Union seeks to smother opposition to unsafe conditions in West Virginia mines

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The United Mine Workers of America (UMWA) is working with coal operators and the courts to defuse opposition from West Virginia miners over unsafe conditions and the use of contractors that erupted in a strike at a Patriot Coal mine last month. Miners walked off the job on October 17 at the Federal No. 9 mine in Monongalia County, near Morgantown, West Virginia.

Within hours a judge issued a restraining order to break the strike and the union pressured miners to return to work. In the ensuing five weeks, the UMWA, which said it had not authorized the strike, has worked with the company to suppress opposition and reach a settlement. The mine is owned by Patriot's subsidiary Eastern Associated Coal, and employs 300 miners who are members of UMWA Local 1570.

In a complaint filed in court on November 24, the union charges that "there have been numerous safety violations committed by contractors and or [Eastern] which, taken cumulatively, have deprived bargaining unit employees of a safe workplace and resulted in them having a reasonable concern for their safety and well-being."

The UMWA has in fact been complicit with the undermining of safety conditions throughout the industry, having collaborated with the coal operators to slash jobs and speed up production in the name of boosting the competitiveness and profits.

A review of US Mine Safety and Health Administration (MSHA) records, however, demonstrates the real concerns of miners. Between 2003 and 2012, the Federal No. 2 mine averaged about 25 non-fatal accidents a year. Last year this figure surged to 95 accidents, with the mine recording a non-fatal incidence rate of 16.56, more than five times the national average of 3.28.

So far this year, MSHA has issued nearly 650 health and safety violations to the mine. More than 50 accidents have been reported and the mine has an incidence rate of 13.45, compared to the national average of 3.16.

Eastern has also continued the use of contractors—to cut costs and eliminate miners' jobs--in violation of the collective bargaining agreement. Federal No. 2 miners previously filed a grievance on December 19, 2013 seeking that Eastern "cease and desist from utilizing contractors to produce coal," to which the mine's management pledged to comply.

Union grievances were then filed on April 10, 2014 seeking a commitment from Eastern to "re-instruct Supervisors on proper usage of Contractors and Contract Language." On May 21, the issue was referred to an arbitrator, who memorialized a settlement agreement from Eastern that contract miners would "not at any time be utilized in the production of coal at the face of the Federal No. 2 mine." The union claims that, "there have been numerous violations of [these] settlement agreements."

While the UMWA charges that the strike was "a direct result of [Eastern's] failure to provide employees with a safe work place and privileged them to withhold their labor until resolved," the union claimed the striking miners "were not acting or agents of the Union." Moreover, the union declared that the strike itself was "not authorized, instigated, supported, ratified, condoned or encouraged by" the union.

In Eastern's request for a temporary restraining order against the union on the day of the strike, the company claimed it had "not been advised of the nature of the dispute over which the strike is occurring." Its court filing said, "Beginning at approximately 6:30 am on October 17, 2014, the Local Union, together with its members and officers, began a work stoppage…when all, or almost all, of the members employed at the…mine, preparation plant and related facilities refused to…work as scheduled."

The UMWA miners at the Federal No. 2 are covered under the 2013 National Bituminous Coal Wage Agreement (NBCWA), which includes innumerable labor-management restrictions against miners, including a prohibition against striking or stopping work for any differences or "any trouble of any kind." The NBCWA sets up a four-stage grievance process, which ends with binding arbitration.

In its October 17 complaint, Eastern claims the work stoppage is a breach of contract violating this no-strike clause, which, if allowed to continue, would cause "immediate and irreparable injury, loss and damage in that Eastern will be unable to keep and perform contractual obligations to its customers." According to Eastern, the one-day strike cost the company more than $500,000.

U.S. District Judge John Preston Bailey agreed with Eastern and granted the company a temporary restraining order against the union that evening. The order prohibited the union from "engaging in or continuing to engage in, supporting, encouraging, reinstituting or failing to take reasonable steps to end…the current strike or work stoppage."

