for miners that concerns me, because in '94,
3 '95. They didn't want to take the rat test to
4 go by for what it would cause on humans. And
5 y'all may remember the statement. I believe,
6 weren't you on the Panel up at Beckley?

7 MR. THOMAS TOMB: Yes.

8 MR. WILLIAM SAWYER: And I said,
9 Let's don't throw our rats away, because the
10 whole human system is based on the studies on
11 rats. But that -- I'm sorry if I was wrong,
12 but I knew there was month cancers mentioned in
13 that study and that was seven years ago, five
14 years ago. And I knew there was more cancer
15 study, and all I heard today was lung, which I
16 haven't read any of the studies since then, so
17 I thank you for your clarification.

18 MR. THOMAS TOMB: A couple of
19 comments with respect to questions or comments
20 you made. I think there is a cancer registry
21 in this Country that tracks all people that get
22 cancer and gets information with occupation and

23 things like that. So, there is there a cancer

1 registry for that.

2 Also one point is concerning your
3 effect of the five percent diesel that's left.
4 I think it's important to realize -- and this
5 is in the preamble -- that this rule is a
6 feasibility rule. And we are trying to get the
7 occupational exposure of miners down to where
8 other occupational exposures are. And this
9 rule in no way is intended to get rid of all
10 diesel particulate in the mining environment.
11 So, I stress that this is a feasibility rule,
12 what we are attempting here.

13 MR. WILLIAM SAWYER: I also
14 understand when you get to the five percent
15 ventilation and do a lot more damage to it than
16 it can at the 35, 40 percent. You've got less
17 you have to worry about. I was wondering, we
18 don't have results of what that five would
19 cause over a long time of periods, whether it
20 causes anything or not.

21 MR. THOMAS TOMB: Well, you have
22 range of risk assessment out there and somebody

23 keeps mentioning 900 and 1,000, which I think

1 is an exorbitantly high risk factor that's
2 being thrown around here. But we don't know
3 what that is, but again the point is: This is
4 a feasibility rule.

5 And I didn't understand one point
6 that you were trying to make relative to, is
7 the training adequate? I'm not sure I
8 understood what you were trying to say.

9 MR. WILLIAM SAWYER: Okay. On that
10 -- I do the outby training under the '97 regs
11 on the light duty and the heavy duty. And the
12 training for that -- and like I say, we did
13 install a catalytic converter on one of our
14 diesels to see what it would do. And it
15 improved, as far as the smoke, but still we
16 don't know what kind of particulates are coming
17 out. As our electricians -- and what I
18 understood that you don't get certified to do
19 what's under the regs, you become qualified
20 with adequate training. And we not have
21 certified diesel mechanics underground. Now,
22 we're a little better than our brother at Jim

23 Walter because we have an underground motor pit

1 that has electricians that pulls this equipment
2 in weekly and checks it, as to what the regs of
3 '97 require.

4 They have to send it outside, but
5 for diesel mechanic work on that engine, other
6 than -- and this is even on our sections other
7 than changing heads out, setting the latches to
8 valves. You can change the injector pump out,
9 but you can't go in and adjust that pump,
10 because it's preadjusted and got a lid seal on
11 it. The only thin you have to worry about is
12 the timing. You have to depend on whoever
13 sends that injection out, that it's right. in

14 As brother Jeff said, when they come
15 up on this condition they don't know. The only
16 thing that the miners know is when it starts
17 irritating them, in whatever way, in their
18 eyes, their throat, whatever, or if the smoke
19 gets so bad that they can't stand it.

20 MR. THOMAS TOMB: But I still don't
21 understand your point about training. Are you
22 saying miners should be trained on how to fix

23 the engine?

1 MR. WILLIAM SAWYER: No, because
2 that's diesel mechanics.

3 MR. THOMAS TOMB: Right. Okay.

4 MR. WILLIAM SAWYER: I understand it
5 goes outside to be rebuilt, but as far as the
6 training on what -- and all the electrician
7 does is the mechanic work, too, in our mines,
8 other than going into the internal part of the
9 engine. They understand that when they're
10 taught that 2,500 parts per minute is the limit
11 you pull the engine out of service. They
12 understand that if this engine starts changing
13 weekly, that it's time to call somebody's
14 attention, because something is going wrong in
15 it. They understand that if the intake air
16 indicator starts loading up, that the engine is
17 not getting sufficient air. But, as far as
18 going into the training, of what's coming up in
19 if '99 regs, I don't believe there's training
20 in that. As far as the amounts of air the
21 engine has not got to have and everything to do
22 with keeping this engine in as good

23 condition --

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1 MR. THOMAS TOMB: You mean in our
2 regulation, is that what you're talking about?
3 Or are you saying that should be in there is
4 that what you think?

5 MR. WILLIAM SAWYER: For the people
6 that works ON it.

7 MR. THOMAS TOMB: Oh, for maintenance
8 personnel. Is there any other questions?

9 MR. GEORGE SASEEN: You said you put
10 Tally (phonetic) converter on an engine. What
11 kind of vehicle was it?

12 MR. WILLIAM SAWYER: Jeffrey, it was
13 a Jeffrey motor in it.

14 MR. GEORGE SASEEN: Ramcar?

15 MR. WILLIAM SAWYER: No. It was a
16 diesel motor, locomotive for the northern
17 miners, locomotives.

18 MR. THOMAS TOMB: Any other
19 questions. We answered your questions
20 hopefully a little bit.

21 MR. WILLIAM SAWYER: Yes, sir.

22 MR. THOMAS TOMB: Okay. Thank you,

23 very much.

