

# United Mine Workers issues findings on Upper Big Branch mine disaster

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The United Mine Workers of America (UMWA) has branded last year's disaster at the Upper Big Branch mine (UBB) "Industrial Homicide" in a 154-page report released October 25. The UMWA's conclusions largely echo those in two previous reports issued by the US Mine Safety and Health Administration (MSHA), and the independent team led by former MSHA chief Davitt McAteer.

The union's findings are consistent with the current working theory that a spark produced from the worn blade of a longwall machine ignited a small amount of methane. Accumulated coal dust then allowed a massive explosion to travel more than seven miles through the underground mine, killing 29 miners. From the lack of machinery maintenance to the inoperable water sprayers, the inadequate ventilation and lack of rock dusting, the UMWA report states that conditions demonstrated "a culture that demanded production at any cost and ... a callous disregard for the health and safety of the miners employed at the operation."

The report rejected as "self-serving" the claim advanced by Massey Energy that the disaster was the result of a massive inundation of natural gas—in other words, that it was an "act of God." The union's investigation concluded, "there was no evidence to support this theory whatsoever."

"The only logical explanation for an explosion to travel seven miles underground is that it had to have been propagated by a continuing supply of highly explosive fuel," the report stated. "The only available fuel supported by the evidence that is sufficient to propagate an explosion of this magnitude is float coal dust."

"Given the overall poor condition of the mine in general, it is *not believable* that management personnel did not know that these conditions posed a substantial and immediate hazard to the miners and could possibly escalate into a catastrophic event," the report emphasized. "Massey's knowledge of the hazardous conditions is confirmed by the practice at the mine of keeping two sets of record books. One set was for Massey's eyes only, that documented the actual conditions, and the other an official record which concealed the truth." (See: Upper Big Branch mine operator hid safety problems before disaster)

The report details the seemingly endless citations issued to the mine in the months and years leading up to the explosion. One month before the accumulated coal dust fueled the deadly blast, mine examiners reported the need for rock dust over 560 times, but management responded to only 65 of these. "MSHA rock dust surveys demonstrate that Massey failed to maintain the incombustible content of the float coal dust at legal levels," the report also notes. In addition, West Virginia mine inspectors issued "over a dozen violations for 'cleaning or rock-dusting' in the eight months of 2009 that an inspector was at the mine. Six additional violations were issued for these conditions in the first quarter of 2010."

Over all, in the 15 months prior to April 2010, the UBB was cited for 645 safety violations and faced \$1.2 million in fines. The report demonstrates how "Massey continually contested citations and orders to avoid increased enforcement action and avoid paying fines."

However, rather than extending criminal liability for the conditions

leading to the disaster to the regulatory agencies charged with enforcing safety, the report continues the whitewash already underway.

Above all, the UMWA reinforces the insistence of both MSHA and the coal industry that Massey's violations were an anomaly in an otherwise relatively healthy industry. "These conditions, which represented gross violations of mandatory health and safety standards, were not accidental. They were permitted to exist by a corporate management at Massey that created a culture that demanded production at any cost and tolerated a callous disregard for the health and safety of the miners employed at the operation."

"There were many factors that led to this disaster," UMWA International President Cecil Roberts said in releasing the report October 25. "But there is only one source for all of them: A rogue corporation, acting without real regard for mine safety and health law and regulations, that established a physical working environment that can only be described as a bomb waiting to go off." The UMWA agreed with the McAteer report that Massey ran its illegal operation "through subterfuge, fear and intimidation."

While the union criticized both state and federal agencies, stating that it was "unconscionable" that the UBB mine was allowed to be operated in such a reckless manner, the report left MSHA chief and former UMWA safety director Joe Main unmentioned.

The UMWA report sheds light on the farce of the federal investigation process in general. In the aftermath of the deadly explosion, surviving miners at the nonunion mine designated the UMWA as their official representation in the resulting investigation, a right accorded to them by law. This gave the union access to the mine during the government investigation, which formed the basis for their report.

However, in what the union derided as the "needless cloak of secrecy" imposed by federal investigators, MSHA blocked union officials—as well as victims' families—from attending witness interviews. MSHA director Joe Main refused the UMWA's calls that the questioning of witnesses be conducted publicly, prompting the union to file a lawsuit aimed at forcing them to do so. US District Judge Irene Berger threw the lawsuit out.

The union notes that Massey was allowed representatives to be present at the "private interviews," but that they, even as the miners' official representation, were not. The union also claims that they were denied access to the transcripts from the more than 300 such interviews conducted in the investigation so far. According to the union, "documents pertinent to the investigation, including pre-shift, on-shift, weekly examinations and other documents containing important information were withheld from the Miners' Representatives [the union], solely at the discretion of MSHA, its attorneys and the solicitors office." (See: Federal officials block open hearings into West Virginia explosion)

Labor Secretary Hilda Solis also backed away from an earlier promise to hold public meetings on the disaster after US Attorney Booth Goodwin intervened and warned that such public events would compromise his ongoing criminal investigation.

By all accounts, Goodwin's investigation has been a fraud from the start, aimed at whitewashing the circumstances surrounding the disaster while offering up minor players as scapegoats. More than a year and a half later, Goodwin's probe has produced only two convictions, one of which had no connection to the explosion.

