

# Prosecutions over Australian mine disaster fail to address underlying safety issues

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26 April 2000

Two years after a judicial inquiry into the deaths of four miners at the Gretley coal mine, the government in the Australian state of New South Wales has begun prosecuting the mine operator Newcastle Wallsend Coal Company, its parent company Oakbridge Pty Ltd and several of its managerial staff.

The four men—John Hunter, 36, Edward Batterham, 48, Mark Kaiser, 29, and Damon Murray, 19—were killed on November 14, 1996, when the mining machine they were operating cut into an adjacent disused mine shaft that was filled with water. They had no way of escaping the powerful inrush of water and were drowned.

Mine managers Richard Porteous and John Erik Romcke, undermanagers Terence Shacklady, Michael Francis Alston, Philip John Pritchard, Christopher Nicholls and Michael Coffey, and miner surveyor Mark Robinson appeared before the NSW Industrial Relations Commission on April 17 and were charged with breaching the Occupational Health and Safety Act. The hearing was adjourned until July 18.

Even if found guilty, the men only face fines and the loss of their mining licenses. The company could also be fined. The government has not brought criminal charges despite evidence at the previous inquiry showing that a series of company decisions had severely compromised safety in the mine and led directly to the disaster which claimed the four lives.

Justice James Staunton, the presiding judge at the inquiry, had let the government off the hook when he recommended that no criminal charges be brought and referred the evidence to the Crown Solicitor to determine if the company should be prosecuted under the provisions of the Occupation Health and Safety Act.

In his findings, however, Staunton was compelled to admit that there was evidence of “widespread and

serious shortcomings at every level of management of the Newcastle Coal Company”—a subsidiary of the US-based Oakbridge Pty Ltd. He cited management for:

- \* Ignoring reports from a mine deputy on three separate occasions in the two weeks before the disaster indicating there was a “considerable amount of water at the coal face”.

- \* Not undertaking a “risk analysis” even though it was aware of the presence of abandoned water-filled mines in the area.

- \* Refusing to carry out forward drilling or to sink bores to determine the exact whereabouts of the deserted Young Wallsend Mine that produced the fatal torrent of water.

- \* Not checking the accuracy of the maps being used despite the age of the documents.

- \* Failing to inform the miners that they were cutting towards a deserted mine shaft full of water.

During the inquiry management admitted that if it had undertaken forward drilling or investigated the reports indicating a presence of water, the disaster would have been avoided.

The media has hailed the move to prosecute the Newcastle Wallsend Coal Company as a “landmark” decision. Certainly it marks a change from the past practice when mining companies never faced prosecutions of any kind over their responsibility for mine deaths.

But the government's decision is largely cosmetic. It is designed to placate the growing anger in the mining communities over the number of mining fatalities and accidents while leaving the underlying causes producing the unsafe conditions untouched.

While mine managers who breach safety standards deserve to be prosecuted, the prevalence of unsafe conditions is not the product of “rogue employers” or

“irresponsible individuals”. It is the outcome of the operation of the market and the increasingly cutthroat competition in the industry internationally. Over the last decade and a half, coal companies have slashed their workforces, overturned protective work practices and imposed speed-ups in order to cut costs and maximise profits.

Under these conditions, individual mine managers are driven to cut corners to boost productivity and profits. As a result the time and money is not spent to carry out necessary safety procedures and the result is disasters such as the one at Gretley. Management at Gretley were under added pressure as the parent company Oakbridge had classified it as a “marginal mine”.

Government budget cuts have also undermined mine safety. Just two months after the Gretley disaster government mine inspectors went on strike because their numbers had been slashed by 30 percent, further compromising their ability to carry out the necessary mine inspections. It was only in recent months that \$550,000 was spent to review and digitise all the records of mine workings held by the Department of Mineral Resources (DMR).

It is significant the government decided not to prosecute the DMR even though the inquiry was highly critical of the Department for issuing incorrect and outdated maps and for “failing to investigate the position of the old mine”. Peter Hall QC, lawyer for the families of the dead miners, stated that there were legal grounds for a prosecution and that breaches by the Department as well as the company were the “direct causes of the disaster”. One can only conclude that the government is reluctant to prosecute the department for fear of being implicated by what might emerge in the case.

The mining union officials issued a statement criticising the government for not prosecuting the DMR but made no comment on any wider issues. Nor could they, as the union has worked hand in glove with companies and governments over the last decade to impose the cuts to jobs, working conditions and safety standards in the name of making the industry “internationally competitive”.

The union has also played a crucial role of legitimising the official inquiries convened to look into the ongoing carnage in the mines. The outcome is always the same: recommendations are made, minor

legislative changes are passed, and even a few managerial heads may roll, but the market prevails, production is put ahead of safety, and workers continue to pay the price. Over the past nine years, from August 1990 to November 1999, 45 miners were killed in coal mines in NSW alone. Hundreds more have suffered serious injuries.



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