

P U B L I C I N F O R M A T I O N R E L E A S E

October 21, 1991
FOR IMMEDIATE RELEASE

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MICHAEL W. CAREY
United States Attorney
Southern District of
West Virginia

Felony charges were brought today in Charleston, West Virginia against 43 individuals and 33 coal companies for conspiracy to impair the coal dust sampling program of the Mine Safety and Health Administration (MSHA) according to United States Attorney Michael W. Carey.

The charges allege that two employees of a coal mining consulting firm, Triangle Research, Inc., of Grundy, Virginia, engaged in a pattern of fraudulent activity by assisting coal companies in West Virginia, Virginia, and Kentucky in submitting false dust samples to MSHA. (A list of defendants and descriptive information is attached).

Triangle's employees, Harry White and Ronald Ellis, are charged under the RICO statute which imposes penalties for a pattern of criminal activity. The companies and their employees are charged under 18 U.S.C. § 371 which makes it a crime to agree or conspire to impair or impede the functions of a federal agency which in this case was MSHA's implementation of the coal dust sampling program.

The dust sampling program was created to safeguard the health of miners by requiring periodic testing by the coal operators of the amount of ambient coal dust at the mine site. The test is performed by pumping the air from the mine atmosphere through a

AB 14- HEAR 4C
AB 18- HEAR-4C

filter The filter is weighed to determine the amount of dust in the air.

The defendants in these cases are charged with scheming to impede the program primarily by the coal company employees signing blank documentation that the samples were properly obtained and the employees of Triangle thereafter creating false samples away from the minesite and providing false information to MSHA by completing the blank dust data cards signed by the operators. As a result of the scheme, it is impossible to determine what the air quality at these minesites was at the time the samples were to be obtained. The scheme would permit mine operators to avoid detection by MSHA of an unhealthy atmosphere and the potential sanctions, including closure of the minesite, that would follow.

Upon conviction, the maximum penalty for RICO is 20 years imprisonment and/or a \$250,000 fine. Conviction for the conspiracy violations of 18 U.S.C. § 371 carries a maximum penalty of 5 years and/or \$250,000 fine for the individuals and a fine of \$500,000 for each corporation.

These charges were part of an ongoing nationwide investigation of the operator's compliance coal dust sampling program. To date, Peabody Coal Company has entered a guilty plea to tampering with samples and paid a record \$1/2 million fine. The Department of Labor is also seeking approximately \$6 million in civil penalties against operators who tampered with filters by running dust from the centers.

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Public Info

The charges today involve yet another aspect of the widespread violation of the requirements for dust testing imposed by under the Mine Safety and Health Act. The investigation of both tampering with filters by companies and creating or tampering with samples by consultants is continuing in the Southern District of West Virginia and elsewhere in the United States.

United States Attorney Carey thanked Investigators George Bowman and Leighton Farley of the MSHA and Special Agent Earl Porter of the FBI for their efforts in the investigation of this case. Carey also noted the cooperation of the United States Attorney's Offices in the Western District of Virginia, Eastern District of Kentucky, and Western District of Pennsylvania in these charges. The cases will be prosecuted by Assistant United States Attorneys Joseph F. Savage, Jr. and Phillip B. Scott in the Southern District of West Virginia.

* PLEASE NOTE: An indictment or information is merely a formal accusation, it is not proof of guilt; and the defendants are presumed innocent until and unless they are found guilty.

Defendant List

<u>Company/Individual</u>	<u>Address</u>	<u>Age</u>
American Carbon Corporation Ronald McClanahan	Box 837, Grundy, VA	35
Bald Eagle Coal Corporation Ralph Coleman	Box 288, Vansant, VA	45
BRD Coal Company, Inc. Billy Ray Dotson	Rt. 3, Box 240, Grundy, VA	37
Black Bear Mining Company Earnest Layne	Box 138, Hurley, VA	Unknown
Black Nugget Mining, Inc Keith Stiltner	Box 101, Grundy, VA	22
Black Widow Collieries Ernest Varney	Box 295, N. Tazewell, VA	44
Briarfield Coal Corporation James Dotson	Box 205, Hurley, VA	48
Carbo Mining Company Bill Brown	Box 2618, Grundy, VA	45
Carol Mining Company Donald Lester	Box 227, Wolford, VA	Unknown
Carter Branch Coal Company Jim Justice	Box B, Ezell, KY	39
Cidric Coal Corporation Glade Metz	Box 408, Vansant, VA	56
Classic Coal Corporation William Childress	Rt. 4, Box 102, Grundy, VA	34
Delbarton Mining Corporation C. A. Ramey	Rt. 1, Box 616, Grundy, VA	53
Dotson & Rife Coal Co., Inc. Jimmy Dotson	Box 52, Hurley, VA	51
Double E Mining, Inc. James Kidd	Box 1071, Grundy, VA	51

