EIR Economics

West Virginia Coal Crisis: A Matter of Criminal Negligence?

by Paul Gallagher and Mark Bender

With far less public notice and comment by policy-makers, the same process of replacement of union by non-union work, which is threatening the U.S. auto and auto parts industries, has hit the nation's coal mines since the 1990s—especially during the reign of "Energy Task Force Cheney." In the country's new strip-mining center, the Powder River Basin of Cheney's Wyoming and Montana, the mine workforce—largely never unionized—has paid with the lack of health care and pension benefits, and often with lower wages. But in the older, largely deep-mining Appalachian center from West Virginia and Kentucky down to Alabama—where "distressed" mines are being acquired and stripped of their unions along with their coal—miners are paying with their lives.

The forcing process since 2002, is one of deregulation, and mergers and acquisitions by very large international coal speculations and banks, during which the mine-mouth price of a ton of coal for electric generation has doubled to $30-35. The resulting drive to double and triple production from old, heavily worked mines is playing havoc with safety regulations, and killing miners. After much boasting by the deregulators that "self-regulation" caused there to be only 22 mine deaths nationally in 2005, January 2006 alone has seen 19 miners die, 16 of them in West Virginia's mines. The upward price spiral is blamed in the "industry," typically, on China's reducing its huge coal production in 2005—shutting mines for safety reasons!—but as in oil and other commodities during the same period, it is merger-and-acquisition speculation by banks, hedge funds, and the coal mega-companies, pushing the price up.

West Virginia's legislature has immediately passed new mine safety laws, and Members of Congress from the state, with bipartisan support in the Senate, have quickly put forward the same. But Congress has to raise and investigate harder questions: Is this willful criminal negligence by mine operators? Should some West Virginia coal mines be reopened, after a stand-down, under new management? Should recent speculative mergers be broken up again, and the pulled teeth of the Federal Trade Commission and the Security and Exchange Commission (as well as the Mine Safety and Health Administration, MSHA) be re-implanted? And particularly in the paradigmatic case of industrial speculator Wilbur Ross's International Coal Group, in whose Sago Mine 12 miners died on Jan. 2 in Upshur County, West Virginia: Is there operating an intent to make profit by killing people?

'Safety Stand-Down'

Indicating that there were actually three mine accidents in one day—two of them fatal—in West Virginia coal mines on Feb. 1, Gov. Joe Manchin immediately called for a "mine safety stand-down" of all 544 mines in the state, which produces 160 million tons of coal a year. "Today has once again been a difficult day for our state's miners, their families, and our mining industry," Manchin said. "I am calling on the industry to cease production activities immediately, and go into a mine safety stand-down." He added, "Each mine in the state is currently scheduled to be inspected every three months. We will immediately begin the process of inspecting every mine in the state and their equipment, conditions, engineering plans, safety procedures and safe work practices."

The two mines where the most recent fatalities occurred are identified as Black Castle strip mine in Dawdry, run by Elk Run Coal Co., a subsidiary of the huge Massey Energy Corp.; and the No. 18 Long Branch Energy underground coal mine. Both are in Boone County, West Virginia. Massey mines have had two fatal accidents, killing three miners, in three weeks.

Senator Robert Byrd, calling White House Chief of Staff Andrew Card on Feb. 1, said, "This is fast becoming a coal mine safety crisis. The Governor has asked the Labor Department [the MSHA] for manpower, inspectors, engineers, and

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certified specialists to get the job done. I ask that the White House help to expedite this request."

On Feb. 3, sources in West Virginia reported that many mines were on stand-down and being inspected by state inspectors—about 80 of whom were out on a special inspection sweep. Production was being delayed on most shifts, cancelled on some shifts, but had not stopped. At unionized mines, the United Mineworkers were seeking to enforce the inspections. Statewide, Governor Manchin was putting the heat on mine operators to get safety devices—locator/transponders for miners to carry, and more oxygen cannisters—into the mines. Manchin on Feb. 2 promulgated new regulations based on the new state legislation. Meanwhile, the Federal MSHA planned to send "about 100 safety officials" to West Virginia on Feb. 6—*but,* only about 25 inspectors. The rest were to be safety education specialists who will lecture the miners! Senator Byrd criticized "safety lectures" on Senate floor on Feb. 2; he was demanding fast passage of the new Senate safety legislation.

