# SUBPOENA

## BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

*To* The Honorable Elaine L. Chao (serve: Jonathan L. Snare)

You are hereby commanded to be and appear before the Committee on Education and Labor

of the House of Representatives of the United States at the place, date and time specified below.

☐ **to testify** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 1107 Longworth HOB, Attention: Michael C. Zola, Chief Investigative Counsel

Date: October 9, 2007 Time: Before 5:00 p.m. EDT

*To* Michael C. Zola or any authorized staff member

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 24th day of September, 2007.

George Miller

*Chairman or Authorized Member*

Attest: Lorraine C. Miller

*Clerk*

## Schedule

Provide copies of the following documents:

1. All documents reflecting communications relating to the Crandall Canyon Mine near Huntington, Utah ("Crandall Canyon Mine") created, modified, received, or reviewed by the Department (as defined in the attached Definitions), during period encompassing March 1, 2006, through the date of this Subpoena. Notwithstanding anything else in this item, this item should not be interpreted to require you to seek documents from the Mine Safety and Health Administration accident investigation team headed by Richard A. Gates that is investigating the August 6, 2007, incident at the Crandall Canyon Mine. This item includes but is not limited to the following:

    a. all documents reflecting communications relating to the Crandall Canyon Mine between the Department and any officer, representative, employee, or agent of Murray Energy Corporation, Genwal Resources, Inc., Andalex Resources Inc., Agapito Associates Inc., or any other entity involved in the operation of the Crandall Canyon Mine during the noted period;

    b. all documents reflecting internal communications of the Department relating to the Crandall Canyon Mine created during the noted period;

    c. all documents reflecting communications from other executive branch offices relating to the Crandall Canyon Mine created during the noted period; and

    d. all documents reflecting communications relating to the U.S. House of Representatives Committee on Education and Labor investigation into incidents at the Crandall Canyon Mine.

2. All documents reflecting communications that occurred during the period encompassing January 29, 2001, through the date of this Subpoena between Robert Murray, CEO of Murray Energy Corp., and the following officials or their predecessors: Secretary of Labor Elaine L. Chao, Acting Deputy Secretary of Labor Howard M. Radzely, Acting Solicitor of Labor Jonathan L. Snare, or Assistant Secretary of Labor for Mine Safety and Health Richard E. Stickler.

## Subpoena Supplemental Instructions and Definitions

In complying with this Subpoena from the Committee on Education and Labor, apply the instructions and definitions set forth below.

Instructions

1. Produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Records, documents, data or information called for by this Subpoena should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committees.

2. In the event that any entity, organization, or individual denoted in this Subpoena has been, or is currently, known by any other name than that herein denoted, the Subpoena should be read also to include them under that alternative identification.

3. Each document produced should be produced in a form that renders the document capable of being copied.

4. When you produce documents, you should identify to which item in the Schedule the documents are responsive.

5. Documents produced in response to this Subpoena should be produced together with copies of file labels, dividers or identifying markers with which they were associated when this Subpoena was issued.

6. Each folder and box should be numbered, and a description of the contents of each folder and box, including the item number to which the documents are responsive, should be provided in an accompanying index.

7. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a non-identical or identical copy of the same document.

8. If any of the requested information is stored in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information.

9. If compliance with the Subpoena cannot be made in full, compliance should be made to the extent possible and should include an explanation of why full compliance is not possible.

10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.

11. If any document responsive to this Subpoena was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.

12. If a date or other descriptive detail set forth in this Subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the description, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

13. This Subpoena is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

14. All documents should be bates-stamped and produced sequentially.

Definitions

1. The phrase "the Department" means any officer, representative, employee, or agent of the Department of Labor, the Department of Labor generally, or any combination thereof. As used herein, the Department of Labor includes the Mine Safety and Health Administration and any other subdivisions of the Department of Labor.

2. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs memory sticks, and recordings) and other written, printed typed, or other graphic or recorded matter of any kind of nature, however or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft of non-identical copy is a separate document within the meaning of this term.

3. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.

4. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this Subpoena any information which might otherwise by construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches and other units thereof.

6. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.