Double L Coal Corporation Roscoe Lester	Box 205, Big Rock, VA	53
Good Times Mining, Inc. Roger Church Jay Wallace	Woodman, KY Box 530, Grundy, VA	41 38
Hope Mining, Inc. Kenny Hurley	Box 269, Hurley, VA	36
Jamboree Coals, Inc. Jack Fannin	Box 330, Phelps, KY	55
L & L Energy of Hurley, Inc. Eugene Cline	Box 26-A, Hurley, VA	40
Lick Fork Mining Co., Inc. Marvin Bartley	Box 41, Regina, KY	48
Lucky L & L Coal Co., Inc. Robert Lee Brown	Box 26-A, Hurley, VA	38
M.P. & M., Inc. Frank Hackney	Box 513, Grundy, VA	46
Nicky Coal, Inc. Frank Rash	Box 180, Birchleaf, VA	46
Paroki Enterprises, Inc. Jerry Deel	Box 71, Haysi, VA	52
Edd Potter Coal Company David Potter	Box 166, Hurley, VA	59
Red Dog Coal Company Ronnie Edwards	Box 110, Haysi, VA	39
Ruby Helen Coal Company Steven Rocky Justice	Jolo, WV	46
Savage Mining Corporation Roy Horne	Box 457, Oakwood, VA	39
Shady Lane Coal Corporation Ted Osborne, Jr.	Box 776, Grundy, VA	49
Solid Mining Company, Inc. Paul Fletcher	Box 416, Grundy, VA	57
Sunrise Mining, Inc. Ray Van Dyke	Box 173, Vansant, VA	17

Sunset Land & Coal Co., Inc.
David Stevenson
Terri Ann Rife

Box 1066, Grundy, VA
Box 1066, Grundy, VA

41
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Lendon Barton	Box 181, Lebanon, VA	58
Everett Delaney	Gen. Del., Maxie, VA	Unknown
Ernest Leonard	Box 432, Panther, WV	42
Tony Mullins	Box 4028, Kimper, KY	Unknown
Kermit Nelson	Box 108, Grundy, VA	47
Leon Tackett	Box 4028, Kimper, KY	Unknown
Harry White		45
Ronald D. Ellis		

Defendant List (by State)

<u>Company/Individual</u>	<u>Address</u>	<u>Age</u>
<u>VIRGINIA:</u>		
American Carbon Corporation Ronald McClanahan	Box 837, Grundy, VA	35
Bald Eagle Coal Corporation Ralph Coleman	Box 288, Vansant, VA	45
BRD Coal Company, Inc. Billy Ray Dotson	Rt. 3, Box 240, Grundy, VA	37
Black Bear Mining Company Earnest Layne	Box 138, Hurley, VA	Unknown
Black Nugget Mining, Inc. Keith Stiltner	Box 101, Grundy, VA	22
Black Widow Collieries Ernest Varney	Box 295, N. Tazewell, VA	44
Briarfield Coal Corporation James Dotson	Box 205, Hurley, VA	48
Carbo Mining Company Bill Brown	Box 2618, Grundy, VA	45
Carol Mining Company Donald Lester	Box 227, Wolford, VA	Unknown
Cidric Coal Corporation Glade Metz	Box 408, Vansant, VA	56
Classic Coal Corporation William Childress	Rt. 4, Box 102, Grundy, VA	34
Delbarten Mining Corporation C. A. Ramey	Rt. 1, Box 616, Grundy, VA	53
Dotson & Rife Coal Co., Inc. Jimmy Dotson	Box 52, Hurley, VA	51
Double E Mining, Inc. James Kidd	Box 1071, Grundy, VA	51
Double L Coal Corporation Roscoe Lester	Box 205, Big Rock, VA	53

