

**Written Statement of**

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**Committee on Health, Education, Labor and Pensions  
U.S. Senate**

**Putting Safety First: Strengthening Enforcement and Creating a Culture of  
Compliance at Mines and Other Dangerous Workplace.**

**April 27, 2010**

Chairman Harkin, Ranking Member Enzi, and distinguished members of the Committee, Thank you for inviting me and allowing me the honor of speaking to you. I am here because I lost my husband to a workplace accident. He was killed on the job. He was too young, and it should not of happened.

Scott Shaw celebrated his 38<sup>th</sup> birthday on July 13, 2002. Scott and I celebrated our 9<sup>th</sup> wedding anniversary on August 14, 2002. Our son, Nicholas, celebrated his 3<sup>rd</sup> birthday on September 12, 2002. His Daddy wasn't there. His Daddy died 5 days before on September 7, when he fell into the Schuylkill River. Scott fell off the barges he was working on, helping to dredge the river. There were only two other employees on both the barges at the time. A co-worker of Scott's told me that Scott was walking from one barge to another to get oil. He was missed after several minutes, and his hat was discovered floating in the water. Scott's body was found two days later.

Scott wasn't wearing a life jacket that day. He wasn't required by his company to wear one. No one from the company checked to make sure their workers had life jackets. There were no life preservers on the barge. When Scott walked from one barge to another, he navigated old tires that were attached between the barges. They were uneven and not sturdy. The barges themselves were not the same height, so the tires were fastened at an acute angle. This is how the employees traveled between the barges. No one saw Scott go in the water. I like to think he hit his head and didn't know what happened. He was 6'3", handsome, strong, and was an excellent swimmer.

This was not the first time Scott had fallen off of the barge. I can remember two times that Scott came home soaking wet, complaining that he had fallen in. The company should have known then that there was a problem.

Scott's death was needless. The company Scott was working for, Armco Construction of Philadelphia, neglected to follow safety regulations. OSHA completed an investigation

into Scott's death, and found the company had committed 4 serious violations, and they were fined \$4,950.

The first violation was committed when the employees weren't checked and confirmed that they were wearing life jackets. For this, his company was fined \$2,100. The second violation was found because the company did not have life preservers on the barge. Armco Construction, Scott's company, was fined \$750 for this violation. The third violation was for the way the barges were hooked together. Again, this was termed a "serious" violation. Again, the fine was only \$1,050. The last violation, another "serious" one, was because of the toxic fumes that the employees were breathing when they put the crane away. Armco was fined \$1,050 for this. OSHA terms these fines "citations". I call it a travesty.

Weeks Marine, the company that Armco leased the barges from, was not investigated. They claimed they did not know how the barges would be attached. They claimed they were not responsible for the barges after they were leased. The US District Court for the Eastern District of Pennsylvania found, in a ruling made on March 31, 2006, that Weeks Marine did know that the barges did not have a means of ingress and egress. Yet, when leased to companies, their barges were not equipped with a gangway or a ladder.

Weeks Marine resurfaced in controversy again in 2009. They subcontracted barges to Kosnac Tugs. Staten Island workers from Local 333, United Marine Division, protested by striking against Kosnac Tugs. One of the issues that was being protested was the unsafe practice of attaching barges. Again, Weeks Marine denied responsibility, but the barges were attached haphazardly. Barges were tied together, and again, the only way to go from one barge to another was either jumping from barge to barge, or navigating across makeshift, unsteady platforms. A deckhand was crushed to death between two barges. Another family suffers because of the same negligence.

I am here today to personalize the fact that a worker's life is worth more than the fines that OSHA places on these companies that are at fault. Scott and I have two sons, who are now 13 and 10 years old. Ryan, my 13 year old, doesn't remember a lot about his dad. He saw a therapist weekly for a couple of years, because of grief issues. He's entering high school next year, and was accepted to a magnet high school, a great honor. His dad isn't here to celebrate with me. Nicholas only remembers when his dad would tickle him, and read to him. Ryan and I tell him stories about his father, so he knows his dad loved him very much. My sons are without a father. I am without a husband. We will never sit together and watch our sons graduate from high school, and then college. I will never feel my husband's arms around me again. I will never again be able to hear his voice.

