Ex-Mine Official Sentenced in Blast Case

JOHN RABY,Associated Press

CHARLESTON, W.Va. (AP) — A former superintendent at West Virginia's Upper Big Branch mine where 29 miners died in a 2010 explosion was sentenced to nearly two years in prison Thursday on a federal conspiracy charge.

Gary May pleaded guilty in U.S. District Court in Beckley last March to charges he defrauded the government through his actions at the mine, including disabling a methane gas monitor and falsifying records.

In addition to his 21-month sentence, U.S. District Judge Irene Berger fined May $20,000.

May had asked for leniency. Federal sentencing guidelines recommended 15 to 21 months in prison, although prosecutors pushed for a sentence at the high end. They said the guidelines didn't account for the risk to miner's lives created by May's actions.

"I think this does send a very powerful message that if you break mine laws and risk miners' lives, that you're going to go to jail," U.S. Attorney Booth Goodwin said.

May has cooperated with prosecutors in their continuing criminal investigation of the worst U.S. coal mining disaster in 40 years. He's among three people to face serious criminal charges.

May had testified at the February 2012 sentencing of former Massey security chief Hughie Elbert Stover, who was sent to prison for three years for lying to investigators and ordering a subordinate to destroy documents. It was one of the stiffest punishments ever handed down in a mine safety case. In December, a federal appeals court upheld Stover's conviction.

A plea hearing is set for Feb. 28 for former longtime Massey Energy executive David Hughart on two federal conspiracy charges. He's accused of working with unnamed co-conspirators to ensure miners at White Buck and other Massey-owned operations got advance warning about surprise federal inspections between 2000 and March 2010.

Hughart worked closely with former Massey CEO Don Blankenship, who retired about eight months after the explosion.

Prosecutors have also negotiated a $210 million agreement with the company that bought Massey, Alpha Natural Resources, to settle past violations at Upper Big Branch and other Massey mines. That protects the company from criminal prosecution but leaves individuals open to it.

Goodwin didn't mention Blankenship when asked about him, noting instead that Hughart supervised a group of mines and had a long career at Massey.

"We are not simply focused on Upper Big Branch," Goodwin said. "We're going to take the investigation wherever it leads."

Prosecutors have said May manipulated the mine ventilation system during inspections to fool safety officials and disabled a methane monitor on a cutting machine a few months before the explosion. Prosecutors accused Massey of violating a host of safety laws.

Goodwin has said May's guilty plea showed that the obstruction of federal Mine Safety and Health Administration inspectors "was a routine matter at Upper Big Branch."

Four investigations have concluded that Massey concealed problems at the mine through an elaborate scheme that included sanitized safety-inspection books and an advance-warning system.

Clay Mullins, whose brother Rex died in the mine, was in the courtroom and believed May should have gotten a longer sentence.

"I think it's a farce," Mullins said. "It's a pretty good deal for him, it sounds like. He admitted that he was guilty, admitted he altered records, gave advance notice to inspectors.

"Those 29 men put their faith in him as a mine foreman and a mine superintendent to provide them with a safe work place, and he was doing the opposite. He was putting production ahead of safety, production ahead of those men's lives. And it cost those men their lives."

May's sentencing came the same day that federal officials announced new rules aimed at improving safety at the nation's most dangerous mines by revising the way operators are designated pattern violators. The changes were proposed after the Upper Big Branch explosion.

Methane and coal dust fueled the explosion that was sparked by worn teeth on a cutting machine. It was allowed to propagate by clogged and broken water sprayers. Miners were killed instantly by the force of the blast that traveled along miles of underground corridors.

Goodwin said the investigation, however long it takes, "will continue until it's exhausted."

"It's still very much at the forefront and we're at a stage of the investigation where we're sifting through a large amount of information. We're being very careful," he said. "Unfortunately, that takes some time. My concern is making sure we do it right, that we get the individuals most responsible, if any out there, and hold them accountable. Really, we want to make sure something like Upper Big Branch never

happens again."

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