



June 9, 2014

Hon. Tom Harkin
Chairman
Senate Appropriations Subcommittee on
Labor, Health and Human Services, Education,
and Related Agencies
United States Senate
Washington, DC 20510

Hon. Jerry Moran
Ranking Member
Senate Appropriations Subcommittee on
Labor, Health and Human Services, Education,
and Related Agencies
United States Senate
Washington, DC 20510

RE: NIOSH Lake Lynn Experimental Mine

Dear Chairman Harkin, Ranking Member Moran, and Members of the Subcommittee:

I write to you as President of the Industrial Minerals Association – North America (IMA-NA) on a matter of life and death . . . actually life and preventable death, specifically in the Nation’s mines. The reason for this letter is that tomorrow the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies will mark-up legislation that could end the possibility of the National Institute for Occupational Safety and Health (NIOSH) ever regaining its former Lake Lynn Experimental Mine, a facility that crosses the Pennsylvania-West Virginia border in Fayette County, PA. Lake Lynn has been a government mine safety and health research facility for the past 30 years.

A rock fall in October 2008 resulted in closure of the underground testing facility, and a decision was made not to repair damage caused by the rock fall because Lake Lynn was leased, not owned, by the government. NIOSH’s parent, the Centers for Disease Control and Prevention (CDC), had been in talks with the landowner to purchase the facility. The talks stalled and CDC handed the facility back to the owner when the current agreement expired on September 30, 2012. Lake Lynn consists of an underground experimental coal mine and an aboveground fire-testing facility. This is where matters of life and preventable death come into play.

Lake Lynn is a one-of-a-kind facility. The federal government spent \$11 million to secure the long-term lease and made \$7 million of improvements to the leasehold during its tenure. Since 2008, NIOSH has had no full-scale facility to simulate mine environments to conduct research to improve miner safety and health. Underground coal mine dust explosions, mine fires, diesel exhaust health effects research, etc., all have been advanced because of use of the Lake Lynn facility. Estimates for replicating Lake Lynn as a “green fields” facility are estimated to cost \$50 million and take five years . . . assuming that either funding or time are available. They likely are not.

Action Requested

The government has assessed the value of the property and Congress previously authorized the purchase of the facility. We understand the holders of the surface and mineral estates regard the offered purchase price as insufficient. Therefore, either more funds need to be appropriated, or the government should consider taking the property under the doctrine of eminent domain and letting the courts decide

appropriate compensation. Eminent domain legitimizes a government taking of private property for public use with payment of just compensation.

The federal government does not exercise eminent domain lightly . . . nor should it. However, bipartisan Congressional support, both financial and political, is needed for CDC to pursue an eminent domain proceeding with regard to Lake Lynn. The Nation's overall mine safety and health program requires the Lake Lynn experimental mine if it is to see the continued improvement in mine safety and health we have achieved over the past few decades.

The attached document highlights some of the reasons why Lake Lynn needs to be made a permanent part of NIOSH mine safety and health research facilities and the life-saving programs they support.

Please do not hesitate to contact me should you have any questions regarding this matter.

Sincerely,



Mark G. Ellis
President

Attachment

cc:

Members of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies

Hon. Patty Murray
Hon. Mary L. Landrieu
Hon. Richard J. Durbin
Hon. Jack Reed
Hon. Mark Pryor
Hon. Barbara Mikulski
Hon. Jon Tester
Hon. Jeanne Shaheen
Hon. Jeff Merkley

Hon. Thad Cochran
Hon. Richard C. Shelby
Hon. Lamar Alexander
Hon. Lindsey Graham
Hon. Mark Kirk
Hon. Mike Johanns
Hon. John Boozman