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Rep. Lynn Woolsey (D-CA) Opening Statement for the Hearing on the Upper Big Branch Mine Tragedy

WASHINGTON, D.C. – Below are the prepared remarks of U.S. Rep. Lynn Woolsey (D-CA), the ranking member of the Workforce Protections Subcommittee of the House Committee on Education and the Workforce for the full committee hearing on the Upper Big Branch Mine tragedy.

Today, as we examine the lessons learned from the Upper Big Branch mine disaster, let us never lose sight that there are 29 families who lost their fathers, their brothers, their husbands and their best friends.

Almost two years ago, this committee traveled to Beckley, West Virginia where we heard chilling testimony from the families and miners about the unbelievably terrible conditions in that mine.

Leo Long, a lifelong miner and grandfather of one of the 29 miners, testified.

He said: “I’m asking for you all to please do something for the rest of the coal miners that’s in the mines. I pray for it every night, every day. If you don’t do something, something like this is going to happen again.”

Mr. Long, we hear your plea.

Since that hearing, there have been four investigative reports on this tragedy. All of them found that Massey Energy caused the explosion by failing to comply with long established safety standards.

Massey failed to prevent this tragedy because:

- It didn’t maintain the water sprays to quench the ignition;
- Or shore up the mine roof to keep the mine ventilated; and
- And it failed to keep the mine rock-dusted to prevent a coal dust explosion.

On top of Massey’s failure to follow basic safety protections, it also engaged in a pattern of obstruction.

- Massey routinely provided advance notice of inspections, which gave foremen time to correct hazardous conditions or stop production before MSHA inspectors arrived underground.
- Massey kept two sets of mine examination books;
- And, Massey engaged in a pattern of intimidation by threatening miner's jobs, if they tried to stop production to correct unsafe conditions.

The Governor's Independent Panel concluded that these failures were the result of a culture where "wrongdoing became acceptable, where deviation became the norm."

Under the Mine Act, the mine operator is responsible for the health and safety of its miners. And if that operator fails, it is up to the safety agency to bend the operator back into line.

But MSHA's effort was compromised at UBB.

- There were poor inspection practices, and a failure to identify violations;
- There was a failure to put this mine on Pattern of Violations, or apply maximum penalties;
- There was a failure to investigate Massey managers who may have engaged in "knowing and willful" violations; and
- Mine plans were approved without resolving safety concerns.

Today we must examine why this happened. What broke down?

We know that budget cuts and retirements incapacitated MSHA's effectiveness, particularly in the early 2000's.

Then, after three mine tragedies in 2006, Congress finally reversed course and provided resources to put more inspectors back in the mines.

But the new inspectors didn't yet have the needed experience. And there were not enough technical specialists. Violations went undetected, including critical violations highlighted in the latest NIOSH report.

Only a few weeks before the UBB explosion, MSHA inspectors were underground near the source of the explosion, but the lead inspector had only 13-months experience.

While MSHA definitely fell short, it was not for lack of trying. MSHA issued \$1.3 million in penalties prior to the accident. The agency shut down parts of the mine 52 times in the previous year.

But these citations didn't change Massey's conduct.

In fact, rather than fixing problems, MSHA's penalties were met with litigation, not compliance. At UBB, Massey contested 92 percent of all penalties prior to the explosion.

What is clear is that MSHA was no match for Massey or any other mining operator where corporate greed comes before the health and safety of their workers

Today we recognize that the entire system failed the miners at Upper Big Branch. Past Congresses shouldn't have slashed funding for mine inspectors. MSHA needed to do a better job with the tools it had. And Massey exploited MSHA's weaknesses and those in the law. The law should have been much stronger because that is what it takes when an operator has little or no regard for their workers.

We are prepared to work with our colleagues to enact meaningful reform, so that we can honor Leo Long's plea and the lives of our country's miners, because Mr. Chairman, the blood spilled by these miners must not be in vain or forgotten, and we must protect all miners from the errors that led to UBB disaster.

In closing, I want to welcome our witnesses, as well as Representatives Rahall and Capito.

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