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FOR FREEDOM OF THE PRESS

April 27, 2010

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Executive Director

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(HAND DELIVERED)

Mr. Joseph A. Main
Assistant Secretary of Labor for Mine Safety and Health
Mine Safety and Health Administration (MSHA)
1100 Wilson Boulevard, 21st Floor
Arlington, VA 22209-3939

Dear Mr. Main:

I understand that the Mine Safety and Health Administration plans to begin interviewing miners this week from the Upper Big Branch Mine in West Virginia. Although investigators and attorneys for the Labor Department, the State of West Virginia and Massey Energy will be allowed to be present, the public and press will not. This is unacceptable.

We urge the MSHA to comply with the wishes of at least two families involved in the accident and conduct hearings, which under the law must be accessible to the public, as opposed to interviews that involve government investigators (and apparently company representatives) but bar access to the public. *Society of Professional Journalists v. Secretary of Labor*, 832 F.2d 1180 (10th Cir., 1987).

The public interest in what happened at the Upper Big Branch Mine is monumental. The presence of government investigators cannot substitute for the role of the news media in examining MSHA's enforcement of the law at the mine, and whether the accident is properly investigated.

If a public hearing with ample notice as to time and location does not take place, we ask that at the very least you grant the public and news media access to the interviews themselves by either immediately providing recordings of the interviews for copying immediately after they occur or by making transcripts available as soon as the interviews are transcribed.

There is precedent for this practice. MSHA has previously provided the public with miner witness interviews prior to issuing its final report on accidents in many instances, including the Pyro mine explosion, the Southmountain Coal mine explosion, the Magma Raise collapse and the Kaiser explosion.

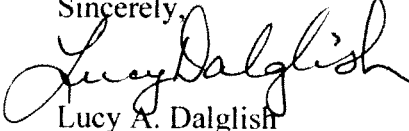
The Reporters Committee for Freedom of the Press is a 40-year-old nonprofit organization that does legal defense and advocacy work on behalf of journalists working in the United States. We are joined in this request by

The Charleston (W.V.) Gazette, American Society of News Editors, The Associated Press, Capitol Reporters and Editors, Radio Television Digital News Association, National Newspaper Association, the Society of Environmental Journalists and The Society of Professional Journalists.

Barring the public from investigative proceedings and withholding the recordings/transcripts until MSHA's final report is complete pose a grave risk to miner safety and the public's right to know what happened in West Virginia.

The news media's critical role in timely informing the nation about public safety concerns only serves to enhance MSHA's mission of enforcing compliance with mandatory safety and health standards and promoting improved safety and health conditions in the nation's mines.

We urge MSHA to conduct open, accessible hearings and, if no hearing takes place, to allow the public and news media to attend the interviews and to release the interview transcripts as soon as they become available.

Sincerely,

Lucy A. Dalglish
Executive Director