

# Drilling company fined negligible sum for safety breaches in New Zealand mine disaster

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Families of men killed in the 2010 disaster at Pike River mine have expressed anger over a paltry \$NZ46,800 (\$US38,650) fine imposed on VLI Drilling after the company admitted to safety breaches. Each of three charges faced by VLI carried a maximum fine of \$250,000.

Twenty-nine people died in a methane gas explosion at the mine on the West Coast of New Zealand's South Island. Their bodies have never been recovered and the mine remains sealed.

VLI Drilling, a subsidiary of Valley Longwall International, had been contracted by Pike River Coal (PRC) to conduct exploratory drilling at the mine. Three VLI employees—Josh Ufer, 25, Ben Rockhouse, 21, and Joseph Dunbar, who was just 17—perished in the disaster, along with 10 other contract workers and 16 PRC employees.

VLI pleaded guilty in July to the safety charges brought by the Labour Department. Its workers had been drilling in high-methane areas of the mine but VLI made no regular safety checks of its equipment. On November 19, 2010, the day of the explosion, the drill rig's methane gas sensor was checked for the first time in five months and found to be faulty. The Department noted that "the accuracy of the gas sensor and the protection it was intended to provide could not be relied on."

Outside the court, Neville Rockhouse, father of Ben Rockhouse, told reporters: "I yelled out to the judge: 'Judge, that's the wrong decision and you know it in your heart'." He said the fine was no deterrent, given VLI "probably make that sum of money in about three minutes flat." The company operates in a dozen countries, including Australia, South Africa, the US and China.

Judge Jane Farish found that VLI had only

"moderate" culpability. She stated that "VLI took very few steps to ensure there was a safe working environment" but stressed that there was no causal link between the company's negligence and the explosion. It is not known whether VLI's drill rig was operating when the mine exploded but, as Rockhouse noted, the company operated "for five months in an area of the mine that could have blown up at any time."

Farish denied an application from prosecutors to admit victim impact statements from six family members as part of the sentencing proceedings. She decided that the dead miners and their families did not fit the legal definition of victims. Joanne Ufer, mother of Josh Ufer, told Radio NZ: "I'm without a son, my daughter's without a brother and little Erica's without her dad, so how that isn't being a victim, I don't know."

Bernie Monk, whose son Michael died in the explosion, said the trial was hampered by the fact that no-one had entered the mine to thoroughly investigate the disaster. On October 8, the mine's new owner, Solid Energy, agreed to allow men to enter the main tunnel and try to retrieve the miners' bodies but Prime Minister John Key rejected the plan. Monk told the *Greymouth Star*: "He doesn't want to listen to us." Key had promised the families before the 2011 election he was "committed to getting the boys out and nothing's going to change that."

PRC, which is in receivership, and its former CEO Peter Whittall also face health and safety related charges. On October 25, Whittall pleaded not guilty to all 12 charges against him. He will reappear in court in March. Among those who have not been charged are Gordon Ward, PRC's former CEO, who departed just seven weeks before the explosion and now lives on Australia's Gold Coast, and John Dow, PRC's former

board chairman, who insisted after the explosion that there had been “no slackening in safety standards”.

The government’s Royal Commission of Inquiry into the disaster has been presented with overwhelming evidence that the mine was a catastrophe waiting to happen. PRC, which was heavily in debt to its investors, extracted coal as fast as possible for export to burgeoning markets in Asia. The company failed to install adequate methane drainage and ventilation systems, sped up production and operated with no adequate emergency exit.

The Labour Department had received repeated warnings about the unsafe conditions at Pike River, but failed to shut it down. From the early 1990s, successive National and Labour governments dismantled the Labour Department’s Mines Inspectorate, effectively allowing mines to self-regulate their safety regime. Earlier this year, the government merged the Department into a new Ministry of Business, Innovation and Employment in order to cut costs.

The government is due to release the Commission’s findings next week. Police have stated that they will decide whether to lay criminal charges after examining the findings. Family members have criticised the process, however. Anna Osborne, who lost her husband Milton in the disaster, told Fairfax Media that since the mine had not been entered, the report would be “a best guess and a best guess is nowhere near good enough for the loss of my husband.”

The Royal Commission’s terms of reference, determined by the government, exclude any reference to criminal liability or recommendations regarding prosecutions. When the Commission opened in April 2011, presiding Judge Graham Pankhurst declared: “No one is on trial, there are no sides, no one will win or lose” (see “Inquiry into mine tragedy begins on 'no blame' basis”). The government’s refusal to allow the mine to be explored strongly suggests that it is preparing to use the Commission’s report as a whitewash and wishes to avoid more damning evidence.

Immediately after the explosion, the government, the opposition Labour Party and the Greens—as well as the corporate media—defended PRC and praised Whittall for his “leadership” during the aborted rescue operation. The Engineering, Printing and Manufacturing Union (EPMU), which represented

many PRC miners, also defended the company’s safety record. Its then-national secretary Andrew Little (now a Labour MP) told Radio NZ that PRC had taken “great care” going into production and “had a good health and safety committee that’s been very active.”

Last week, EPMU official Alan Clarence told Radio Live: “Everyone’s ducking for responsibility for what happened at the mine ... Pike River contracted out basically its safety checks, and VLI didn’t carry out those safety checks.” The union, however, was complicit in the unsafe conditions at the mine. Before the explosion it never organised industrial action or criticised the company’s safety standards, even after a group of workers spontaneously walked off the job to protest the lack of basic emergency equipment.



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