

Fifth West Virginia miner killed in as many weeks

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Sixty-three-year-old coal miner Asa Fitzpatrick of Kermit, West Virginia, was killed in a roof collapse March 13. Fitzpatrick had more than 40 years of experience in the mines.

Fitzpatrick was working as a roof bolter in the Peerless Rachel mine, an advance mining pit in Boone County, operated by Newtown Energy, Inc. and owned by the Patriot Coal Corporation. His death is the fifth coal mine fatality in the state in as many weeks, and comes in the wake of a statewide “safety stand down” called by Governor Earl Ray Tomblin. Seven coal miners have died so far this year nationwide.

According to an initial report by the federal Mine Safety and Health Administration (MSHA), Fitzpatrick was “struck by a large piece of roof rock while performing rib [wall] bolting activities in the 8 right crosscut on the No. 1 Section. The dimension of the rock that struck Fitzpatrick measured approximately 6’ x 5.5’ and averaged 5” thick.” Coworkers brought him to the surface, where he died.

Coworkers and friends posted comments on local news blogs in remembrance. “RIP Asa Fitzpatrick,” wrote one. “You were a fine man, great coal miner and a friend to many. I’ll never forget your steady demeanor and ever-present smile.”

The MSHA database lists five injuries at the mine since January, along with 45 safety violations. In the past 12 months, MSHA has cited the mine for 62 serious and substantial (S&S) safety violations. S&S citations are issued in cases where lives are immediately endangered by conditions in the mine, such as the buildup of combustible materials and inadequate ventilation or exit routes. Although racking up fifty or more S&S violations in the course of a year qualifies a mine for the “pattern of violations” category, MSHA does not list the Peerless Rachel mine

as a frequent offender.

The Peerless Rachel mine was one of the sites of the governor’s “safety talks” last month. West Virginia Office of Miners’ Health, Safety and Training Director Eugene White met with the 140 miners during shift change, telling reporters afterward that “Everybody was concerned... When we quit communicating and talking with the companies and the miners, we’ll lose altogether.

“Sitting and talking does work. Yes, enforcement is part of our job, and we’re going to do that,” White said. “We can’t baby-sit them. We can’t be there every minute of the day.”

The death of Asa Fitzpatrick makes clear that the “stand down” was a stunt, aimed not at improving safety, but at covering over the responsibility shared by the companies and the regulatory agencies for hazardous conditions. (See, “Another West Virginia coal miner killed”)

White was defensive of the state’s response after Fitzpatrick’s death. “I really felt good about the stand down,” he told *Charleston Gazette* reporter Ken Ward, Jr. “I felt like it did some good.” White added that during his visit to the Peerless Rachel mine after the accident, he personally had noticed dangerous roof conditions. “There are some places we observed last night where it had fallen before, some pieces of roof. We’re looking into that, too.”

“I don’t know at this minute what we really need to do,” White said.

Last June, the state passed new mine safety laws requiring methane monitoring, more stringent dust control standards, higher fines for violations, and mandatory training of workers at mines found in violation of standards. The Tomblin administration has not implemented any of the provisions. Since that time,

ten West Virginia miners have been killed on the job.

At the federal level, the budget “sequestration” cuts are likely to drastically slash the number of MSHA staff. The Mine Safety and Health Review Commission, which manages fine collection and legal challenges by coal operators, will see its staff reduced from 74 to 44 full-time employees, who will be subject to furloughs.

A mine fire that broke out on March 12, the day before the Peerless Rachel accident, reveals the potential for major disasters and the real relations of the coal companies to the regulatory agencies. Around 2 p.m., smoke was seen billowing out of a ventilation shaft at Consol Energy’s Blacksville No. 2 deep mine along the West Virginia-Pennsylvania border. Some 121 miners were underground at the time.

The Office of Miners’ Health, Safety and Training was not notified for another hour after smoke was detected. White told the press his agency was told Consol may have sent “fire brigades” into the mine shafts to investigate. “I was told that, but I don’t know for sure,” he said.

All of the miners were eventually accounted for, but nearly two hours after the smoke was first reported, Consol issued a statement saying that the evacuation was still “underway.” The mine is a very large operation, with sprawling shafts 1,000 feet or more below the surface.

In the week since the fire broke out, more than a million gallons of water drawn from nearby ponds have been pumped into the mine. The mine has been idled indefinitely, affecting 650 miners.

On February 19, a miner was crushed in a shuttle car accident in Pocahontas Coal’s underground Affinity Mine in Raleigh County. The fatal accident was the second in as many weeks at that mine and prompted the state stand-down. In March of 2012, management at the Affinity Mine was found by MSHA to be illegally warning underground workers that inspectors were onsite.

Although the Affinity Mine has not reopened after last month’s accidents, Pocahontas is not facing criminal charges for the deaths. West Virginia’s safety head White told the Associated Press it was “too soon to say” if the state would pursue penalties. “Until I know for sure what the main contributing factors were that caused these accidents, I would be hesitant to make

any recommendations,” he said. “We’ve got to figure out why what happened happened.”



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