West Virginia mine had appalling safety record

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While the world watches the unfolding of the horrific coal mining disaster in Turkey, more has emerged regarding the tragic death of two US miners earlier this week in West Virginia. On Monday, 48-year-old continuous miner operator Eric D. Legg and 46-year-old roof-bolter Gary P. Hensley where killed in a coal outburst while engaged in a dangerous "retreat mining" operation where pillars holding up a mine roof are extracted for their coal.

The deaths were the fourth and fifth coal miners killed this year with a sixth coal miner killed Wednesday in Illinois. Since the start of the year, a total of 18 miners have died in the US, ten of them in the last five weeks.

By all accounts the Brody No. 1 mine has an appalling health and safety record, recording hundreds of injuries since it was reactivated in 2006. According to a review of US Mine Safety and Health Agency (MSHA) records by NPR, the agency cited the Patriot Coal-owned mine more than 530 times for health and safety violations since the start of 2013. More than 250 of these violations have been classified as significant and substantial (S&S), where there existed "a reasonable likelihood" of serious injury. High negligence was cited in 68 of these violations. Yet the mine continued to operate.

The two deaths this week are above all an indictment of the Obama administration and its phony promises for sweeping safety reforms following the 2010 Upper Big Branch mine explosion. The Brody mine had been targeted six times since April 2010 as part of MSHA's "blitz" inspections program implemented in the aftermath of the disaster.

In March 2013 the Obama administration unveiled new Pattern of Violation (POV) rules which were touted as finally giving MSHA the tools needed to crack down on the nation's most dangerous mining operations while shifting the responsibility for corrective action to mine operators. In October 2013, when Brody and two other mines were issued the first three POV notices under the new rules, MSHA director Joe Main claimed that the "POV process is working" and that "many operators are cleaning up their acts, even when MSHA is not looking over their shoulders."

In fact, the new rules were aimed at doing everything possible not to shut down operations or interfere with industry production. MSHA claims it had determined that the Brody mine qualified as a POV mine on September 16, 2013 based on the mine's 253 S&S violations and 1,757 lost work days due to injuries over the previous year, including eight lost-time injuries that were not reported. However, the agency waited until October 24 to issue the POV notice, spending five weeks to "carefully consider if there are any mitigating circumstances that would make issuance of this POV notice inappropriate."

Under the POV designation, MSHA could have sought a court injunction to close the Brody mine down, a path it did not pursue. Instead, the agency has allowed the mine to continue operating while ordering sections of the mine closed whenever an S&S violation is found. Since its POV designation, the Brody mine has been issued 69 such withdrawal orders.

For its part, Patriot could have simply subjected the mine to a complete inspection and be removed from POV status if no S&S violations were found. However, the company decided to "vigorously contest" the POV designation, arguing that many of the violations took place under the previous owner, Brody Mining LLC. A judge rejected an appeal filed by Patriot in November of last year asking for temporary relief and a hearing over the question is scheduled for May 22 before the Federal Mine Safety and Health Review Commission.

Although Patriot officially acquired Brody Mining, the mine's operator, only on December 31, 2012, the company was independent in name only. Prior to 2013, Brody Mining served as a contract miner for Patriot, which owned the Brody mine, as part of its Black Stallion operations, as well as the coal reserves Brody Mining was extracting. A review of documents and SEC filings by *Mine and Safety News* revealed that even Patriot executives referred to the mine as a "Patriot" operation.

The complicated web of corporate structures and legal agreements that are endemic throughout the coal industry are used precisely for the purpose Patriot seeks to use them now: to obfuscate ownership and shield parent companies from criminal liability.

Patriot itself is the product of such maneuvers among even larger players in the coal industry. Patriot was created in 2007 by Peabody Energy—the world's largest coal company—which sold its union operations east of the Mississippi to the new company. In 2008, Patriot bought Magnum Coal, a similar spinoff of union operations created in 2005 by Arch Coal, the second-largest coal company in the US.

Behind the actions of both Peabody and Arch was the desire to offload the mounting legacy liabilities associated with the union operations. With $3.57 billion in assets and $3.07 billion in debt, Patriot declared bankruptcy in July 2012, citing "unsustainable legacy liabilities." In May 2013, the bankruptcy judge ruled in Patriot's favor, authorizing the company to tear up its labor agreements with the United Mine Workers (UMW) union and cease providing health care to some 23,000 retirees and their dependents.

Throughout the bankruptcy, the UMW bureaucracy did nothing outside of organizing a series of protest stunts and a "Fairness at Patriot" public relations campaign aimed at pressuring Peabody and Arch to bail out Patriot. The refusal of the union bureaucracy to mobilize miners and other sections of workers in industrial action was rooted in its pro-capitalist outlook and its desire to save the company, with which its own financial and institutional interests are bound up, and return it to profitability, even if at the expense of its members.

With this aim in mind, the union bureaucracy rammed through a five-year contract with Patriot in August 2013 that imposed sweeping concessions in wages and health benefits. Two months later, the union reached a global settlement with Patriot and Peabody, which relieved the two companies of their retiree health care obligations, setting up instead a union-controlled VEBA fund for the purpose. The $400 million fund is one-fourth the $1.6 billion the union estimates is required for the long-term funding of retiree health care, which currently costs nearly $7 million a month.

The concessions have not appeased Patriot, however, but have encouraged its drive against the miners with the confidence that the union bureaucracy will offer no meaningful resistance. Within weeks of the new concessions contract, the company announced it was reducing production and idling its Logan County complex near Man, West Virginia, affecting some 250 workers.

Having officially emerged from bankruptcy last December, Patriot then announced a new round of production cuts last month with CEO Bennett K. Hatfield explaining, "Despite the savings we achieved in our reorganization, the production costs of [many of our central Appalachian mines] exceed today's depressed prices, necessitating these actions." Nearly 850 60-day notices of layoff were issued at Patriot's Corridor G complex near Danville, WV and the company's Wells complex, which includes the Black Stallion and Brody mine.

The renewed assault on the living standards and working conditions of miners takes place within the context of a crisis in US coal production, particularly in the extensively mined regions of central Appalachia where the thinning seams and higher production costs are expected to cut coal production from 186 million tons in 2010 to less than 75 million tons by the end of the decade.

Under these conditions, the region's coal operators are engaging in an unrelenting drive to cut production costs through an assault on living standards, wages and health care benefits. At the same time, they are seeking to evade even the most basic safety standards, which limit production and cut into profit margins. As black lung disease continues to spread amidst lax enforcement of inadequate health and safety standards, mine operators are increasingly driven to dangerous mining operations such as the retreat mining at Brody to recover dwindling reserves.

With their own institutional interests bound up with companies such as Patriot, the union bureaucracy has worked as a junior partner throughout this process and bears primary responsibility for deteriorating social conditions throughout the Appalachian coalfields, the union's historical stronghold.