Good Times Mining, Inc. Roger Church Jay Wallace	Woodman, KY Box 530, Grundy, VA	41 38
Hope Mining, Inc. Kenny Hurley	Box 269, Hurley, VA	36
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Lucky L & L Coal Co., Inc. Robert Lee Brown	Box 26-A, Hurley, VA	38
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Nicky Coal, Inc. Frank Rash	Box 180, Birchleaf, VA	46
Paroki Enterprises, Inc. Jerry Deel	Box 71, Haysi, VA	52
Edd Potter Coal Company David Potter	Box 166, Hurley, VA	59
Red Dog Coal Company Ronnie Edwards	Box 110, Haysi, VA	39
Savage Mining Corporation Roy Horne	Box 457, Oakwood, VA	39
Shady Lane Coal Corporation Ted Osborne, Jr.	Box 776, Grundy, VA	49
Solid Mining Company, Inc. Paul Fletcher	Box 416, Grundy, VA	57
Sunrise Mining, Inc. Ray Van Dyke	Box 173, Vansant, VA	47
Sunset Land & Coal Co., Inc David Stevenson Terri Ann Rife	Box 1066, Grundy, VA Box 1066, Grundy, VA	41 28
Kermit Nelson	Box 108, Grundy, VA	47
Lendon Barton	Box 181, Lebanon, VA	58
Everett Delaney	Gen. Del., Maxie, VA	Unknown

Harry White

Ronald D. Ellis

WEST VIRGINIA:

Ruby Helen Coal Company
Steven Rocky Justice

Jolo, WV

46

Ernest Leonard

Box 432, Panther, WV

42

KENTUCKY:

Carter Branch Coal Company Jim Justice	Box B, Ezell, KY	39
Jamboree Coals, Inc. Jack Fannin	Box 330, Phelps, KY	55
Tony Mullins	Box 4028, Kimper, KY	Unknown
Leon Tackett	Box 4028, Kimper, KY	Unknown
Lick Fork Mining Co., Inc Marvin Bartley	Box 41, Regina, KY	48

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. _____

HARRY WHITE
RONALD D. ELLIS

18 U.S.C. § 1962(c)
18 U.S.C. § 2

I N F O R M A T I O N

The United States Attorney Charges:

(RICO - 18 U.S.C. § 1962(c))

Introduction

1. At all times material to this information:
 - (a) defendants HARRY WHITE and RONALD D. ELLIS operated a consulting business known as "Triangle Research, Inc." (hereinafter Triangle) in West Virginia, Kentucky, Virginia and elsewhere;
 - (b) Triangle entered into contracts with coal mine operators to provide various health and safety services, including providing equipment and maintenance services associated with the coal dust sampling program required under the Mine Safety and Health Act (hereinafter "The Act").
 - (c) the operation of coal mines in the United States, including those served by defendants HARRY WHITE, RONALD D. ELLIS and Triangle was governed by The Act, in which Congress declared that "the first priority and concern of all in the coal or other

mining industry must be the health and safety of its most precious resource - the miner" and provided that the operators of mines, assisted by miners, have the primary responsibility to eliminate unsafe conditions. Title 30, U.S.C. § 801(a), (e).

- (d) The Act was adopted by Congress with the purpose, in part,

to provide, to the greatest extent possible, that the mining conditions in each underground coal mine are sufficiently free of respirable dust concentrations in the mine atmosphere to permit each miner the opportunity to work underground during the period of his entire adult working life without incurring any disability from pneumoconiosis or any other occupation-related disease during or at the end of such period.

Title 30, United States Code, Section 841(b).

- (e) the Secretary of Labor, to further the purpose of the Act, established maximum levels of respirable dust allowed in the mine atmosphere. If the respirable dust in the mine atmosphere exceeds these levels, the mine operator is subject to various sanctions, including closure of the mine.

30, Code of Federal Regulations, Section 70.207(a)

- (f) pursuant to statutory authority, the Secretary also established a respirable dust sampling program to ensure that the maximum levels of dust are not exceeded. The dust sampling program

requires each operator to periodically determine the amount of respirable dust in the mine atmosphere by pumping the air in the mine through filters and thereafter submitting those filters accompanied by an accurately prepared and executed dust data card, to the Mine Safety and Health Administration (hereinafter "MSHA") for analysis of the dust level.

The Enterprise

2. At all times relevant to this information, the defendant HARRY WHITE owned and operated Triangle and the defendant RONALD D. ELLIS was employed by Triangle. HARRY WHITE, RONALD D. ELLIS, and Triangle associated with mine operators in West Virginia, Kentucky, and Virginia to provide services and implement the coal dust testing program mandated by MSHA.

3. The association of HARRY WHITE, RONALD D. ELLIS, Triangle, and the coal mine operators constitutes an "enterprise" as defined by Title 18, United States Code, Section 1961(4).