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1 MR. WILLIAM SAWYER: Thank you.

2 MR. THOMAS TOMB: Thank you. One
3 more time. Yes.

4 MR. JIM BRACKNER: Mr. Chairman, I'm
5 Jim Brackner, local 2245. And I also brought
6 copies of some ventilation of citations, and
7 also citations where we were cited for
8 equipment -- diesel equipment not being
9 maintained and in safe operating condition. I
10 would like to enter these into the record.

11 MR. THOMAS TOMB: Okay. Going
12 twice? Yes.

13 MR. GLENN PIERSON: One more question
14 for me. Glenn Pierson, local 1928. I was just
15 curious -- I don't know if I read it, heard it,
16 or assumed it, but in the intake side of -- air
17 intake on the diesel equipment, if methane is
18 present in atmosphere, in the mine atmosphere,
19 which is it is in our mines. Does that not
20 make the engine run richer and the particulate
21 level even higher than normally as it be tested
22 in a laboratory environment?

MR. GEORGE SASEEN: We do test the

1 permissibility engines with 1 percent methane
2 in the laboratory. So, when you see
3 ventilation rate on the plate in the
4 particulate index, that is account for -- that
5 number raised with that engine running with one
6 percent methane in the intake of engine, so we
7 account for that.

8 MR. GLENN PIERSON: Thank you.

9 MR. THOMAS TOMB: Three times?

10 MR. JEFFREY DUNCAN: Just one
11 verification.

12 MR. THOMAS TOMB: Okay.

13 MR. JEFFREY DUNCAN: He is only
14 testing the permissible engines.

15 MR. GEORGE SASEEN: That's right.

16 MR. JEFFREY DUNCAN: Now, as a matter
17 of fact -- and I'm going to make an assumption
18 that here in Alabama, we've got some of the
19 hottest, most gaseous mines in the country that
20 in some of those outby areas, we're operating
21 nonpermissible equipment, where there is
22 methane gas present.

1 Virginia and some other places where we've got
2 a lot of methane. Now, you are not testing --
3 you're approval testing for gassy emissions
4 does not include methane for permissible
5 equipment. Correct?

6 MR. GEORGE SASEEN: We approve the
7 engines to the engine manufacture either as
8 category A, which is for use in permissible
9 vehicles where permissible vehicles are
10 required. And category B, where nonpermissible
11 -- or where nonpermissible -- or -- yeah,
12 nonpermissible electrical equipment is
13 required. So, the approval -- the usage comes
14 down to the district, it's enforcement on
15 whether that equipment is allowed. But the
16 nonpermissible is not tested --

17 MR. JEFFREY DUNCAN: And -- and we can
18 operate nonpermissible equipment in areas where
19 there are smaller amounts of methane present --
20 and it happens.

21 MR. GEORGE SASEEN: That's an
22 unfortunate assure.

MR. JEFFREY DUNCAN: And in some

1 places, you know, we may occasionally see, you
2 know, 8- or 9-tenths, which is very close to
3 the level where nonpermissible equipment, you
4 know, would not be allowed to operate. But --
5 or for a National level for methane, I should
6 say, whether it's permissible is not, but
7 that's not factored into the approval and
8 that's the point I wanted to make sure we were
9 clear on. That's not factored into the
10 approval of nonpermissible equipment.

11 MR. GEORGE SASEEN: That's correct.
12 And methane will have an effect on engines out
13 of emissions -- it acts as additional fuel.

14 MR. JEFFREY DUNCAN: The one that I
15 think is most best example is the Isuzu 2D 100.
16 Nonpermissible application, I believe the
17 particulate index is 8,500 CFM. And the
18 permissible application is 50,000. Is that
19 correct?

20 MR. GEORGE SASEEN: That's the PI.

21 MR. JEFFREY DUNCAN: Yeah, that's
22 what I said.

MR. GEORGE SASEEN: Yes.

1 MR. JEFFREY DUNCAN: That's with only
2 one percent of methane difference. Right?

3 MR. GEORGE SASEEN: And what's varied
4 in that is -- back that engine off a couple
5 percent on power and that PI is down to about
6 10,000.

7 MR. JEFFREY SASEEN: As a matter of
8 fact, it's -- that's -- at the approval --

9 MR. GEORGE SASEEN: Yes --

10 MR. JEFFREY DUNCAN: Set up -- set up
11 as approval.

12 MR. GEORGE SASEEN: Right.

13 MR. JEFFREY DUNCAN: Thank you.

14 MR. THOMAS TOMB: Thank you, Mr.
15 Duncan. Did you have a comment, Bob.

16 MR. THOMAS TOMB: I'll start again.
17 Would anybody else like to make a comment
18 before we close the meeting? Okay.

19 I want to thank you all for
20 participating and for your interest and for
21 taking the time to come here and participate in
22 this meeting. We appreciate it, and anybody

23 that has agreed to submit additional

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1 information to us, I would appreciate it if you
2 would get it to us as soon as possible.
3 Absolutely no later February 16th, 1999. And I
4 want to wish you all a safe trip back and have
5 a nice Christmas.

6 Thank you.

7

8

9

10 (This public hearing for the proposed
11 rule: Diesel Particulate Matter Exposure
12 of underground Coal Miners, was concluded,
13 at approximately 2:45, Thursday,
14 December 17, 1998.)

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REPORTER'S CERTIFICATE

DOCKET NO.: N/A
CASE TITLE: Diesel Particulate Matter Exposure
HEARING DATE: December 17, 1998
LOCATION: Birmingham, Alabama

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 17, 1998

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