Kentucky mine operators gear up for a coal revival

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15 March 2006

A number of new legislative proposals circulating through the Kentucky General Assembly are aimed at the further relaxation of safety and labor standards for the coal industry. In the past three years, coal prices and demand for Appalachian coal have risen drastically. Mine owners have upped production, opened more dangerous mines, and repeatedly violated safety regulations, endangering workers and resulting in hundreds of deaths and injuries.

So far this year, 21 miners have been killed, 19 in Appalachia. The Sago Mine disaster and deaths of 12 West Virginia miners in January focused national attention on both the work and economic conditions in the region.

Since then, government officials have paid lip service to stricter inspections and enforcement, while promising to improve the social circumstances that leave residents with little financial opportunity outside of the most dangerous occupations. Meanwhile, the opposite course is being followed by industry, with the full backing of the local, state, and federal administrations.

In Kentucky, public concern prompted a revision in mine safety standards. Last month, the state's Democratic-controlled House and Republican Senate crafted separate bills to update the antiquated protection laws; neither revision made drastic changes to the earlier statutes, to the approbation of the powerful coal lobby.

Both versions added the requirement that mine owners provide emergency respirators, other self-rescuing devices, and employee whistleblower protection for reporting violations. The House bill, which was passed unanimously on February 9, also recommended that state inspectors visit mining sites four times a year, that miners be equipped with tracking devices, and that fines be increased for owners in violation.

The Senate version, which passed unanimously by a committee substitute vote March 10, requires neither an increase in the number of annual inspections—currently only twice a year—nor tracking devices provided by mine owners.

The bill deletes previous legislation that allowed airflow openings to serve as emergency escape ways, and requires flashing devices indicating the direction of exits. Most of these rules would take effect no sooner than September, and the various emergency devices such as respirators and air tanks are only required to be installed in mines by July 1, 2007. Even then, mine operators can be issued a waiver from the state Mine Safety Review Commission if the devices are unavailable, a frequent recourse for both government and industry, which have scaled back investments in such technology. The mine owners are expected to supply devices that provide only one hour's worth of protection per worker.

The bill also includes a provision penalizing mine owners for inadequate roof control and mine ventilation plans that put miners in imminent danger of death or serious injury—with a maximum penalty of $5,000.

According to Republican Robert Stivers, the Senate bill's sponsor, the new legislation was "a bipartisan effort involving representatives from both chambers, the industry, labor and the state," and Republican Governor Ernie Fletcher is expected to sign it into law.

In late January, West Virginia Governor Joe Manchin, a Democrat, signed similar legislation in his state. However, no deadlines were imposed on the coal companies to comply with its provisions, and before the new law is implemented, state legislators must first draft up rules on how it will be enforced—a process, no doubt, that will be done in consultation with the mining industry.

Meanwhile federal Mine Safety and Health Administration (MSHA) authorities gave International Coal Group permission to resume production at the Sago Mine next week, with Governor Manchin personally vouching for the safety of the mine, which was cited for more than 200 safety violations in 2005.

Coincidentally, but not insignificantly, the day the Kentucky bill passed out of committee marked the 30th anniversary of the Scotia Mine explosion in Letcher County, Kentucky, which killed 15 miners and 11 rescue workers. During the energy crisis of the 1970s, the demand for Appalachian coal had surged after decades of decline.

In 1968, eastern Kentucky miners numbered approximately 24,000; within 10 years, there were 64,000 in the region. With an enormous growth in the industry and workforce came accidents, dangerous production speeds—and unparalleled militancy among miners, particularly in eastern Kentucky, which saw struggles such as the one at the Brookside mine in

Harlan County that pitted workers against company gun thugs and police in strikes that took on the character of guerrilla warfare.

In the aftermath of the 1977-1978 nationwide coal strike, in which miners defied the Carter administration's Taft-Hartley back-to-work order, the employers sought to crush this militancy by shifting energy production away from the coal fields and by taking on and defeating strikes, such as those at A.T. Massey and Pittston Coal, which were isolated and betrayed by the United Mine Workers of America (UMWA). As a result, in eastern Kentucky, UMWA membership fell by thousands, and today the union is only a shell. According to the federal Energy Information Agency, only 271 UMWA miners remain in eastern Kentucky.

