Miners' Families Await Blast Report

VICKI SMITH, Associated Press

MORGANTOWN, W.Va. (AP) — Yancy Mullins hopes to see one thing in the federal government's final report on the 2010 explosion that killed his brother Rex and 28 other West Virginia coal miners — an admission that the Mine Safety and Health Administration bears some responsibility.

"I don't think they will," he says, "but I hope that they own up to the fact that they're partly to blame."

MSHA officials will brief the families of the Upper Big Branch miners on their investigation Tuesday in Beaver then make the agency's final report public.

Federal investigators have long blamed a combination of methane gas, coal dust and broken or malfunctioning equipment for the blast that rocked Massey Energy's mine near Montcoal on April 5, 2010. The final report is likely to include a list of specific violations that contributed to deadliest U.S. mine disaster in four decades.

Mullins expects it to mirror what two other investigations have already concluded: "They're going to say that Massey didn't keep the mine as they're supposed to."

"But it's not just Massey," he says. "MSHA, they're at fault, too, because they let the mine run like that. They had to know, if they was taking care of that mine, the shape it was in."

MSHA should admit its own shortcomings, Mullins says, then fix them.

"This should never have happened," he says, "and I hope it never happens again."

The United Mine Workers of America has publicly rebuked MSHA — and, to a lesser extent, the agency's state counterparts — for what it called an "unconscionable" failure to use all the tools they had to shut down the long-troubled mine. Rather, the union charged, MSHA District 4 managers discouraged field inspectors who tried to strenuously enforce the law.

MSHA says it can't be in every mine for every shift, and some operators take advantage of that.

Virginia-based Alpha Natural Resources, which bought Massey and the Upper Big Branch mine in June, has said it's still reviewing the explosion. A company spokesman wouldn't immediately say if or when Alpha might issue a report of its own. The state mine safety office, meanwhile, expects to complete its report on the blast by the end of January.

But MSHA, the UMWA and an independent investigation panel appointed by former

Gov. Joe Manchin have long agreed on the mechanics of what happened: Poorly maintained machines cutting into sandstone created a spark that ignited both a small amount of naturally occurring methane gas and a massive accumulation of explosive coal dust.

Malfunctioning water sprayers allowed what could have been a small flare-up to become an epic blast that traveled seven miles of underground corridors, doubling back on itself and killing men instantly.

All three agencies say the explosion could have been prevented or contained. Had the mine been sufficiently dusted with pulverized limestone to render the coal dust inert, the spark wouldn't have had the fuel to propagate.

In the year before the Upper Big Branch blast, 70 ignitions occurred at U.S. coal mines, and none resulted in fatalities.

In June, MSHA revealed evidence that Massey had maintained two sets of books on safety conditions in the mine: a production-centered one that most closely resembled reality and a sanitized version meant to throw off regulators, avoid scrutiny and keep the coal running.

MSHA's Kevin Stricklin said at the time that top managers knew exactly what was being recorded because they were required to sign the books. Side-by-side comparisons of records that supposedly documented the same shifts showed an official book with few, if any, hazards, and internal reports showing problems with faulty machinery, high methane levels and bad roof conditions.

The UMWA has called Massey's handling of the nonunion mine "industrial homicide" and joined some victims' relatives in demanding that its managers face criminal prosecution.

So far, though, only one has. Former security chief Hughie Elbert Stover was convicted last month of ordering a subordinate to destroy thousands of documents after the explosion and lying to investigators. He remains free until Feb. 29, when he could be sentenced to two years in prison on the record-disposal count alone.

U.S. Attorney Booth Goodwin says the federal criminal probe is ongoing, and his staff will review MSHA's final report and work with the U.S. Department of Labor on the case.

From Jan. 1, 2009, until the day of the blast, MSHA cited Upper Big Branch for 645 violations and imposed penalties of more than $1.2 million. But the previous reports say those citations had no practical impact. Violations that are contested can't be used to increase enforcement efforts, and Massey contested 229 citations.

The union report also said Upper Big Branch crews deviated from MSHA-approved ventilation plans illegally, intentionally and almost daily — so frequently that the company could not produce the maps it's required to submit.

MSHA cited the mine for ventilation-related violations more than 100 times in the 18 months before the blast but did not take stronger action. The union recommended that illegal changes to ventilation plans be cited as "flagrant" violations, resulting in automatic $200,000 fines and the immediate evacuation of underground personnel.

MSHA chief Joe Main has said he'll consider that and other UMWA recommendations.

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