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## United States Senate

COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

DAVID P. CLEARY, STAFF DIRECTOR  
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<http://help.senate.gov>

September 22, 2017

The Honorable R. Alexander Acosta  
Secretary of Labor  
S-2521  
200 Constitution Ave. NW  
Washington, DC 20210

Dear Secretary Acosta,

We write concerning the nomination of David G. Zatezalo to be Assistant Secretary of Labor for Mine Safety and Health, who would lead the U.S. Department of Labor's Mine Safety and Health Administration (MSHA). As you know, this nomination would come before the Senate Health, Education, Labor and Pensions ("HELP") Committee. In order to assist in the full and careful vetting of this nominee consistent with our advice and consent responsibilities under Article II, Section 2, Clause 2 of the United States Constitution, please provide any and all information regarding investigations and enforcement actions related to Rhino Resource Partners LP, or any partly or wholly owned subsidiary of Rhino Resource Partners LP, from 2006 to 2014, including the following:

- Documents and communications related to MSHA investigations into the Eagle #1 Mine owned by Rhino Eastern LLC, including but not limited to the following:
  1. The November 19, 2010, letter from MSHA to the Safety Director of the Eagle #1 Mine indicating a potential pattern of violations at the mine.
  2. MSHA's investigation of and report on the June 27, 2011, fatal rib roll accident.
  3. The August 25, 2011, letter from MSHA to the Safety Director of the Eagle #1 Mine indicating that the mine was "not making a good faith effort to eliminate violations and has reverted back to PPOV [Potential Pattern of Violations] status."
- Documents and communications related to MSHA's investigation into the practices of Rhino Resources subsidiary CAM Mining, LLC, including but not limited to the following:
  1. The July 16, 2007, fatal surface blasting incident at Three Mile Mine #1 owned by CAM Mining, LLC.
  2. MSHA's attempted inspection on June 17, 2011, of Mine No. 28 owned by CAM Mining, LLC, and MSHA's legal actions related to this incident.

*Mr. Zatezalo served in various senior management positions at Rhino Resource Partners from 2007 to 2014.*

- Documents and communications related to MSHA investigations of:
  1. The November 8, 2001, fatal hoisting accident that occurred at Nelms Mine - Cadiz Portal of AEP Ohio Coal, LLC.
  2. The January 30, 2003, fatal powered haulage accident that occurred at Mine #10 of AEP Kentucky Coal, LLC.

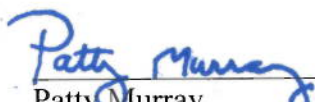
*Mr. Zatezalo was Vice President of Mining Operations of AEP Energy Services from 2001 to 2004.*

- Any other reports related to the operation of mines owned by Rhino Resource Partners and its subsidiaries from 2004 through 2014, and AEP Energy Services and its subsidiaries from 2001 through 2004.
- Any communications between the Department and Mr. Zatezalo, the Ohio Coal Association, or the Kentucky Coal Association (or counsel representing those entities) pertaining to rules proposed or enacted by MSHA since 2004, including but not limited to MSHA's 2013 revision to the regulation for pattern of violations (RIN 1219-AB73). The Ohio Coal Association, of which Mr. Zatezalo was Chairman and/or a member of the Board of Directors from 2004 to 2014, sued the Department over its rule in 2014.


When responding to this request, please interpret the terms "communications" and "documents" broadly to include those internal to the Department and in all forms and types. To the extent you consider any of the materials requested to be confidential or otherwise not subject to public disclosure, your staff should contact our staff to make arrangements for their review.

To help facilitate review of documents prior to Mr. Zatezalo's confirmation hearing, we ask that the Department provide these materials no later than September 29, 2017. Thank you for your prompt attention to this important matter. Your staff should contact HELP Committee staff Carly Rush ([carly\\_rush@help.senate.gov](mailto:carly_rush@help.senate.gov)) or Joe Gaeta ([joe\\_gaeta@whitehouse.senate.gov](mailto:joe_gaeta@whitehouse.senate.gov)) if you have any questions.

Sincerely,

  
\_\_\_\_\_  
Patty Murray  
United States Senator

  
\_\_\_\_\_  
Sheldon Whitehouse  
United States Senator

  
\_\_\_\_\_  
Robert P. Casey, Jr.  
United States Senator