4. HARRY WHITE, RONALD D. ELLIS, Triangle and their client coal operators operated through a pattern of racketeering activity in that defendants HARRY WHITE, RONALD D. ELLIS aided, assisted and caused coal operators to fail to comply with the respirable dust program in one or more of the following ways:

- (a) the documentation required by the Act was not truly and accurately completed;

- (b) samples were improperly obtained outside the mine rather than underground in the mine as required by the Act;
- (c) dust samples were obtained and thereafter altered by forcing air through the filters in an attempt to reduce the amount of dust contained in the filters.
- (d) blank samples were submitted accompanied by false representations that the samples were properly obtained.

Operation of the Enterprise

5. The enterprise operated through a pattern of fraudulent activity that permitted Triangle and the coal mine operators to obtain money and property through the continued operation of coal mines in violation of federal law.

The RICO Violation

6. Beginning in or about the mid-1970's and continuing until the date of the filing of this Information in Mingo County, West Virginia, in the Southern District of West Virginia; in Grundy, Virginia in the Western District of Virginia; in the Eastern District of Kentucky; and elsewhere, HARRY WHITE and RONALD D. ELLIS, the defendants, and other persons and entities known and unknown to the United States including the coal mine operators employing Triangle Research, Inc. for dust sampling services, being persons associated in fact as an enterprise as described in paragraphs one through four of this Count, which was

engaged in and the activities of which affected interstate commerce, did knowingly, willfully and unlawfully conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity as set forth below.

Pattern of Racketeering Activity

7. Specifically, the pattern of racketeering that the defendants HARRY WHITE and RONALD D. ELLIS participated in consisted of the following violations of Title 18, United States Code, Section 1341:

The Fraud Scheme

8. From in or about the mid-1970's until in or about April 1991, defendants HARRY WHITE and RONALD D. ELLIS devised and intended to devise a scheme and participated in a scheme:

(a) to defraud and obtain money and property by means of false and fraudulent pretenses, representation and promises, well knowing at the time that the pretenses, representations and promises would be and were false when made; and

(b) Between November 18, 1988 and on or about April 1991, to defraud the Mine Safety and Health Administration of the United States Department of Labor of its right to honest and truthful information.

9. It was part of the scheme to defraud that to implement this fraud, coal mine operators would pay Triangle to submit du

samples to MSHA that were not obtained in compliance with the Act. Specifically, it was agreed between Triangle and the operators that:

- (a) Some dust samples would not be obtained underground at the minesite.
- (b) Operators would sign blank dust data cards and provide them to Triangle.
- (c) The operator would verify to Triangle that no MSHA inspectors were present at the minesite on a particular date.
- (d) Triangle would create false dust samples by various methods including running a pump and filter briefly in a bucket of pulverized coal dust in the basement of Triangle.
- (e) Triangle would then falsely fill out the signed blank dust data cards that had been provided by the mine operators and mail false and fraudulent samples, including blank samples in some cases, accompanied by false and fraudulent dust data cards, to MSHA.

10. It was further a part of the scheme to defraud that Triangle would continue to receive payments from operators and operators continued to mine coal despite non-compliance with health standards of The Act.

First Act of Racketeering

11. From in or about the mid-1970's until on or about April 1991, in the Southern District of West Virginia, for the purpose of executing the above-described scheme and attempting to do so, defendants HARRY WHITE and RONALD D. ELLIS did knowingly cause to be delivered, by the United States Postal Service, envelopes containing false and fraudulent coal dust data cards on behalf of coal mine operators in West Virginia to the Mine Safety and Health Administration Laboratory, Pittsburgh, Pennsylvania, according to the directions thereon, in violation of Title 18, United States Code, Sections 1341 and 2.

Second Act of Racketeering

12. From in or about the mid-1970's until on or about April 1991, in the Southern District of West Virginia, for the purpose of executing the above-described scheme and attempting to do so, defendants HARRY WHITE and RONALD D. ELLIS did knowingly cause to be delivered, by the United States Postal Service, envelopes containing false and fraudulent coal dust data cards on behalf of coal mine operators in Kentucky to the Mine Safety and Health Administration Laboratory, Pittsburgh, Pennsylvania, according to the directions thereon, in violation of Title 18, United States Code, Sections 1341 and 2.

Third Act of Racketeering

13. From in or about the mid-1970's until on or about April 1991, in the Southern District of West Virginia, for the purpose of executing the above-described scheme and attempting to do so,

defendants HARRY WHITE and RONALD D. ELLIS did knowingly cause to be delivered, by the United States Postal Service, envelopes containing false and fraudulent coal dust data cards on behalf of coal mine operators in Virginia to the Mine Safety and Health Administration Laboratory, Pittsburgh, Pennsylvania, according to the directions thereon, in violation of Title 18, United States Code, Sections 1341 and 2.