Judge Bailey's order was set to expire on October 31, but was extended to November 14 by US District Judge Irene M. Keeley at the request of both Eastern and the UMWA to provide the opportunity to "resolve [the] dispute without further litigation." Eastern then withdrew its motion for a preliminary injunction on November 10 and the hearing scheduled for November 14 was cancelled.

"We continue to work with the company to resolve issues," UMWA spokesman Phil Smith told the *Dominion Post* on November 21. "The people are working. We're in talks with the company to make sure everything is going great there." However, this week the union filed a complaint against Eastern.

Whether the strike was a wildcat, or if the union called it under pressure from workers, only to strangle it with the coal bosses and the courts, there is no doubt deep opposition among miners to the sacrifice of their lives and limbs to corporate profit. In recent years scores of miners have been sacrificed—at the Sago, Upper Big Branch and other West Virginia mines—due to the criminal negligence of the coal bosses, state and federal agencies and the UMWA, whose former safety director, Joe Main, heads Obama's Mine Safety and Health Administration.

Just miles from the Patriot mine is the location of the 1968 Farmington mine disaster, where 78 miners perished in an explosion at a Consolidated Coal mine in Mannington, West Virginia. The defense of the company by then-UMWA president Tony Boyle, led to the eruption of a rank-and-file rebellion and wildcat strikes that would characterize the UMWA for more than the next decade. Former UMWA head—and now AFL-CIO president Richard Trumka—was instrumental in destroying the miners' militant traditions, replacing industrywide walkouts with isolated "selective" strikes and transforming the union into nothing more than a tool of management and the Democratic Party.

There is an immense chasm between rank-and-file miners and the corporatist UMWA bureaucracy, and no doubt a growing sentiment for a real struggle against the deadly conditions in the mines, poverty wages and the miserable social conditions throughout the Appalachian coalfields. The prerequisite for any such struggle, however, is a break with the UMWA and its pro-capitalist and nationalist politics and the building of new organizations of struggle, genuinely controlled by workers themselves.

The UMWA has worked tirelessly in the service of Patriot Coal. Patriot was created in 2007 by mining giant Peabody Energy, which transferred its union operations—along with their substantial pension and health care liabilities—to the new company. In 2008, Patriot acquired Magnum Coal, a similar spinoff of Arch Coal's union operations.

Citing "exceptionally weak coal markets, coupled with increasing costs and unsustainable legacy liabilities," Patriot filed for bankruptcy in July 2012. The UMWA carried out negotiations with Patriot behind the backs of the miners, while holding various publicity stunts and doing everything to block the mobilization of miners against the attack on working conditions and retirement benefits.

Unable to reach a deal with Patriot before the bankruptcy was approved in May 2013, the UMWA used the threat of the bankruptcy ruling and the specter of the company's liquidation to push through a concessions contract in August of that year. The contract contained wage cuts, the elimination of premium overtime rates, cutbacks in paid leave time, and increased out-of-pocket health care expenses and prescription drug costs.

Additionally, the new contract let Patriot end health care coverage for 23,000 retired union miners and their dependents throughout West Virginia, Kentucky, Illinois, Indiana, Ohio and Missouri. These obligations were transferred to an underfunded trust, controlled by the union and structured as a Voluntary Employees' Benefits Association (VEBA). This slush fund for the UMWA was modeled on the multi-billion dollar VEBA scheme established by the United Auto Workers and the Detroit automakers in 2007 and 2009.

The concessions imposed by the UMWA did nothing to stop further attacks on Patriot miners. In November 2013, the company closed its Guyan surface mine in Logan County, West Virginia, eliminating 250 positions. Last week, Patriot announced it was laying off 130 workers immediately at its Corridor G mining complex in Boone County, West Virginia. This comes on top of 75 workers laid off at Corridor G and the company's Wells mining complex in June.