

# Upper Big Branch mine operator hid safety problems before disaster

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Massey Energy kept two sets of books on safety violations at its Upper Big Branch mine, federal officials reported at a press conference June 29.

The Mine Safety and Health Administration (MSHA) found the company kept detailed internal records documenting the dangers that contributed to the April 5, 2010, explosion that killed 29 miners, while intimidating workers into submitting sanitized reports to state and federal regulators. The company's internal reports focused on how problems would slow extraction rates at the mine.

The official "on-shift" reports were prepared by mine workers and co-signed by management, as required by the Mine Act. The other set of "production reports," also written by workers, focused on coal output and delays including safety problems.

MSHA official Kevin Stricklin said Massey "managers were aware that chronic hazardous conditions were not recorded," and that interviews with employees "indicated that management pressured examiners not to record hazards." "Upper management" threatened to fire "first-line management" for failing to meet production goals, and in one case a foreman was fired for slowing production for one hour to repair part of the ventilation system.

Stricklin displayed copies of the dual records side by side, pointing out one instance a month before the explosion in which the company internally noted problems with water sprayers. In the official report, the company recorded "none observed" in the column for hazardous conditions. In another instance, the on-shift report omitted that an area of the mine had low air flow,

while it was noted in the production records.

Investigators determined that the fatal explosion happened because water sprayers on a cutting machine had broken and failed to extinguish a spark, which ignited a small pocket of methane. Stricklin said a gas detector that would have alerted miners to the methane had not been in use for more than two weeks before the explosion. MSHA investigators also found that the site of the fire had never been dusted down with limestone—a basic precaution against the accumulation of coal dust in the air.

Massey issued its own report on the disaster, declaring that the explosion was the consequence of an unforeseeable and unpreventable "massive inundation of methane-rich natural gas" into the mine. The company also claimed that water sprayers had been functioning properly. Stricklin said the crack in the mine floor that the company insisted was the origin of the methane was too shallow and not connected to any possible source of gas below. Gas readings after the explosion were also found to be far lower than would have been the case with a natural inundation, Stricklin said.

MSHA investigators as well as a state-commissioned investigation have determined that a small pocket of methane gas was ignited by sparks from a long-wall mining machine, in turn triggering a tremendous coal dust explosion through miles of tunnels.

The explosion was the direct result of Massey flouting safety laws. The company allowed coal dust to accumulate throughout the mine, failed to adequately ventilate the tunnels, and left equipment and safety

devices to fall into disrepair.

Ken Ward, Jr., of the *Charleston Gazette* reported that at a separate meeting the night before the Wednesday media briefing, MSHA officials told families of the disaster's victims that "Massey routinely did not record the required methane readings and airflow readings that were supposed to be part of regular mine safety examinations by company officials."

Like the investigation commissioned by the state of West Virginia and released in May, the case presents ample evidence for a criminal prosecution of top company officials. Falsifying record keeping on workplace safety is a felony under federal law.

Yet more than a year after the disaster, no Massey executives have been charged in the case, and most have refused to testify in the investigation. Only two low-level Massey employees, the UBB security chief and a mine foreman, have been indicted.

The latest revelations are just as much an indictment of MSHA and the federal government as they are of Massey. The lack of criminal charges against those heading the operation underscores the toothless and subordinate role of regulatory agencies in the coal industry. Although the Upper Big Branch was cited hundreds of times for serious violations that posed imminent risk of death to miners, state and federal regulatory agencies did nothing to halt operations.

Twenty days before the explosion, MSHA ventilation supervisor Joseph Mackowiak personally contacted Massey Vice President Chris Adkins to convince the company to fix persistent ventilation problems. (See, "Massey refused to address ventilation problems at Upper Big Branch Mine"). Of this, Stricklin commented, "There is no evidence that any of those recommendations was ever implemented."

When a reporter asked Stricklin what MSHA did to follow up, he replied, "It didn't look like we did."

Stricklin also declined to say whether the latest revelations would lead to criminal charges. Although

MSHA investigators have already drafted a report into the disaster that is more than 200 pages long, Stricklin said it would not be made public until late in the fall.

Eighteen former Massey officials have invoked their Fifth Amendment right against self-incrimination in the case, including chief executive Don Blankenship, who retired in December. Blankenship is currently collecting tens of millions of dollars in retirement and other perks. Earlier this month, Alpha Natural Resources finalized a buyout of the company.



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