All in violation of Title 18, United States Code, Section 1962(c).

UNITED STATES OF AMERICA

MICHAEL W. CAREY
United States Attorney

By:

JOSEPH F. SAVAGE, JR.
Assistant United States Attorney

Date Filed: _____

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA

v.

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AMERICAN CARBON CORPORATION
RONALD McCLANAHAN

CRIMINAL NO. _____

BRD COAL COMPANY, INC.
BILLY RAY DOTSON

CRIMINAL NO. _____

BALD EAGLE COAL CORPORATION
RALPH COLEMAN

CRIMINAL NO. _____

BLACK BEAR MINING COMPANY
EARNEST LAYNE

CRIMINAL NO. _____

BLACK NUGGET MINING, INC
KEITH STILTNER

CRIMINAL NO. _____

BLACK WIDOW COLLIERIES
ERNEST VARNEY

CRIMINAL NO. _____

BRIARFIELD COAL CORPORATION
JAMES DOTSON

CRIMINAL NO. _____

CARBO MINING COMPANY
BILL BROWN

CRIMINAL NO. _____

CAROL MINING COMPANY
DONALD LESTER

CRIMINAL NO. _____

CARTER BRANCH COAL COMPANY
JIM JUSTICE

CRIMINAL NO. _____

CIDRIC COAL CORPORATION
GLADE METZ

CRIMINAL NO. _____

CLASSIC COAL CORPORATION
WILLIAM CHILDRESS

CRIMINAL NO. _____

DELBARTON MINING CORPORATION
C. A. RAMEY

CRIMINAL NO. _____

DOTSON & RIFE COAL COMPANY, INC
JIMMY DOTSON

CRIMINAL NO. _____

DOUBLE E MINING, INC.
JAMES KIDD

CRIMINAL NO. _____

DOUBLE L COAL CORPORATION
ROSCOE LESTER

CRIMINAL NO. _____

GOOD TIMES MINING, INC.
ROGER CHURCH
JAY WALLACE

CRIMINAL NO. _____

HOPE MINING, INC.
KENNY HURLEY

CRIMINAL NO. _____

JAMBOREE COALS, INC.
JACK FANNIN

CRIMINAL NO. _____

L & L ENERGY OF HURLEY, INC.
EUGENE CLINE

CRIMINAL NO. _____

LICK FORK MINING COMPANY, INC
MARVIN BARTLEY

CRIMINAL NO. _____

LUCKY L & L COAL COMPANY, INC
ROBERT LEE BROWN

CRIMINAL NO. _____

M.P. & M., INC.
FRANK HACKNEY

CRIMINAL NO. _____

NICKY COAL, INC.
FRANK RASH

CRIMINAL NO. _____

PAROKI ENTERPRISES, INC.
JERRY DEEL

CRIMINAL NO _____

EDD POTTER COAL COMPANY
DAVID POTTER

CRIMINAL NO _____

RED DOG COAL COMPANY
RONNIE EDWARDS

CRIMINAL NO. _____

RUBY HELEN COAL COMPANY
STEVEN ROCKY JUSTICE

CRIMINAL NO. _____

SAVAGE MINING CORPORATION
ROY HORNE

CRIMINAL NO. _____

SHADY LANE COAL CORPORATION
TED OSBORNE, JR.

CRIMINAL NO. _____

SOLID MINING COMPANY, INC.
PAUL FLETCHER

CRIMINAL NO. _____

SUNRISE MINING. INC.
RAY VAN DYKE

CRIMINAL NO. _____

SUNSET LAND & COAL COMPANY, INC.
DAVID STEVENSON
TERRI ANN RIFE

CRIMINAL NO. _____

LONDON BARTON

CRIMINAL NO. _____

EVERETT DELANEY

CRIMINAL NO. _____

ERNEST LEONARD

CRIMINAL NO. _____

TONY MULLINS

CRIMINAL NO. _____

KERMIT NELSON

CRIMINAL NO. _____

LEON TACKETT

CRIMINAL NO. _____

HARRY WHITE
RONALD D. ELLIS

CRIMINAL NO. _____

MOTION TO CONSOLIDATE

Now comes the United States of America by Joseph F. Savage, Jr., Assistant United States Attorney and moves to consolidate the above-captioned criminal numbers and have those matters assigned for disposition to United States District Judge John T. Copenhaver, Jr. in Charleston, West Virginia on the following grounds:

1. Each of the above-numbered Informations are filed pursuant to plea agreements entered by the respective defendants which are identical except for the names of the defendants and the charges are identical except for differences in names, dates and locations of the offenses.

