

# Massey CEO refuses to testify at hearing into Upper Big Branch mine disaster

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Massey Energy CEO Don Blankenship is refusing to testify before government officials investigating the April 5 disaster at the Upper Big Branch (UBB) mine in which 29 coal miners were killed.

Blankenship had been scheduled to testify on Tuesday, December 14, and last month said that he would. This past Friday, however, lawyers representing Blankenship sent a letter to the West Virginia Office of Miners' Health, Safety and Training stating that he would not appear at the hearing.

"Upon our advice, Mr. Blankenship will decline to appear on the basis of his constitutional rights, including his privilege under the Fifth Amendment," the letter stated. The Fifth Amendment gives people the right not to testify, if answers to those questions might incriminate them.

At least 15 other Massey officials have refused to testify about the deadly explosion and the events leading up to it, all citing the Fifth Amendment. The Mine Safety and Health Administration (MSHA) has not released the names of those who refused to testify, but a review of records reveals some of the officials including Vice President of Safety Elizabeth Chamberlin, Massey Senior Vice President and COO Chris Adkins, Vice President of Underground Operations Jason Whitehead, and Massey Compliance Officer Gary Frampton.

Blankenship and other Massey officials have repeatedly made public statements to the effect that they wanted a full and open investigation of the UBB disaster, but they have rejected testifying under oath in front of state and federal investigators.

Most safety experts and miners believe that the UBB disaster was caused by an initial methane explosion that set off a secondary and more powerful coal dust explosion, which traveled several miles underground,

killing miners in many different parts of the mine.

Massey has a long history of safety violations at both the UBB mine and its other mines. In the 18 months preceding the explosion, MSHA investigators issued more than 600 safety violations. Many were violations of the ventilation plan and for allowing coal dust to accumulate.

On December 12, the *Charleston Gazette* reported that a UBB foreman had been working for nearly two years with a forged foreman's license, during which time he conducted 228 safety inspections.

In testimony he gave a month before the UBB disaster, the foreman, Thomas Harrah, stated that he had been pressured by Massey officials to take the foreman's test and was told by two Massey officials to call a number they gave him to check on his status. He did and was faxed a paper with his certification number. He said he received a letter a few days later with another certification number on it.

Government investigators never followed up on Harrah's claim that it was Massey officials who forged the documents for him, yet there have been several cases of foremen being found guilty of working without the license.

Massey employees told the WSWS that company officials routinely prevented them from hanging curtains used to direct fresh air to the mine face, and spreading rock dust used to suppress coal dust during production, only catching up on these safety measures at the end of a shift.

The investigation into the April 5 disaster continues to drag along. It has been more than eight months since the miners were killed, and neither the federal, the state nor the special investigation headed up by Davitt McAteer has issued any reports or held any public hearings.

MSHA head Joe Main, a former UMW safety director, rejected calls for public hearings, which would have given safety officials the power to subpoena witnesses. Instead, MSHA officials are sitting in on interviews being conducted by the West Virginia safety officials, who can subpoena witnesses.

In a deal worked out between West Virginia Governor Joe Manchin, now senator-elect, and Massey, company officials can avoid testifying as long as they send in a letter stating that they plan to refuse to answer questions on the grounds that it is self-incrimination.

On December 3, Don Blankenship announced that he planned to retire from Massey. It has been reported that Massey board of directors and major stockholders have been trying to sell the company and that they felt they could get a higher price if Blankenship was gone.

Blankenship is being given at least \$12 million in severance pay to retire. The deal also covers undetermined performance awards for this year—three times the amount offered to families of those killed in the April 5th disaster. He also gets health insurance and a \$5,000-a-month consulting job for two years. In exchange, Blankenship can't compete with Massey or hire away any employees for two years.

Massey has accumulated ownership over some of the largest reserves of high-grade coal used in the process of making steel. The growth in the world economy, especially the demand for coal in China and India, has made Massey's holdings worth billions.

Massey stock has doubled since the summer and is just below its high for the year, as investors return to the company after realizing that government regulators will not take any action against the company as a result of the UBB disaster.

Blankenship rose to his rank in Massey by orchestrating the company's union-busting strategy in 1984, when, in a bitter strike in southern West Virginia and eastern Kentucky, he broke the UMW. Blankenship's efforts were accompanied by the treacherous role of the UMW leadership, which isolated the Massey miners and allowed their defeat.

Massey mines have a reputation for being among the most dangerous. Many miners in West Virginia and Kentucky say they refuse to work in them. Miners who bring up safety concerns are told to shut up or get fired.

On December 4, another miner, Charlie Qualls, 32, of Glasgow, West Virginia, was killed when the haulage

truck he was driving overturned. Qualls had been a truck driver for more than 10 years. He had a wife, Judith, and three sons, Colin, 13, Matthew, 9, and Dylan, 5. Qualls was driving a truck for Medford Energy at Massey Energy's Republic Energy surface mine when the brakes failed and the truck overturned while going down a steep road. Medford Trucking is a contractor for Massey subsidiary Elk Run Coal Co.'s Republic Energy.

This is the second coal driver killed at the Republic Energy mine in as many years. On February 6 of last year, 70-year-old William Wade was killed when his truck lost its brakes. Investigators found that the service brake air reservoir "had been purposely bypassed" and that "four of six brake drums were worn beyond the manufacturer's wear limits."

Haulage accidents are one of the most common causes of death among coal miners. Companies often add wood frames so they can carry more coal, but that adds weight and blocks the driver's view. Roads on mine property are poorly maintained and often include very steep grades.

Quall became the 48th coal miner to be killed this year, surpassing the number of miners killed in 2006 in the disaster at Sago and Darby, in West Virginia and Kentucky, and in other accidents that killed 47 coal miners. The year 2010 is the most deadly for coal miners since 1992, when 55 miners were killed on the job. Charlie Qualls was also the 35th coal miner to die in West Virginia—the largest number since at least 1979.

Hundreds of other coal miners die each year from black lung and other respiratory and heart diseases caused from years of breathing in coal dust and other pollutants.



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