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Where we come from and where we're going

The Black Lung Association was formed in December, 1968, by a group of miners in Fayette and Kanawha Counties who banded together to urge the West Virginia legislature to make Black Lung - coal worker's occupational pneumoconiosis - compensable under the state's Workmen's Compensation law.

Shaken out of their inaction by the mine explosion which killed 78 men in Mannington, WV, they moved to act on the Black Lung issue. Working with the aid of three public spirited physicians, the Black Lung Association mounted a vigorous lobbying effort, enlisting the support of miners from across the state....

The men who mine coal were the founders of the Black Lung Association. They had lived the hard life of coal mining and faced it's dangers, they had become frustrated with federal and state bureaucrats who failed to enforce even watered down safety laws, their union leadership, whose partnership with industry and lack of contact with rank and file had led to corruption and apathy, and elected officials whose sympathy for and subservience to the dominant industry of the state is taken for granted.



Those words were excerpted directly from a brief history of the Black Lung Association (BLA), written at some point in the 1970s. Now, it's 2020. The hard work and sacrifices of miners have continued to power this country, and our people continue to suffer from Black Lung disease.

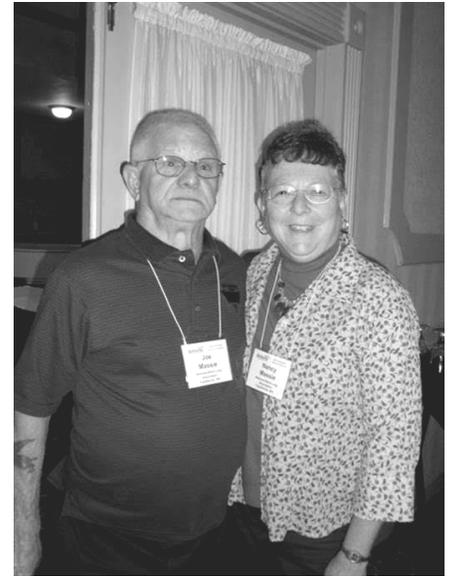
In recent years, new chapters of the BLA have emerged, and new life has been breathed into long-standing chapters. A publication called the Black Lung Bulletin was distributed among BLA members throughout 1970-1972, and today we revive that publication. May this newsletter be a tool that keeps us united, informed, activated and filled with hope for a brighter future.

In Memoriam of Joe Massie, BLA National President 2008-2020

Contribution by Randy Wriston, long-time member of the Fayette County BLA

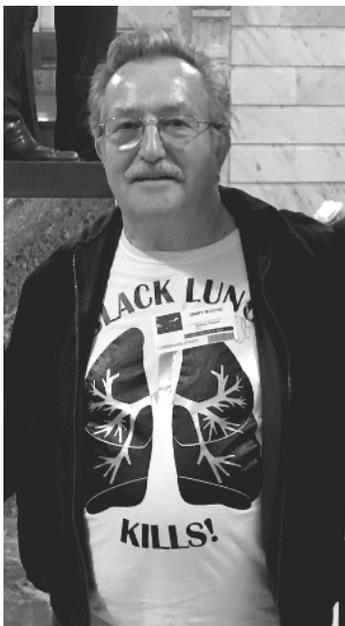
I worked with and knew Joe Massie for many years, I remember him as a happy and delightful person. He was a strong UMWA member. Joe helped me with my Black Lung and his support was appreciated. He was devoted to his time as President of the Fayette County BLA and was essential in helping start new chapters in other places. Joe will be truly missed by everyone who had the privilege of knowing him.

Joe passed away March 17, 2020 in Oak Hill, West Virginia.



Joe and Nancy Massie

Meet the Leadership



Jimmy Moore

Jimmy Moore lives in Shelby Gap, Kentucky with his wife of 55 years, ReJeana. He worked as a miner for 22 years at Beth Elkhorn Coal and is a member of the UMWA. Jimmy was elected President of the BLA of Southeastern Kentucky in 2018 and appointed Vice President of the National BLA in October of 2019. After Joe's passing, Jimmy has taken on the role of National Association President. He is passionate about fighting for black lung benefits and miners' rights as he suffers from simple black lung and his son suffers from complicated black lung. Jimmy has regularly traveled to Washington, D.C. to lobby to protect miners' pension and extend the excise tax. He has also lobbied in Kentucky to reform and improve the state's black lung benefits program. He looks forward to fighting alongside and meeting with members of all the chapters when it is safe to travel again.

Call for Nominations!

Since the passing of our President, Jimmy Moore has stepped in as acting President for the National Black Lung Association. There will be an election at the National conference in October or November. We are in need of a new Vice-President. If you are interested in volunteering for this or any other position, including President, Secretary, or Treasurer, this will also be the time to do that. These positions are usually 3 years and our Secretary and Treasurer have been in these roles for many years. Please send an email to susie.criss@cchswv.org with your nomination.