According to the fines OSHA levied on Scott's company, Scott's life was worth \$4,950. The company owner was not prosecuted. If he had been charged criminally, he would have been convicted of a misdemeanor. That's it. Not a felony. He could walk away, and live his life. My husband didn't walk away. Scott left behind a wife, three sons (two sons from our marriage, and one from a previous marriage, who unfortunately was killed three

years ago at the age of 21), two sisters, one brother, a mother, and many family members and friends who loved him tremendously.

We are here today to talk about the process of fining companies, especially repeat violators, by OSHA. I am still, after almost eight years, appalled at the paltry fines that were levied against Armco, Scott's company. They should have had to pay as dearly as I did for their on-going neglect of workers' safety. They should be criminally prosecuted, if possible. Not only did they knowingly put their workers in danger, but they let their company insurance lapse, so there was no insurance on Scott when he was killed. This was a conscious action on the part of the company. The company that Armco leased the barges from, Weeks Marine, claimed that they did not know how the barges would be fastened together, and that they were not responsible. No action was taken against them. As I said earlier, the Staten Island shipyard workers went on strike last year. Not because of low wages. Not because of health insurance. They went on strike because Kosnac Tugs and Weeks Marine were knowingly exposing their workers to unsafe practices, including how they fastened barges together. I believe it is imperative that a message is sent that a worker's life is worth more than a couple of dollars. Companies that do not practice safety precautions should be fined highly, so it sends a message. A worker's life is invaluable, and companies that disregard workers safety should be sent to prison. They must be punished.

I also mentioned before that Armco was fined \$4,950 for 4 serious violations. One day, two years after Scott's death, I was searching for information on the OSHA site. I discovered that Armco was given the opportunity to plead down their fines. They only had to pay \$4,000 for Scott's death. I was never notified that they were granted this privilege. I was never notified about the informal hearing that occurred. I was never given the opportunity to talk to OSHA before this plea deal was made with the company. I was never asked if I knew anything that would help the initial OSHA investigation.

I am pleased that OSHA announced on April 22, 2010, a new system of fining companies. The fines are being raised, and criminal charges can be filed against repeat offenders. There are too many repeat offenders. My situation with Armco Construction and Weeks Marine is not unique. Jeffrey Davis was 50 years old when he was killed in an explosion at the Motiva Enterprise LLC Refinery in Delaware City, Delaware. There was a history of leaks in the tanks of sulfuric acid. These leaks were never addressed, and were one of the catalysts to the horrendous explosion on July 17, 2001. Jeffrey's body was never found. His boots were. Eight other workers were injured. The recent disaster at the Upper Big Branch mine in West Virginia, run by Massey Energy, has brought the subject of dodging violations, deliberately hiding unsafe workplaces, and putting greed before the lives of workers to the forefront of current news, and to the attention of the public. Massey has proven history of unsafe workplaces, yet has not been held accountable. 26 hard working men lost their lives because of this greed. 26 men's families suffer needlessly because of this greed. I am in a place to know that the suffering, the grief does not go away. Neither does the anger. That's why I speak up. That's why I represent all of those families who have suffered a loss.

I am here today to not only discuss how fines to companies for deliberate neglect of worker safety should be raised, I also am here as a family member, representing other families who have lost a loved one. I am here to represent the miners and their families in West Virginia. I am here to represent the refinery workers from Washington State and their families. I am here to represent the workers and their families who were killed today, yesterday, and in the past week. I am here to illustrate how valuable family members can be to OSHA's investigation process. I am pleading with you to remember those workers we have lost not as a statistic, but as a person. Look at the faces of those we have lost. Please let family members be involved in the process, so we may help you. Please send a clear message to companies that safety is important. Lives are important. Cut into the company's profits and send that message.

The Protecting America's Workers Act is a powerful tool to allow families to have a say in investigations, to fight for safe workplaces, and to let citizens know that a life is more important than greed by enforcing stiffer penalties against offending companies, and especially the repeat violators. I ask that you consider the importance of the Protecting America's Worker's Act. This issue is not important only on Worker's Memorial Day every April 28, but every day that someone goes to work. Workers should have the right to come home safe to their families. Every family should know that their loved one is protected at work. No family should suffer like those I represent have.

As an elementary school teacher and as a parent, I know that it is important that a child understand there are consequences to their actions, and they must accept responsibility for what they have done. Adults must face their responsibility, and must be held accountable for their actions. Please, don't let another family suffer as we have. The more that companies are actually punished, the more they realize they must practice workplace safety, and must protect their workers.

Thank you for your time.