

# New Zealand: Charges dropped against Pike River mine CEO

Tom Peters

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New Zealand's Ministry for Business, Innovation and Employment (MBIE) yesterday dropped all 12 health and safety charges against former Pike River Coal chief executive Peter Whittall—the sole individual charged over the November 2010 explosion that killed 29 miners. Judge Jane Farish told the court the decision “has been taken at a very high level” within the ministry.

The decision means no one will be held accountable for the disaster, despite a Royal Commission finding last year that Pike River Coal (PRC) ignored “numerous warnings of a potential catastrophe” and its board was “distracted” by “financial and production pressures.” In July, the company was found guilty of health and safety violations and ordered to pay a fine and reparations. PRC, however, has paid nothing, as it is bankrupt. During sentencing, Judge Farish stated: “There were many indicators that the mine was in a potential explosive position but the warning signs were not noted or heeded.”

The decision not to prosecute Whittall is a case of class justice. It signals that the entire political establishment is washing its hands of the disaster. From the outset, the National Party government did everything possible to protect PRC, including establishing a Royal Commission that had no power to hold anyone responsible. For weeks after the disaster, the government, the opposition Labour Party and the Greens all heaped praise on Whittall, while the media portrayed him as a hero. Other leading figures in the company were never charged, including former CEO Gordon Ward and chairman John Dow.

Geoffrey Podger, a spokesman for the Ministry for Business, Innovation and Employment, said the case against Whittall was dropped because “the likelihood of obtaining a conviction was low” and the ministry decided that a “long costly trial” was not in the “public interest.” More than three years after the disaster, many of the witnesses in the case were no longer available or willing to give evidence, he said.

The MBIE also took into account a \$3.4 million “voluntary” payment which PRC's former directors agreed to give the families on the same day that charges were dropped. The directors had previously refused to pay the sum when it was ordered in Farish's sentencing of PRC. While the judge insisted that Whittall was not “buying his way out of a prosecution,” family members of the miners are outraged by the deal.

Anna Osborne, who lost her husband Milton in the mine, denounced the payment as “blood money,” telling the media: “I am sick to the stomach. There is no justice or accountability for the Pike 29.”

Bernie Monk, who lost his son Michael, said: “We've always said that this disaster made a laughing stock of mining, and now the justice system is in the same place.”

Carol Rose, whose son Stuart Mudge died in the explosion, said the payout was “a backroom deal” and a “PR exercise.” She noted that the investigation by the Department of Labour did not access the evidence stored on the company's computers “that the police are now holding.” Some of the families are pushing for the mine to be reopened so that further evidence can be gathered to prepare a criminal case against the company.

Undoubtedly a key factor in the decision not to prosecute is the complicity of the Labour Department in the disaster, which would probably have been raised by Whittall's defence. The Royal Commission found that the Department—which is now part of the MBIE—was well aware of gross safety violations at Pike River mine, including the lack of an emergency exit, but did not shut it down.

Successive National and Labour-led governments are also responsible for dismantling the Department's specialist mines inspectorate, despite warnings that this would lead to a disaster. At the time of the explosion, the regulator had only two mines inspectors for the entire country.

In an attempt to divert attention from their role in creating the conditions which led to the tragedy, the Labour Party and the Engineering, Printing and Manufacturing Union (EPMU) voiced outrage at the decision to drop charges. EPMU assistant national secretary Ged O'Connell declared that 29 men died at Pike River "because of a culture that persecuted the union and put profits ahead of safety."

The union, which represented about half of PRC's employees, never criticised the company before the explosion. The union did not organise any industrial action, even after a group of workers walked off the job spontaneously and called a union official to protest the lack of basic safety equipment. A recent book by journalist Rebecca Macfie, *Tragedy at Pike River Mine*, notes that the EPMU "could have brought the mine to a halt, at least temporarily, by encouraging strikes, pickets or bans over safety. But it caused no disruption to Pike's path to calamity."

Labour MP Andrew Little, who was the EPMU leader at the time of the disaster, wrote to the *Sunday Star-Times* on November 24 declaring that "If ... Macfie think[s] that the union bears some responsibility for the tragic event, I reject that totally." He said the EPMU "tried to get union health and safety reps elected and trained," but faced "significant hostility and obstruction from the company."

This contradicts Little's defence of the company immediately after the disaster, when he told the *New Zealand Herald* that PRC had an "active health and safety committee" and there was "nothing unusual about Pike River ... that we've been particularly concerned about." (See Youtube video)

Notwithstanding Little's attempt to re-write history, the facts show that the EPMU worked hand-in-glove with PRC to suppress workers' opposition to the lack of basic safety standards.



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