-Susie Criss, National Secretary

Boone County WV Chapter Profile

Contribution by Danny Hager, President of Boone County BLA

Boone County BLA started in 2018. We have increased membership by having various speakers at our meetings. Most recently, we had several candidates for political office as speakers. In the past, we have had two lawyers and a doctor.

Most of the chapter have won a claim for black lung benefits or are in the claims process. We talk with each other about what DOL has said or what company lawyers are trying to do. We just tell the newer ones what to look out for and who we think they should go to for help.

Last year some of our members went with the national group to Washington, DC. We are backing the excise tax to support the Black Lung Disability Trust Fund. We are still calling Congress and asking other people to call Congress so the tax will be extended before the end of the year.

Last year and this year, some of our members went to Charleston to the state legislature to support some bills on the state level. In West Virginia, we have compensation for black lung. We wanted to get changes that would give miners a 25% award for complicated black lung and would change the criteria for filing. There was another bill for compensating miners that would give miners \$300 per month for having black lung even without impairment. None of the bills passed but we will be down there again next year.

We did not have meetings in April, May or June. Our group is lucky to have Willie Carte from Boone Memorial Hospital to help us. He attends meetings, makes flyers, and helps us find speakers. I, Danny Hager, am the president and Kim Huffman is the secretary.

Do you have an update from your chapter?

Tell us about your chapter and what you are working on and we'll include it in the next edition of the bulletin!

2020 National Black Lung Association Conference Update

Contribution by Susie Criss, National Secretary

Officers of the National Black Lung Association met on July 23, 2020 to discuss whether or not to have the annual conference that we normally have at the National Mine Academy in Beaver, WV. The Mine Safety and Health Administration has issued restrictions for visitors to the Academy and we have voted to cancel the normal conference, BUT to try doing the meeting with ZOOM or other software technology. We will be reaching out to the local chapters to set up times to train on this during August and September. If we can get everyone trained and ready, we will have our virtual conference in October or

[cont'd from Conference Update]
November 2020. The chapter Presidents will be hearing from someone within the Black Lung Association soon.

Hopefully, next year we will be able to get together in person again because we miss seeing everyone!

UMWA sues, and Senators file legislation, to force MSHA to protect miners from COVID-19

On June 16th, the United Mine Workers of America (UMWA), along with the United Steel Workers (USW), filed a motion in federal court seeking to force the Mine Safety and Health Administration (MSHA) to issue an Emergency Temporary Standard to protect miners from infectious diseases, such as COVID-19.

“We have been asking MSHA to step up and do its job to protect America’s miners from the beginning of this pandemic,” UMWA International President Cecil E. Roberts said. “But so far, the agency has refused.”

“It’s time for our federal agencies to start taking their responsibilities to workers seriously,” said USW International President Tom Conway. “We needed an emergency temporary standard for infectious diseases at the beginning of the pandemic, and we still need one now.”

The UMWA first expressed alarm at MSHA’s lack of action to protect miners from

COVID-19, and asked for the issuance of protective standards, in a letter to the agency’s Assistant Secretary, David Zatezalo on March 26th. These concerns were echoed in an April 17th letter addressed to President Trump and co-signed by a group of coal state Senators, including Joe Manchin, Sherrod Brown, Richard Durbin, Tammy Duckworth, Robert Casey, Tim Kaine, Mark Warner, and Doug Jones. The call for protections for miners rang out once again on April 23rd in a letter sent to Congressional leadership, including Senate Majority Leader Mitch McConnell, from representatives of 12 BLA chapters in West Virginia, Virginia, and Kentucky.



Checkboard drawing by
Hayden Miles
Resident of Whitesburg, KY

Additionally, Senators Joe Manchin, Richard Durbin, Tim Kaine, Sherrod Brown, Robert Casey, Mark Warner, and Shelley Moore Capito introduced the COVID-19 Mine Worker Protection Act, on May 13th. While workers’

organizations like the UMWA and the BLA can merely *ask* for MSHA to do its job, this legislation, if passed, would *require* MSHA to issue emergency standards within 7 days. It would also forbid mine operators from retaliating against miners for reporting coronavirus infection control problems.

[cont'd from UMWA sues] To date, MSHA has still not required mine operators to put in place protections for workers. The UMWA's legal action, called a *petition for a writ of mandamus*, states, "if MSHA fails to issue an [Emergency Temporary Standard] to address this unprecedented crisis, the life and health of tens of thousands of miners will be placed in grave danger as a result of the miners' increased exposure to COVID-19." UMWA asked the court for an expedited hearing process with a ruling to be issued within 30 days. The National BLA officers signed a resolution of support for this lawsuit and submitted a brief to the court stating their support. Unfortunately, the petition was denied. Though the court order did leave the door open for a re-petition if/when circumstances change, it is disappointing that there is insufficient will to act to issue standards of protection before conditions become more hazardous.

