

# Bush mine safety official walks out of Senate hearing into Sago disaster

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David Dye, the acting director of the Mine Safety and Health Administration (MSHA), walked out halfway through a two-hour Senate hearing Monday on the Sago Mine disaster, refusing to answer questions about his agency's failure to enforce safety regulations that might have saved 14 West Virginia miners who were killed in two separate accidents this month.

Dye rejected a direct request of US Senator Arlen Specter, Republican of Pennsylvania and chairman of the Senate Appropriations Committee that oversees the mine safety agency, to stay for the full hearing and respond to issues that might arise from the testimony of other witnesses. Dye claimed the hearing had "diverted" him and other MSHA officials from more pressing matters, including a mine fire in Colorado, which, he conveniently did not mention, had been burning since November.

The actions by the Bush appointee underscore the utter contempt the White House has for the welfare and safety of the coal miners. If this is how the head of the agency charged with protecting miners' lives responds to US senators, it is obvious what kind of treatment miners receive when they risk victimization and ask MSHA officials to investigate deadly conditions in the coal mines.

Dye's walkout also highlights the well-known fact that the White House considers itself unaccountable to the US Congress or anyone else, aside from corporate America. The same arrogance and obstruction has been shown in regard to the investigation of the administration's response to Hurricane Katrina and the incompetence and negligence of its political cronies at the Federal Emergency Management Agency.

Dye announced his departure after Senator Robert Byrd, Democrat of West Virginia, asked him whether MSHA and the coal industry have become too close under the Bush administration. "There's no cronyism between me and anyone in this agency," said Dye, who took the acting MSHA post in December 2004 after the departure of Dave Lauriski, a former coal company executive who was forced to leave after revelations that MSHA had awarded no-bid

contracts totaling more than \$500,000 to two companies with ties to Lauriski and one of his lieutenants.

Alerted to Dye's intention to walk out, Senator Specter said, "Mr. Dye and Mr. McKinney [another top MSHA official, administrator of coal mine safety and health], I'm advised that you would like to leave. Your presence will be required here for at least one more hour while we move ahead with the next panel. Questions may arise, and we want you here to answer the questions. We've assembled four senators who—well, they need your responses."

Dye responded, "Senator, we've still got a mine fire going. We have a rescue team that's in the Sago Mine. They have another mine fire—which no one was hurt—burning in Colorado. We have really urgent matters that we need to go back to attend. We've been diverted dealing with these matters. We were happy to prepare for the hearing, but we really need to get back and attend to all this. There's 15,000 mines in the United States, and we've got some really pressing matters."

Senator Specter answered, "Well, Mr. Dye, I can understand the press of your other business. It may well be that some of the senators here have other pressing matters, too." The senator added, "That's the committee's request, but you're not under subpoena."

With that, Dye—with a cell phone to his ear—got up and walked out, accompanied by McKinney.

Specter later said of the departure, "I can't recollect it ever happening before." He added rather pathetically, "We'll find a way to take appropriate note of it."

Senator Byrd later commented, "They don't want to answer questions—that's why this man left the hearing. That's at the bottom of the problem."

The arrogance of the MSHA official's conduct was matched by his testimony. During a perfunctory opening statement and in answers to questions, Dye rejected criticisms that recent budget cuts, staff reductions and a "culture of cronyism" at MSHA had undermined the safety of coal miners and contributed to the deaths of 12 workers at the Sago Mine and two others who were killed after a

conveyor belt fire last week at the Aracoma Alma Mine near Melville, West Virginia.

Ignoring the long history of serious safety violations at both mines and the lack of enforcement of existing safety procedures by his agency, Dye said it was far too early to identify the cause of the accidents and suggested that there was no reason to believe the safety violations contributed to the miners' deaths.

A long-time government functionary with no mining experience, but with close relations to Capitol Hill and the White House, Dye could not answer why the agency had allowed the Sago Mine to continue to operate after being issued more than 200 citations for safety violations over the last two years. Nor was he able to answer why it took more than two hours for the federal mine safety officials to learn that an explosion had taken place, a delay that set back the rescue effort several precious hours.

Senator Specter criticized the administration for not keeping up with inflation in financing mine safety and said that over the last 10 years the agency's budget had been cut by \$2.8 million, which led to the loss of 183 staff members. Dye responded by saying the budget cuts and staff reductions had not affected mine inspections or safety, going so far as to claim that enforcement had been strengthened, pointing to an increase in the amount of fines levied by MSHA.

This last claim was particularly cynical given the fact that it is a regular practice for MSHA officials to sharply reduce the initial fines mine operators are assessed during the review and appeal process. After an investigation into the 2001 explosion at the Jim Walter Resources mine near Brookwood, Alabama, local MSHA officials imposed \$435,000 in fines for safety violations that led to the deaths of 13 miners. The fine was later reduced to \$3,000, or \$230 for each miner killed.

The only suggestion offered by Dye to improve mine safety was to increase maximum fines from the current level of \$60,000 to \$220,000. This proposal was just as hypocritical. Rarely does MSHA ever issue the maximum penalty to a mine operator. Among the more than 200 citations issued to the owners of the Sago Mine, 96 were categorized as "serious and substantial"—the highest level of MSHA violation—and 16 were "unwarrantable failure" citations, meaning the company knew or should have known they were in violation of safety standards and ignored it. Yet, the highest fine MSHA assessed the owners of the Sago Mine was only \$440, with the average less than \$120. Many of the fines were the lowest amount—\$60.

During the hearing, the Bush appointee was asked why miners trapped underground are not able to communicate with the rescue teams, and whether technology exists that

can help rescue teams better locate trapped miners. Dye stated for the record that such technology does not exist. Minutes later, the subcommittee heard from a former MSHA secretary, Davitt McAteer, who said such communications technology certainly does exist, and placed tracking and communication devices on the table in front of the subcommittee.

One device used in only 14 of the nation's 15,000 mines allows people above ground to send text messages to miners below. Dye had claimed the devices had some "problems with reliability," but McAteer rejected this claim, saying, "These devices have proved to be reliable."

There is also electromagnetic technology—available since the 1970s—that would enable rescuers to locate trapped miners. At that time, nearly three decades ago, the Bureau of Mines tested and deemed the low-cost equipment reliable, but MSHA has never mandated its use.

Dye's predecessor, Dave Lauriski, encouraged MSHA to establish a "partnership" with the coal companies and provide "compliance assistance" to the coal bosses. In practice, this has meant rewriting or watering down safety regulations so that unsafe companies can be in "compliance." As President Bush's head of mine safety, Lauriski attempted to rewrite federal rules on dust control to suit his former employer, Energy West Mining Co. of Utah, and was involved in a cover-up of MSHA failings that contributed to a massive coal waste spill in eastern Kentucky by Massey Energy, a major contributor to Bush and the owner of the Alma mine where two miners died last week.

Before being forced to leave MSHA, Lauriski also scrapped 18 proposed rules the agency was developing concerning coal dust exposure, self-rescuers, mine rescue teams, accident investigations and safety training. During this period, MSHA also secretly changed its long-standing policy of releasing the notes of its safety inspectors under the Freedom of Information Act, a policy that had been in place since 1977, giving miners and the public access to the safety records of the coal operators.



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