Rep. Nick Rahall (D-W.Va.) denounced the White House for its feckless "me-too" call, on the evening of Feb. 1, for all mines in the country to stop and do a one-hour safety check next Monday. "How many miners have to die before the Federal government starts paying attention?" Rahall asked. "And now, here they are asking for an hour to review safety! But they remain unwilling to step up enforcement or change safety regulations. It's a complete outrage." Byrd said in a statement that day, "This situation is intolerable."

However, to ICG owner Wilbur Ross, the situation looked quite different. The miners' deaths "are a human tragedy," Ross opined to Fox-TV News on Feb. 2, "but they are not an economic tragedy. It's a fact of life that half of America's electricity comes from coal." The implication was clear that the West Virginia coal-mine speed-up for which ICG is becoming notorious, was not to be interrupted by 16 miners' deaths in one month.

Minefield Moguls Run MSHA

MSHA head Rep. George Miller (D-Calif.), who is demanding hearings in the House Education and Workforce Committee on the Sago and Alma Mine disasters, released a report Jan. 31 which detailed the degeneration of the MSHA into a rubber-stamp and synecure for coal executives. "Task Force Cheney" reduced the MSHA into the opposite of the agency for protection of miners' safety it is intended to be. Miller lists the five top MSHA officials as of early 2005, and identifies all of them as coal or minerals mining executives or lawyers for the American Mining Congress. And three of the four "review commissioners" of the MSHA are the same.

In fact, with world's-biggest Peabody Coal owning Energy West, and in turn owned by Lehman Brothers investment bank, two of the MSHA's top five officials had effectively been executives of the same company, including its chief, Cheney-Bush's Assistant Secretary of Labor for Mine Health and Safety David Lauriski. A third official worked for British Commonwealth coal giant BHP Billiton. Lauriski quit during 2005 under a cloud of combustible coal dust, so to speak, after awarding MSHA safety training contracts, without bids, to companies he and fellow mining execs were involved in; David Dye, now "acting" administrator, walked out of Senate mine safety hearings on Jan. 23, infuriating Sen. Arlen Specter (R-Penna.) who was chairing the session.

Lauriski, on taking office in 2001, had pulled the same "one-hour national safety stand-down" stunt which Dye is repeating now. But after that showy move, Lauriski—as Miller's report documents—proceeded to suspend 18 key safety rules enacted or proposed during the Clinton Administration. The most important: requiring two mine-rescue teams to be ready within an hour of every mining area; requiring caches of oxygen and breathing devices in every deep mine; requiring flame-resistent coal conveyor belts (where many fires start); lowering exposure to combustible coal dust in the air of mines; and banning diesel-fuel-burning machinery in metals mines.

After five consecutive years of the Clinton Administration requesting increases of up to 9.6% for the MSHA budget, Cheney-Bush have requested cuts for five consecutive years, of up to 14.6%. Some 190 coal enforcement staff have been lost. As for safety violation fines, Sago Mine is enough evidence: It was assessed a grand total of $24,374 in penalties in 2005 for 208 violations, 21 of which involved unsafe combustible accumulations and 17 of which involved "imminent danger to mine employees." ICG is a $500 million annual revenue company.

Don't Dig, Acquire

Through a wave of mergers and acquisitions under increasing globalization and energy deregulation, U.S. mine ownership today is more than 50% concentrated among a half-dozen coal companies topped by Lehman's Peabody; to these, add the operations of "distressed company" wrecking specialists led by W.L. Ross, which is carrying out the same operations in several other industries. After Peabody come Arch Coal, controlled by the Hunt family, the major player in the Western Powder Basin fields; and Kennecott Energy, owned by Rio Tinto, Inc., the British imperial commodities giant. A.T. Massey Coal is number six.

Ross created ICG to buy up and operate Appalachian mines, and—working initially with Enron—to lock up coal-supply contracts for large electric utilities, such as Dominion Virginia Power.. This followed Ross's previous industrial union-wrecking models of ISG (International Steel Group), and the ITG (International Textile Group) conducted after he spun off from Rothschild, Inc., where for 26 years, he had been "corporate restructuring" expert. He has now formed IAG, International Auto Group.

Ross' specialty, aided by Bush Administration court decisions, has been to eliminate miners' health and retirement benefit costs. For example, on Sept. 30, 2004, Horizon Natural Resources was permitted by a Federal court to terminate

health care for nearly 5,000 active and retired miners; Ross's purchase of it was completed the next day, ICG shedding $1.47 billion in predecessor obligations for health care and pensions. ICG had bought at least two other West Virginia coal companies including Anker Coal, which had owned the Sago Mine.

