

Investigation exposes role of federal safety agency in West Virginia mine disaster

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An investigation conducted by the National Institute for Occupational Safety and Health (NIOSH) into the role of the US Mine Safety and Health Administration (MSHA) in the April 5, 2010 explosion at the Upper Big Branch (UBB) mine has concluded that MSHA “understate[d]” its own responsibility in its internal review report released last month.

NIOSH’s Independent Panel (IP) concluded that “if MSHA had engaged in timely enforcement of the Mine Act and applicable standards and regulation, it would have lessened the chances of—and possibly could have prevented—the UBB explosion.” The disaster claimed the lives of 29 West Virginia coal miners.

MSHA’s investigation into the disaster had concluded last December that while the “physical conditions that led to the coal dust explosion were the result of a series of basic safety violations at UBB, which PCC [Performance Coal Co.] and Massey disregarded, the ... unlawful policies and practices implemented by PCC and Massey [were] the root cause of the explosion.”

In its findings, the agency sought to deflect as much criticism as possible away from its own failure to stop what it called an “entirely preventable” tragedy and went so far in its internal review as to claim that there was “no evidence linking the actions of MSHA employees to this tragedy.”

The NIOSH findings do not challenge MSHA’s “conclusion that the mine operator, not MSHA, caused the explosion.” Rather, the IP claimed that “the characterization of the facts underlying this conclusion understates the role that MSHA’s enforcement could have had in preventing the explosion.”

The IP was established by the Obama administration’s secretary of labor, Hilda L. Solis, in order to “ensure accountability” for MSHA’s internal

review. The decision was made in the days following the UBB disaster as officials were scrambling to posture as serious about addressing mine safety.

Solis had also promised public meetings and hearings into the explosion at which testimony would be given. She later backtracked from this position, citing concern that it might interfere with the ongoing federal investigation. As the second anniversary of the disaster approaches, charges have yet to be brought against anyone but a handful of low-level employees.

A similar back-pedaling also seems to be at play in the NIOSH report, which while authorized by Solis herself, contains the disclaimer: “The views expressed by the Independent Panel do not necessarily represent the views of the National Institute for Occupational Safety and Health, the Centers for Disease Control and Prevention, or the U.S. Department of Health and Human Services.”

The IP reached its conclusion by analyzing what it believed to be the “three concurrent and critical events that led to the explosion and loss of life”: the initial spark from the worn longwall shear blade, the ignition of accumulated methane gas, and the massive coal dust explosion which ripped through the mine.

NIOSH absolves MSHA of any control over the initial spark at the longwall shear. However, the IP “concluded that if MSHA enforcement personnel had completed required enforcement actions during at least one of the four UBB inspections [prior to the explosion], it is unlikely that a roof fall would have occurred and that airflow would have been reduced as a consequence. With the proper quantity of air, there would not have been an accumulation of methane, thereby eliminating the fuel sources for the gas explosion.”

Similarly the IP concluded that MSHA could have

prevented the massive coal dust explosion. “[I]f MSHA enforcement personnel had taken appropriate actions during the inspections in the months prior to the explosion,” the IP argues, “either dangerous accumulations of explosive coal dust would have been rendered inert, or the mine would have been idled.”

The report continues: “In short, even if there had been a gas explosion, it would have lacked sufficient fuel to trigger a massive dust explosion.”

This conclusion is supported by that reached by the Independent Investigation Panel authorized by then Democratic West Virginia Governor Joe Manchin under the leadership of Davitt McAteer. Last May, McAteer’s team concluded, “The disaster at the Upper Big Branch Mine is proof positive that [MSHA] failed its duty as the watchdog for coal miners.”

In its internal review, MSHA sought to absolve itself of responsibility by pointing out that Massey had engaged in “intentional efforts to evade well-established Mine Act provisions” such as the practice of providing advanced warning to miners that inspectors were on site, the concealment of known hazards through double bookkeeping, and the intimidation of miners. These practices, the agency argued, “interfered with MSHA’s ability to identify and require abatement of hazardous conditions at the Mine.”

The IP acknowledged that the “concealment activities by the mine operator would have adversely impacted MSHA’s enforcement performance at UBB, however,” the IP points out, “the mine operator did not, and could not, conceal readily observable violative conditions such as flat dust accumulations throughout the UBB and missing supplemental roof controls.”

Unable to respond to the NIOSH report, MSHA head Joe Main floundered at recent hearings before the House of Representative’s committee on the UBB. “If you look at all of the investigative findings so far, and I believe even the NIOSH report pointed this out, Massey caused this disaster,” Main said. “Having said that, I can’t say for certain that it could or couldn’t have been preventable. I haven’t seen the facts that tell me that we could have taken actions necessary to stop that.”

Two years after the disaster that took the lives of 29 miners, the political establishment is engaged not in any meaningful debate over how to prevent such

tragedies from occurring again, but in shallow political squabbles. The Democratic Party is seeking to protect its representatives in MSHA, above all Main himself, who is the former administrator of the United Mine Workers’ Occupational Health and Safety Department.

At the same time, the Republicans are emphasizing the IP’s findings not out of concern for the limitations and inadequacies they expose in current federal mining regulations, but to score cheap political points against the Democrats. Both parties are meanwhile seeking the expansion of large-scale mining operations on behalf of the corporations, predicated on the dismantling of safety and environmental oversight.

Within such a political atmosphere, a continued stream of mining deaths is all but guaranteed. So far this year, six coal miners have died in separate accidents. Last week saw the fifth weekend in a row that a miner was killed on the job.



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