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Southern District of West Virginia**

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**FOUR ARACOMA COAL COMPANY SUPERVISORS SENTENCED FOR  
VIOLATING MINE SAFETY AND HEALTH ACT**

*Failed to Conduct Safety Drills at Massey Energy Subsidiary Mine*

CHARLESTON, W. Va. – Four supervisors of Aracoma Coal Company, a subsidiary of Massey Energy, were sentenced today for violating mandatory mine safety standards. Donald R. Hagy, Jr., 47, of Gilbert, West Virginia; Terry L. Shadd, 37, of Chapmanville, West Virginia; Edward R. Ellis, Jr. 38, of Justice, West Virginia; and Michael A. Plumley, 38, of Delbarton, West Virginia, previously admitted they failed to conduct mandatory escapeway drills at Alma Mine No. 1, owned by Aracoma.

At sentencing, United States District Judge John T. Copenhaver, Jr. characterized each defendant as “Individuals who are all good men who made mistakes,” and sentenced each to a one-year term of probation. Hagy, Ellis and Plumley were also ordered to pay a \$2,000 fine, and Shadd was ordered to pay a \$1,000 fine. Additionally, pursuant to their plea agreements, the men have surrendered their mine foreman certifications.

The convictions are the result of a long-term investigation conducted by the Mine Safety and Health Administration (“MSHA”) and the Federal Bureau of Investigation into a January 2006 fire which broke out in an area of the Alma No. 1 mine where ventilation controls had been removed. Two miners died of suffocation. Aracoma Coal Company was previously charged with nine counts of willful violation of mandatory safety standards, one resulting in the death of the two miners, and with making a false statement. As a result, the Company agreed to pay \$4.2 million in criminal fines and civil penalties.

“Workplace safety is a top priority for my office,” stated U.S. Attorney Booth Goodwin. “These convictions evidence our commitment to ensuring that workplace safety violations are investigated, and where appropriate, prosecuted. It is our hope that such investigations and prosecutions will encourage workplaces to weigh the cost of non-compliance with safety standards, and ultimately place employee safety above profit.”

Assistant United States Attorney Hunter P. Smith Jr. and White Collar Crimes Chief Susan M. Robinson handled the prosecutions.

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## More Massey workers face license-forging allegations

By Ken Ward Jr.

CHARLESTON, W.Va. -- At least two other men face losing their coal-mining certifications after they were caught using allegedly forged foremen's licenses while working for Massey Energy, according to state records obtained under the Freedom of Information Act.

The state Coal Mine Safety Board of Appeals temporarily suspended mining certifications for the two men -- Craig W. Belcher and Scott E. Jeffrey -- but has yet to hold formal hearings or make final decisions in either case.

Those cases remain pending, while one former worker at Massey's Upper Big Branch Mine had his mining certification suspended for a year for using a forged foreman's license.

And in the last week, three miners at other companies in West Virginia have been charged with federal crimes after they allegedly used forged foreman's licenses when they conducted dozens of safety checks in three different counties.

Joe Main, assistant secretary of labor for the U.S. Mine Safety and Health Administration, said his agency would be looking closely at any information about safety examinations being conducted by workers using forged certifications.

"We should be concerned about that anytime we see it," Main said in an interview Wednesday. "We should be investigating it to see what's going on there. If people are engaging in illegal conduct, then we should be taking action on that."

Main said MSHA's actions could include holding mine operators responsible if they are not taking adequate steps to ensure qualified and licensed foremen conduct required safety examinations.

Earlier this week, the Gazette reported on the case of Thomas Harrah, who was stripped of his certification to work in West Virginia coal mines after he admitted using a forged foreman's license while working at Massey's Upper Big Branch Mine and another Massey operation.

Harrah managed to get away with it for nearly two years, and conducted at least 228 pre-shift, on shift and conveyor belt safety examinations at Upper Big Branch between January 2008 and

August 2009, according to state records.

Shane Harvey, Massey's general counsel, said last week that his company had "learned a valuable lesson" from the incident involving Harrah.

"We quickly took steps afterward to verify the accuracy of all of our miners' certifications and we will continue to be more vigilant in this area in the future," Harvey said. "We would be in favor of any efforts that could be undertaken to improve the ability of operators or state or federal officials to catch or prevent such behavior."

The cases involving Belcher and Jeffrey both occurred prior to Harrah being caught by state officials and by Massey, according to state Office of Miners Health, Safety and Training records.

In West Virginia, the state requires training and certification for underground and surface mine workers. Mine foremen must take separate training and obtain a separate license. Mine foremen not only supervise other workers, they also perform important safety checks and sign required reports meant to document that any problems discovered are corrected before miners go to work.

Generally, state officials handle the licensing and certification of foremen. But federal citations -- and potentially criminal charges -- can be involved if foremen who used forged certificates sign mine safety reports indicating that they are properly licensed when they really are not.

In Belcher's case, state officials allege he used a forged license to get a job as a foreman at Massey subsidiary Spartan Mining in Wyoming County in January 2009. Belcher performed mine safety examinations for Spartan from Jan. 23 to Jan. 25 and on Jan. 27, before the company caught him and fired him on Jan. 28, according to the state records.

Spartan manager Joey Athey and foreman Steve Campbell reported the incident to state officials, who then sought to strip Belcher of his certification to work as a rank-and-file miner.

State officials allege that in November 2008 they discovered that Jeffrey had used a forged mine electrician's card to get a job with Massey's Power Mountain Processing operation in Nicholas County.

In an indictment filed last week, a federal grand jury in Charleston indicted miner Neil A. Hasen for allegedly performing five safety examinations at Big River Mining in Mason County while using another worker's foreman's certification.

And on Tuesday, a grand jury in Elkins indicted two miners for allegedly performing hundreds of safety examinations using forged foreman's licenses.

Luke W. Pugh of Jane Lew was named in a 37-count indictment that alleges he lied on safety examination forms at Carter Roag Coal Co.'s Pleasant Hill Mine in Randolph County -- saying he was a licensed foreman when he wasn't -- and then lied to a federal investigator about his qualifications. If convicted, Pugh faces a maximum sentence of 180 years in jail and a \$610,000 fine.

In a separate proceeding, state officials alleged that Pugh completed mine safety examinations at least 541 times between June 2007 and April 2009 using a license number that was not his own. During that time period, a miner who was working on Pugh's crew was killed and Pugh used his phony license number when investigators interviewed him, state officials alleged.

Chad J. Farrell, 39, of Nettie, was charged in a 30-count indictment that alleged he lied about having a foreman's license when he performed safety examinations in 2008 and 2009 at Brooks Run Mining's Poplar Ridge Mine in Webster County. If convicted, he faces a maximum sentence 150 years in prison and a \$300,000 fine.

State officials had alleged that Farrell conducted more than 500 mine safety examinations using someone else's foreman's card between September 2008 and June 2009, records show. In a settlement with the state, Farrell agreed to permanently surrender his mining certification.

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