2. The cases are each developed from an ongoing investigation of tampering with the dust testing program which began with the prosecution of Peabody Coal Company, which was handled by the Honorable Judge John T. Copenhaver, Jr. in the United States District Court in Charleston, West Virginia, in January 1991.

3. Assigning these cases to a single judge familiar with the facts and the nature of the MSHA statutes governing the coal dust testing program, and permitting the cases to be consolidated for the purposes of guilty pleas will save substantial judicial resources. In addition, the defendants are primarily represented by five lawyers, most of whom are from outside this jurisdiction. It would be substantially more convenient and cost effective for all parties and the Court to handle these matters collectively. In addition, at sentencing, many of the arguments about the nature, seriousness and circumstances of these offenses will be generally applicable to all the defendants. Assigning these cases to a single judge and consolidating them may also enhance the ability of the probation office to handle these matters and will greatly simplify all scheduling issues.

4. As part of the plea agreement the United States required that the guilty pleas be entered in the Southern District of West Virginia so that a single judge could impose sentences that are consistent and reflect the relative culpability of the parties. Each defendant committing offenses outside the District has waived venue and agreed to prosecution in the Southern District of West Virginia. Failure to consolidate the cases and assign them to a single judge would create the possibility of unwarranted disparity and defeat the understanding of the parties entering into the plea agreements.

5. The guilty pleas involve identical factual bases. Specifically, each defendant is either a corporation or an

individual owning or employed by a corporation that
The Mine Safety and Health Act (MSHA) requires the operators to
implement a dust testing program that determines the amount of
ambient coal dust in the mine atmosphere. MSHA also requires operators
to maintain the dust at a level low enough to avoid
hazards. To implement the testing program, each of the defendants
hired a consultant, Triangle Research, Inc. (Triangle), to provide
dust pumps and to prepare the paperwork associated with the dust
samples that were to be submitted to MSHA.

6. Triangle and its owners and employees did not in fact take
all of the required dust samples and did not truly and accurately
submit the required forms to MSHA. Instead, Triangle submitted
samples that either had not been run at all or submitted fraudulent
samples that were obtained by running the dust pumps briefly in a
bucket of coal dust in the basement of Triangle's offices.
Triangle also tampered with samples by blowing dust out of the
filters.

7. Each defendant was aware that the appropriate number of
samples had not been run at their mine. False or incomplete coal
dust data cards were signed by each defendant with the knowledge
that Triangle had not properly taken the dust sample on their
behalf. Through this conduct, each defendant agreed with Triangle
that false information would be submitted to a federal agency,
MSHA. This conduct could or did have the effect of impairing and
impeding the implementation of the dust testing program by

concealing the fact that the dust samples had not been properly obtained by the mine operator as required by federal law.

8. Each case presents common issues of law and fact that can best be addressed in a consolidated proceeding.

For the forgoing reasons the United States respectfully requests that these cases be consolidated before United States District Judge John T. Copenhaver, Jr. in the Southern District of West Virginia sitting at Charleston.

UNITED STATES OF AMERICA

MICHAEL W. CAREY
United States Attorney

By:



JOSEPH F. SAVAGE, JR.
Assistant United States Attorney

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing "MOTION TO CONSOLIDATE," has been made on opposing counsel by mailing true copies thereof, on the 21st day of October, 1991, at the following addresses:

Ronald L. King, Esquire
ROBERTSON, CECIL, KING & PRUITT
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STREET, STREET, STREET, SCOTT & BOWMAN
339 West Main Street
Post Office Box 2100
Grundy, Virginia 24614

Robert B. Allen, Esquire
KING, BETTS & ALLEN
Post Office Box 3394
Charleston, West Virginia 25333

John Armstrong West, Esquire
GREENEBAUM, DOLL & McDONALD
1400 Vine Center Tower
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Lexington, Kentucky 40593-1637

John D. Austin, Jr., Esquire
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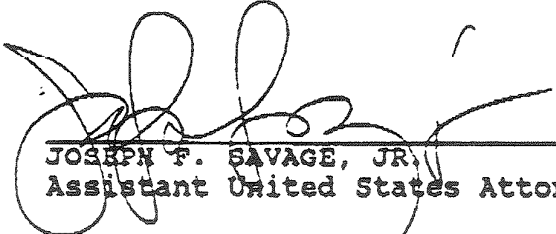
Daniel R. Bieger, Esquire
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Hunt Charach, Esquire
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JOSEPH F. SAVAGE, JR.
Assistant United States Attorney