In the case of the Powder River Basin deposits, during this Bush Administration the green light was given for extreme consolidation. Also in September 2004, the U.S. Circuit Court for the District of Columbia denied a blocking motion by the Federal Trade Commission, thus allowing the Hunts' Arch Coal, Inc. to buy (rival northern Wyoming producer) Triton Coal Co. (FTC v. Arch Coal, 2004 U.S. Dist. Lexis 15996). Over 40% of U.S. electric utility coal ("steam coal") comes from the Powder River Basin. These deposits are low-sulphur, and have been promoted, during the anti-nuclear decades, as the "clean" solution for power (compared to Appalachian high-ash coal.)

Throughout both coal regions, the largest operators are cashing in by buying rivals, instead of gambling on developing new mines, because it is cheaper. And new mines, especially deep mines, would mean investing in new mining and safety technology. As one Reuters survey concluded in 2002, "While everybody is expecting more deals out West, the major coal miners are also looking to pick up distressed assets in Appalachia." Large parts of the West Virginia/Kentucky fields, through this process, are becoming non-union, like the Sago and Alma mines.

New Congressional mine safety legislation is being pushed hard by the entire West Virginia delegation, including Republican Representative Shelley Moore Capito, and Ann Northup of Kentucky. The legislation could put user fees on companies to pay for safety improvements; it would toughen the regulations of the MSHA. Like the new laws quickly passed in West Virginia on Jan. 23, it would 1) fine mining companies $100,000 if they fail to notify emergency officials within 15 minutes of a mining accident—ICG took more than an hour to notify the MSHA of the Sago mine explosion; 2) require companies to provide transponder wireless tracking devices to locate and communicate with miners; 3) require companies to store cannister supplies of oxygen in the mines, in addition to the one hour's worth miners now carry; and 4) provide one-way, low-frequency communication systems which allow sending text messages to miners equipped with receivers, to inform them of an emergency and their best evacuation route. The Senate Health, Education, Labor, and Pensions Committee will start hearings on March 2.

But Congress needs to investigate the "money behind these mines," and the accelerating, speculative mergers and acquisitions process in coal; the "productivity" speed-up in coal operations which has gone with it (after ICG doubled production at Sago Mine in 2005, Ross still wanted to triple it again in 2006!); and the potential criminal negligence which has come in its train, and is taking the lives of miners.

British Reconsider New Nuclear Plants

by Marsha Freeman

After 30 years of insanity and anti-science folly, some leading governments, including both Britain and the United States, are "going nuclear."

On Jan. 19, the leader of the Amicus union in Great Britain, representing more than 1 million public and private sector workers, issued a statement urging the British government to deal with the impending energy crisis, or "the UK could face blackouts, job losses, and rocketing household fuel bills over the next five years." The main reason for the outsourcing of jobs, the union states, "is no longer labour costs; it's high energy costs." Amicus states that "successive governments have shied away from difficult decisions, and left us with ageing nuclear power stations, and as yet no plans to start a new building program."

The union plans a public education campaign to reverse this policy. Its membership includes workers in the steel, auto, aerospace, energy, construction, shipbuilding, food, paper, and other manufacturing industries. Support for a nuclear revival has already come from the companies that employ Amicus members, in the Confederation of British Industry,

If Britain does not return to a nuclear infrastructure policy, it will become more dependent upon fossil fuels to produce electricity. As imported natural gas becomes more necessary and more expensive, and the cost of producing power in plants using domestic coal skyrockets in order to meet environmental restrictions, the cost of energy will rise.

Also contributing to the British government's charting a new energy course are: the political turn in the United States, after 30 years, back to the building of new nuclear power plants; the example set by Finland, which will put a new nuclear plant on line by 2009, showing that this can be done in Europe; the supply problems with increasingly imported natural gas; and the realization that depleting supplies of domestic petroleum from the North Sea will lead to increased imports.

But this is not just a problem for one nation. At a meeting of European Union Energy Ministers in Brussels on Jan. 24, the French government presented a proposal for other countries to do what France has done to avert rising energy costs and potential supply crises—go nuclear. (France is almost 80% nuclear.) The paper is France's contribution to the European Commission's Green Book on energy policy, scheduled to be published in March.