

**Testimony Before the
Mine Safety and Health Administration's
Technical Study Panel Meeting on Utilizing of Belt Air in
Underground Coal Mining
Salt Lake City, Utah -- May 16-17, 2007**

Mr. Chairman and members of the Technical Study Panel, I express my appreciation for the opportunity to appear before you today on the subject of belt air utilization in underground coal mining.

My name is Kevin Tuttle. I have thirty (30) years mining experience in underground mining. I am the Manager of Safety for Energy West Mining Company which is located in the State of Utah. Energy West Mining Company operates the Deer Creek mine which uses belt air for the working face. The use of belt air at the Deer Creek mine was granted through the petition process.

Underground coal mining is a dynamic industry with many changing conditions. What method of mining may be effective for one mine may not be effective for another mine. I believe that Congress knew this and provided a vehicle to address areas where there was a better or alternative means of achieving the same goal or where a diminution of safety existed. Congress addressed this in the Federal Mine Safety & Health Act of 1977 (Act) when they provided provisions to petition the regulations. Section 101(c) of the Act states:

“Upon petition by the operator of the representative of miners, the Secretary may modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine.”

Upon passage of the Act, the Mine Safety and Health Administration (MSHA) established regulations pertaining to the use of petitions which was addressed in 30 CFR, Part 44. This petition process has been used successfully many times since the regulations were written.

When a regulation is petitioned to the extent that considerable time and resources are being expended to address a recurring issue or the petition process becomes burdensome, a set of regulations may be more beneficial if they can provide a specific set of regulations to address the issue being petitioned. I feel this was the case when MSHA wrote the new belt air regulations. The belt air regulations started out with a panel to discuss issues relevant to belt air. The belt air regulations went through proper rule making procedures. The proposed belt air regulations were open for public comment and

all parties were given a chance to comment on them in a Public Hearing format and also by written comments. MSHA looked at the belt air comments and created a final rule for the use of belt air. I feel these regulations addressed safeguards to provide protection when belt air is being used. This process created a set of regulations that could be used that provided safeguards for the use of belt air without having to go through a petition process.

Doing away with the belt air regulations could put a burden on many mines using belt air either through a previously approved petition or the belt air regulations. If there was not a need for belt air the regulations would not have been petitioned.

In addition, the belt air regulations do not just give an operator the ability to start point feeding air to any section or area of the mine. There is still the portion of the regulations which requires MSHA to approve any locations where point feeding is to be used. 30 CFR §75.350(c) states:

“Notwithstanding the provisions of §75.380(g), additional intake air may be added to the belt air course through a point-feed regulator. The location and use of point feeds must be approved in the mine ventilation plan.”

MSHA still has the ability to approve or disapprove point feed locations to be used in a mine. If approved these locations must then meet the requirements of the regulations which deal with many safeguards such as monitoring of the mine atmosphere, closing of the point feed location if Carbon Monoxide is detected in established levels, minimum and maximum air currents, etc. I feel these belt air regulations provide protection when using a point feed system.

I would encourage the belt air Technical Study Panel to look at all the issues when evaluating the use of belt air. Recognize that Congress gave MSHA the ability to use the petition process and also the ability to create new regulations.

Thank You