Post file

Defendant List

<u>Company/Individual</u>	<u>Address</u>	<u>Age</u>
American Carbon Corporation Ronald McClanahan 4406547-Mine No. 1	Address Box 837, Grundy, VA	35
Bald Eagle Coal Corporation Ralph Coleman 4403922 - #1	Box 288, Vansant, VA	45
BRD Coal Company, Inc. Billy Ray Dotson 4406030 - Mine No. 2	Rt. 3, Box 240, Grundy, VA	37
Black Bear Mining Company Earnest Layne 4406531 - Mine No. 4	Box 138, Hurley, VA	Unknown
Black Nugget Mining, Inc. Keith Stiltner 4404559 - Mine No. 1	Box 101, Grundy, VA	22
Black Widow Collieries Ernest Varney 1514990 - WARC0 1 4406567 - Mine No. 2	Box 295, N. Tazewell, VA	44
Briarfield Coal Corporation James Dotson 4404858 - No. 1	Box 205, Hurley, VA	48
Carbo Mining Company Bill Brown 4406557 - No. 1	Box 2618, Grundy, VA	45
Carol Mining Company Donald Lester 4403860 - No. 2 Mine	Box 227, Wolford, VA	Unknown
Carter Branch Coal Company Jim Justice 1515713 - No. 8	Box B, Ezell, KY	39
Cidric Coal Corporation Glade Metz 4406300 - No. 1 Mine	Box 408, Vansant, VA	56
Classic Coal Corporation William Childress 4406195 - No. 1	Rt. 4, Box 102, Grundy, VA	34
Delbarton Mining Corporation C. A. Ramey 4406559 4604839 - Mine No. 1	Rt. 1, Box 616, Grundy, VA	53
Dotson & Rife Coal Co., Inc. Jimmy Dotson 1505417 - No. 1 Mine	Box 52, Hurley, VA	51
Double E Mining, Inc. James Kidd 4606088 - Double E Mining No. 1	Box 1071, Grundy, VA	51

Double L Coal Corporation
 Roscoe Lester 4406624 - Mine No. 3 Box 205, Big Rock, VA 53

Good Times Mining, Inc.
 Roger Church 1516410 - No. 3 Woodman, KY 41
 Jay Wallace 4406382 - No. 4 Box 530, Grundy, VA 38

Hope Mining, Inc. 4406333 - No. 2
 Kenny Hurley 4406530 - Mine No. 2 Box 269, Hurley, VA 36

Jamboree Coals, Inc.
 Jack Fannin 1516784 - No. 4 Box 330, Phelps, KY 55

L & L Energy of Hurley, Inc.
 Eugene Cline 4404862 - No. 2 Box 26-A, Hurley, VA 40

Lick Fork Mining Co., Inc.
 Marvin Bartley 1515590 - #4 Box 41, Regina, KY 48

Lucky L & L Coal Co., Inc.
 Robert Lee Brown ~~4404862~~ 4405900 - Mine No. 2 Box 26-A, Hurley, VA 38

M.P. & M., Inc.
 Frank Hackney 4404632 - Mine No. 2 Box 513, Grundy, VA 46

Nicky Coal, Inc.
 Frank Rash 4404300 - No. 1 Mine Box 180, Birchleaf, VA 46

Paroki Enterprises, Inc.
 Jerry Deel 4405385 - No. 1 Truck Box 71, Haysi, VA 52

Edd Potter Coal Company
 David Potter 1505436 - No. 2 Mine Box 166, Hurley, VA 59

Red Dog Coal Company
 Ronnie Edwards 1515908 - 3-A Mine Box 110, Haysi, VA 39
 4405547 - #3

Ruby Helen Coal Company
 Steven Rocky Justice 4607554 - Mine No. 1 Jolo, WV 46

Savage Mining Corporation
 Roy Horne 4405032 - No. 2 Mine Box 457, Oakwood, VA 39

Shady Lane Coal Corporation
 Ted Osborne, Jr. 4406549 - #3 Box 776, Grundy, VA 49

Solid Mining Company, Inc.
 Paul Fletcher 4405926 - Mine No. 1 Box 416, Grundy, VA 57

Sunrise Mining, Inc.
 Ray Van Dyke 4607296 - #1 Mine Box 173, Vansant, VA 47

Sunset Land & Coal Co., Inc.

