

Two West Virginia coal miners killed in roof collapse

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Two West Virginia miners were killed Monday night in a coal roof and wall collapse at a mine owned by Patriot Coal. The mine was cited for a pattern of safety violations and unreported injuries last year and was one of three mines in the country that federal safety authorities said they would put under greater scrutiny.

State officials with the Office of Miners' Health, Safety and Training described the accident at the Brody Mine #1 as a "coal outburst" that violently spewed rock and coal from the mine.

A statement from the federal Mine Safety and Health Administration (MSHA) characterized the accident as a "ground failure." Preliminary investigations suggest the wall and roof collapse was caused by the build-up of pressure inside the mine or mine walls, causing an explosion of the mine face.

Eric Legg, 48, of Twilight, West Virginia and Gary Hensley, 46, of Chapmanville, WV, died in the collapse, which state officials said occurred at 8:47 pm. Legg was a veteran miner with three decades of experience while Hensley had worked in the mines for three or four years, according to family members who spoke to the *Coal Valley News* in Madison, West Virginia. Both men were fathers and Eric Legg was to be remarried this Saturday, his daughter Jessica told the newspaper's web site.

Initial reports stated that the miners were trapped alive under the rubble, and families rushed to the mine gates when they heard the explosion.

The accident joins a long list of coal mining fatalities since the 2010 Upper Big Branch Mine tragedy in Montcoal, West Virginia. That disaster claimed the lives of 29 miners and prompted pledges of sweeping improvements in mine safety from the Obama administration, state and federal agencies, the United Mine Workers of America union, and the mining industry.

The Brody Mine collapse—a single mountain ridge away from the Upper Big Branch mine—is the latest evidence that behind the tributes to fallen miners and promises of improvements, the Obama administration has worked along

with industry to undermine protections and ramp up production to offset declining profits, while tearing up pensions and decent wages for miners.

After the accident, local reporters with NBC-affiliate WSAZ Channel 3 said families and other residents quickly gathered at the site. Several ambulances responded to the accident, but reportedly only arrived by 10:30 p.m. Reporter Rob Johnson noted via Twitter that "communication problems abound" because of the lack of cellphone reception.

A short statement from the operator, Brody Mining LLC, said simply, "Rescue efforts later determined that the miners did not survive."

Patriot Coal issued a statement saying the accident was "a severe coal burst as the mine was conducting retreat mining operations." Retreat mining is a particularly dangerous practice of removing support pillars from an old mine that results in the collapse of previously mined-out areas.

A similar coal outburst was responsible for the August 2007 disaster at the Crandall Canyon mine in Utah, where six miners were killed after roof-supporting pillars failed and violently ejected coal over a half-mile area, according to an MSHA investigation. Ten days later, two mine employees and an MSHA inspector perished in another coal outburst during rescue efforts.

The Brody Mine, near the town of Wharton, in Boone County, was one of three mines in the country singled out last year by the federal MSHA officials as a pattern violator for hundreds of "significant and substantial" violations over the 12-month period ending in August. The "pattern of violations" (POV) designation was introduced in the aftermath of the Upper Big Branch disaster.

In announcing the POV notice to the Brody Mine in October, MSHA head Joe Main stated that the Obama administration would "vigorously enforce" the new rule. Main, the former safety director of the UMW union, touted the effectiveness of the rule, because it "shifts the responsibility for monitoring compliance and taking action to prevent POV enforcement actions to the operator."

In reality, leaving the operators in charge of oversight—a case of the proverbial fox guarding the henhouse—has led to deadly working conditions, under-reporting of accidents, and a climate of intimidation for would-be whistleblowers in the mines.

Brody Mining LLC operates the mine for Patriot Coal—itself a shell company spun off by global energy giant Peabody in 2007 in order to shed its union operations and cut pay and benefits to over 23,000 miners and retirees. Patriot controls 14 major mining operations in Appalachia and the Illinois Basin holding some 1.9 billion tons of coal reserves, mostly in West Virginia and Kentucky. Peabody Energy is the world's largest private-sector coal company, with operations across six continents and total assets of over \$14 billion.

Some 260 non-union employees and contractors work at the Brody Mine, extracting more than a million tons of coal per year.

Since 2006, when Brody activated the old mine, at least 275 injuries have been reported. For the size and type of the mine, this is an extremely high rate of injuries. In fact, over the course of some years at the Brody Mine, MSHA recorded an “incidence rate” (accidents per year times 200,000 hours, divided by current mine hours) of as high as 18.99—over five times the national rate (3.23) for a mine of similar size and type.

Since the beginning of the year, MSHA has cited the mine for safety violations 147 times, including as recently as May 7. In 2013, Brody was fined \$3.2 million in penalties for 514 safety violations, of which it has paid less than \$90,000. As an LLC, the company acts as a shield for Patriot, and the routine of challenging penalties assures that next to nothing will be paid out for the continual violation of safety laws.

Since February, MSHA reports seven accidents in the mine. Among them were an “unintentional ignition” or “explosion of gas or dust” in March, the “permanent disability” of an electrician whose fingers were amputated in a continuous miner in February, and diagnosis of a miner with five years in the Brody Mine with pneumoconiosis (black lung).

The brief reports in the MSHA database provide something of a window into the daily hazards at the mine. On September 30, “A rock fell from the mine roof near the face of the #5 entry... striking the employee on the head and neck.” Days earlier, “Employee was installing the cutter head pin on the continuous miner. As he struck the pin with a sledgehammer a piece of the pin broke off and imbedded into his right leg just above the knee. The foreign body was not removed and the wound was closed with sutures.” In August, as a roof bolter was exiting his work area, “the continuous miner trammed into the flypads directly behind

the roof bolter, striking the employee and knocking him to the mine floor. This resulted in multiple sprains/strains of the upper body.”

Numerous cases of black lung have been reported at the mine; in several entries, the MSHA listings state that, “Brody denies that it breached any duty to report an occupational illness and reserves the right to contest the issuance of the citation and to amend and/or retract this report.”

An 2013 MSHA audit of the mine's records found that injuries caused some 1,800 lost work days at the mine, including more than a year's worth of lost days caused by injuries that Brody never reported. A separate audit in 2012 uncovered 29 injuries that were not reported.

The conditions at the Brody Mine are appalling, but not unique. Another Boone County mine owned by Patriot Coal, the Peerless Rachel advance mining pit, was the site of a fatal roof collapse last year. Like the Brody Mine, the Peerless Rachel was found to have scores of violations and was the subject of handwringing and “prayers” on the part of the Tomblin and Obama administrations.

Earlier in the day Monday, Patriot announced that it was idling operations at its Highland Mine complex near Henderson, Kentucky after a “structural failure” damaged part of the preparation plant. Patriot spokesperson Janine Orf refused to provide details about the incident, telling the press only that customers received a “force majeure notice” and that production would be restored by June 30. The Highland underground mine near the prep plant produced over 847,000 tons in the first quarter of this year, up 10.2 percent from the previous quarter.

So far this year, five coal miners have been killed nationwide. The two at Brody bring the total to three deaths in West Virginia, according to MSHA.



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