Beginning in the mid-1980s, eastern Kentucky miners were laid off by the thousands, replaced by large-scale surface-mining and mountaintop-removal operations that were able to extract coal faster with only a fraction of employees. By 2003, only 15,000 miners were working in the region, unchanged in 2006.

But demand for coal has increased substantially in the past three years, leading to a doubling in prices. Many smaller subsidiaries and independent operators have upped production at small and old Appalachian mines by using a process known as retreat mining. This is the method by which miners dig deep into a mountain in a maze of tunnels, removing a third to half of the exposed coal and leaving pillars of rock for roof support. After a tunnel has been mined as deeply as possible, miners begin retreat mining, in which the pillars are mined out and the roof collapses in a series of falls from the back outward. It is an incredibly dangerous and labor-intensive operation that was recently re-approved by the governor's office for use in eastern Kentucky.

In the last eight years, 17 miners have been killed in retreat mining accidents, 7 of those in West Virginia and 6 in Kentucky. Last August two Kentucky miners were buried three miles down in a Harlan County retreat mine owned by the Stillhouse Mining Company, a subsidiary of Cumberland Resources. The company did not have a roof control plan in place and was mining underneath four abandoned and one active mine in the same coal seam. The accident was characterized by the federal MSHA as a case of "reckless disregard [and] negligence," and the mine was issued six roof citations, none carrying a financial penalty. The company continues to operate at the mine and violate safety regulations, extracting around 5,000 tons of coal a day. Like most mining operations in the state, Cumberland has numerous outstanding fines that are years old.

According to a recent report from the *Lexington Herald-Leader*, more than 60 percent of MSHA penalties levied against companies operating in Kentucky in the last 10 years remain uncollected, totaling $24.6 million in unpaid fines. Some of the largest delinquencies belong to the largest operations, including Massey Energy, Alliance Resource Partners, and TECO Coal, which operates the Hazard Number 4 mine, where a roof collapse killed a roof bolter on February 16.

Coal mining is one of the highest paying jobs in eastern Kentucky counties, where between a fifth and a third of the population lives below the federal poverty line, and the median wage is half that of the national figure. Starting wages for miners are around $15 an hour, more than double the prevailing wages in most of the area, and many workers are lured into non-union mines with the promise of salaries that could rise to $50,000 to $60,000. In the last two years, 12,000 people have undergone the 40-hour mine training course to become certified, and the state has issued 7,287 temporary licenses for underground work, although only 2,000 of those newly licensed have secured employment.

Nevertheless, some industry representatives and regulators continue to insist that there is a labor shortage. "We're losing production even though the price of coal is up," Kentucky Coal Association President Bill Caylor told the *Los Angeles Times* last month. "There is not a large enough pool of workers."

Charlie Brease, the president of Massey Energy subsidiary Sidney Coal Co., requested that the Kentucky Coal Board relax its requirement of English proficiency so that the company could bring in Hispanic immigrant workers for training. "It's common knowledge that the work ethic of the Eastern Kentucky worker has declined from where it once was," he wrote in a December memorandum. "Attitudes have changed among the existing work force, which affects attendance, drug use, and ultimately productivity." At the Board's March 10 meeting, the proposal was not discussed, although the "labor shortage" is still being publicly lamented by officials and executives.

Publication of the statement last month provoked such opposition among miners that Brease offered an apology for his insinuation of rampant drug abuse. Subsequently, the media coverage has attempted to paint the miners' opposition as racist and backward.

Most miners actually quoted in the press, however, direct their anger at what is to be another attack on wages and benefits. Homer Black, a disabled miner working at the Sidney Coal preparation plant, told the Associated Press, "They bring Mexicans in here, they'll get 'em killed." Of his co-workers, Black said, "These people ain't going to put up with it." Shannon Gibson, who had just been hired to work at Sidney, added, "They're just looking for more workers who'll work cheaper and longer."