David Stevenson *4406326 - No 1 Mine* Box 1066, Grundy, VA

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Terri Ann Rife Box 1066, Grundy, VA

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Defendant List

<u>Company/Individual</u>	<u>Address</u>	<u>Age</u>
American Carbon Corporation Ronald McClanahan 4406547-Mine No. 1	Address Box 837, Grundy, VA	35
Bald Eagle Coal Corporation Ralph Coleman 4403922 - #1	Box 288, Vansant, VA	45
BRD Coal Company, Inc. Billy Ray Dotson 4406030 - Mine No. 2	Rt. 3, Box 240, Grundy, VA	37
Black Bear Mining Company Earnest Layne 4406531 - Mine No. 4	Box 138, Hurley, VA	Unknown
Black Nugget Mining, Inc. Keith Stiltner 4404559 - Mine No. 1	Box 101, Grundy, VA	22
Black Widow Collieries Ernest Varney 1514990 - WAACO 1	Box 295, N. Tazewell, VA	44
Briarfield Coal Corporation James Dotson 4404858 - No. 1	Box 205, Hurley, VA	48
Carbo Mining Company Bill Brown 4406557 - No. 1	Box 2618, Grundy, VA	45
Carol Mining Company Donald Lester 4403860 - No. 2 Mine	Box 227, Welford, VA	Unknown
Carter Branch Coal Company Jim Justice 1515713 - No. 8	Box B, Ezell, KY	39
Cidric Coal Corporation Glade Metz 4406300 - No. 1 Mine	Box 408, Vansant, VA	56
Classic Coal Corporation William Childress 4406195 - No. 1	Rt. 4, Box 102, Grundy, VA	34
Delbarton Mining Corporation C. A. Ramey 4406557 4404859 - Mine No. 1	Rt. 1, Box 616, Grundy, VA	53
Dotson & Rife Coal Co., Inc. Jimmy Dotson 1505417 - No. 1 Mine	Box 52, Hurley, VA	51
Double E Mining, Inc. James Kidd 4606088 - Double E Mining No. 1	Box 1071, Grundy, VA	51

Double L Coal Corporation Roscoe Lester 4406624 - Mine No. 3	Box 205, Big Rock, VA	53
Good Times Mining, Inc. Roger Church 1516410 - No. 3 Jay Wallace 4406382 - No. 4	Woodman, KY Box 530, Grundy, VA	41 38
Hope Mining, Inc. 4406333 - No. 2 Kenny Hurley 4406530 - Mine No. 2	Box 269, Hurley, VA	36
Jamboree Coals, Inc. Jack Fannin 1516784 - No. 4	Box 330, Phelps, KY	55
L & L Energy of Hurley, Inc. Eugene Cline 4404862 - No. 2	Box 26-A, Hurley, VA	40
Lick Fork Mining Co., Inc. Marvin Bartley 1515590 - #4	Box 41, Ragina, KY	48
Lucky L & L Coal Co., Inc. Robert Lee Brown 4404862 4405800 - Mine No. 2	Box 26-A, Hurley, VA	38
M.P. & M., Inc. Frank Hackney 4404652 - Mine No. 2	Box 513, Grundy, VA	46
Nicky Coal, Inc. Frank Rash 4404300 - No. 1 Mine	Box 180, Birchleaf, VA	46
Paroki Enterprises, Inc. Jerry Deel 4405385 - No. 1 Truck	Box 71, Haysi, VA	52
Edd Potter Coal Company David Potter 1505436 - No. 2 Mine	Box 166, Hurley, VA	59
Red Dog Coal Company Ronnie Edwards 1515908 - 3-A Mine 4405547 - #3	Box 110, Haysi, VA	39
Ruby Helen Coal Company Steven Rocky Justice 4607554 - Mine No. 1	Jolo, WV	46
Savage Mining Corporation Roy Horne 4405032 - No. 2 Mine	Box 457, Oakwood, VA	39
Shady Lane Coal Corporation Ted Osborne, Jr. 4406549 - #3	Box 776, Grundy, VA	49
Solid Mining Company, Inc. Paul Fletcher 4405926 - Mine No. 1	Box 416, Grundy, VA	57
Sunrise Mining, Inc. Ray Van Dyke 4607296 - #1 Mine	Box 173, Vansant, VA	47

Sunset Land & Coal Co., Inc.

David Stevenson

4406 326 - No 1 Mine

Box 1066, Grundy, VA

41

Terri Ann Rife

Box 1066, Grundy, VA

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