Last month, miner Thomas Harrah was found guilty and sentenced to 10 months in jail for faking a foreman's license when he performed key mine safety examinations at the UBB between January 2008 and August 2009, some 8 months prior to the April 2010 explosion. While Goodwin touted Harrah's conviction, investigators admitted that Harrah had absolutely no connection to the explosion which killed the 29 miners. (See: Low-level Massey employee convicted in Upper Big Branch mine investigation)

Last week, former Massey security director Hughie Elbert Stover was convicted for lying to federal investigators about providing advanced warning to underground miners of the arrival of inspectors and for obstructing a federal investigation when he ordered the disposal of thousands of security documents which threatened to expose his lie. (See: Security official convicted of obstructing probe into West Virginia mine disaster)

At the opening of the trial, Stover's attorney, Bill Wilmoth, pointed to the embarrassing fact that "after 568 days, countless man hours of agents scouring southern West Virginia and millions of dollars, the government brings its first case against a security guard."

The UMWA report concludes with the call for a grand jury investigation and the subpoena of Massey management, including the 18 officials who invoked the Fifth Amendment and have refused to speak to investigators. Former CEO Don Blankenship has since disappeared from the public eye after receiving a "golden parachute" reportedly worth \$86 million late last year. However, many of these former Massey management officials are now working for energy giant Alpha Natural Resources, which absorbed Massey Energy over the summer. (See: Massey CEO refuses to testify at hearing into Upper Big Branch mine disaster)

The UMWA in no way seeks a fundamental restructuring of the mining industry or any serious safety and health regulations which would put the American mining industry at a competitive disadvantage on the global market. Indeed, upon the retirement of Blankenship last December, Roberts remarked that it presented an opportunity for "the coal industry in West Virginia and across the country to take a step away from the negative image that has cast a pall over our industry, created in large part because of the actions of Don Blankenship and Massey Energy while he has been at the company's helm."

The UMWA has sought to present itself as a defender of the killed miners' families with no ties to the "industrial homicide" they charge Massey with. "Our charge is different from any other party to this investigation," the union states. "We don't have operational policies from which to divert attention. We don't have regulatory enforcement actions—or inactions—to explain away. We don't have lawsuits to defend against."

On the contrary, the UMWA bears primary responsibility for the abominable conditions in the Appalachian coalfields and the virtual return of the poverty and degradation that characterized the region at the start of the twentieth century.

The past three decades has seen the systematic betrayal of all the gains won by generations of miners in bloody battles. With some 14,000 members, in contrast to the more than 120,000 in the late 1970s, the union stands today as a hollow shell of its former self. Twenty-five years before Massey's "corporate culture" produced the conditions that led to the UBB explosion, the union and the company colluded against rank-and-file miners who were involved in one of the most significant and bitter strikes in the 1980s. (See: Massey Energy and the United Mine Workers union)

In fact, the success of Massey Energy in general and that of Don Blankenship in particular were directly bound up with its struggle with the

UMWA in the 1980s. Blankenship began his career at Rawl Sales & Processing, an AT Massey subsidiary, in 1982, the same year Cecil Roberts was elected Vice President of the UMWA under the presidency of Richard Trumka. Within a decade, Blankenship rose through the company ranks to become CEO in 1992. In 1995, Roberts assumed the presidency of the UMWA after Trumka's resignation to become Secretary-Treasurer of the AFL-CIO. (See: AFL-CIO names new president: Who is Richard Trumka?)

In 1984, A.T. Massey, the nation's fifth largest coal producer at the time, inaugurated its offensive against the union by refusing to sign the Bituminous Coal Operators Association (BCOA) agreement, which had traditionally served as the benchmark for wages and benefits throughout the industry. Instead, Massey demanded that the UMWA negotiate with each of its mines as separate entities.

Massey's new strategy proved successful only because the UMWA bureaucracy under Trumka and Roberts had decided the year before to abandon its traditional policy of "no contract, no work" enforced by industry-wide strike action. Instead, the union leadership adopted a new strategy of selective strikes. The result was the isolation of each strike, allowing Massey to simply close individual mines and reopen them as nonunion operations.

The new orientation of Trumka and Roberts allowed the union bureaucracy to ingratiate itself with the industry and the state while accomplishing the task of lowering miners' living standards to make the American mining industry more competitive globally, and thus, securing its own narrow interests and future in the process.

In October 1984, miners at Massey-run mines went out on strike in Pennsylvania, Kentucky, and West Virginia against the company's break from the BCOA. Both the miners and the company realized that the strike's outcome would have far reaching consequences for the future of coal mining in the United States. The high stakes ensured the return of violent class confrontations.

It was clear that the miners were more than willing to fight it out with the coal bosses; however, under the direction of the union, the strike was to be crushed. Trumka and Roberts refused to mobilize the more than 100,000 UMWA miners behind the strike and sought to defend the union's "partnership" with the coal operators and political establishment.

Left isolated for more than a year, Trumka called the strike off in December 1985. Hundreds of miners were fired and blacklisted; others were forced back to work on Massey's terms alongside strikebreakers. Militant strikers who were framed up on charges of violence were betrayed and abandoned by the union. The outcome of the 1984-85 Massey strike set the stage for a frenzy of violent union-busting and witch-hunting of militant actions of miners over the next decade.

It is within this context that the UMWA report must be viewed. Fundamentally, the union bureaucracy seeks to exploit the tragedy at the UBB in order to promote the myth that it is still an organization committed to, and capable of, defending the interests of miners.

*The author also recommends:*

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