Keeping up the fight for the Black Lung Excise Tax

Many of you have been active in the fight for the black lung excise tax. This small tax is paid by coal companies. It funds healthcare and benefits for some 25,000 miners with black lung, and that number is only rising.

On March 18, the National Mining Association sent a letter to congressional leaders asking for a 50 percent reduction in the black lung excise tax in a blatant attempt to take advantage of the COVID-19 crisis at the expense of miners with black lung. In response, in the same letter that urged congress to require MSHA to issue standards to protect miners from COVID-19, 12 BLA chapters from across Appalachia exposed this shameful behavior on the part of the industry and called on legislators to extend the Black Lung Excise Tax at its current rate for 10 years.

Congress already allowed the tax to be cut in half during 2019. But legislators restored the tax to its original level in 2020 after BLA members from across Appalachia, and their

supporters from across the country, called, wrote, and lobbied Congress, and even held protests at the offices of Sen. Mitch McConnell (KY), Rep. Morgan Griffith (VA), and Rep. Alex Mooney (WV).

For now, the National Mining Association's attempts to undermine funding for black lung benefits and healthcare have failed. But the black lung excise tax will automatically be cut in half again in 2021 if Congress fails to act before the end of this year. The BLA needs to keep the pressure on as we enter the second half of 2020, and your representative needs to hear from you!

Do Your Part!
Call (855) 980- 2358.

You will hear a brief recorded message, then be asked to punch in your zip code, which will connect you to your Representative's office.

Tell your Representative's staff (or voicemail) that you support a 10 year extension of the black lung excise tax, and that you are appalled at the National Mining Association's attacks on miners' benefits and healthcare. If you are a miner with black lung, or have a miner with black lung in your family, be sure to tell them that too.

Black Lung Clinics

Every year the federal government distributes funding to support black lung clinics. This year, the government awarded funds to two new clinics: Big Sandy Healthcare, Inc. in Prestonsburg, KY and Reynolds Memorial Hospital, Inc in Glen Dale, WV. These clinics will be expanding their services in order to provide medical care to miners with black lung disease.

State Policy Updates

West Virginia State Policy Update:

The 2020 West Virginia Legislature had three bills introduced that were related to black lung. The bill we focused on and lobbied for would have given a permanent partial disability award of 25% to miners with complicated black lung. Currently, there is no award for x-ray evidence alone - even for those with complicated disease. The bill did not pass committee but we plan to have it re-introduced next January and lobby harder.



Members of the Black Lung Association of Southeastern Kentucky and the East Kentucky Coalfield Black Lung Association in Frankfort meeting with Governor Andy Beshear and lobbying for radiologists to be granted eligibility to read x-rays for Kentucky worker compensation claims.

Kentucky State Policy Update:

In 2018, the Kentucky Legislature passed House Bill 2. The bill affected multiple state worker's compensation programs including the claims process for black lung disease. Prior to bill passage, NIOSH-certified B readers read and evaluated chest x-rays for black lung claims. House Bill 2, however, restricted physician eligibility to read x-rays for state compensation claims to *pulmonologists* with B reader certifications. It prevented *radiologists* from being eligible even though radiologists specialize in reading x-rays. In 2020, Angie Hatton (KY Representative for District 94) introduced a bill to reverse the eligibility restrictions. The bill, though it had support from Governor Beshear, did not make it through committee. We hope it will be re-introduced in 2021.



Important Alert: Black Lung Law

Important Alert: In 2010, after a very long struggle, the Black Lung Association and UMWA succeeded in getting two very important provisions reinstated into the Black Lung law as part of the Affordable Care Act (Obama Care):

- (1) Continuing benefits for widows &
- (2) 15-year presumption for miners.

On June 25, 2020, however, the Trump administration joined Republican officials in Texas, WV, and 16 other states in a petition asking the Supreme Court to overturn the Affordable Care Act. If successful, this would eliminate health care for about 23 million Americans and wipe out both of our black lung provisions.

In Other News: COVID-19

As the weeks roll by and the COVID-19 pandemic continues, it is more and more difficult to stay home, take all the necessary precautions, and continue living distantly from those that we love. However, though businesses and services are starting to open back up, the disease is only becoming more prevalent in smaller, rural communities like ours. Please stay safe and take care. In the words of Dr. Robert Cohen, “the end of the stay-at-home orders doesn’t mean the pandemic is over. It means they currently have room in the ICU for you.” If you need masks, please contact Appalachian Citizens’ Law Center at (606) 633-3929 and we will send some your way.

About the Bulletin:

The Bulletin was originally published from 1970-1972. The Bulletin has reemerged, now, as a way to stay connected in a time when it is challenging to be together. In collaboration with Black Lung Association leaders, this bulletin has been organized by John Cline, Debbie Wills (Valley Health), Willie Dodson (Appalachian Voices), Courtney Rhoades (Appalachian Citizens’ Law Center), and Rebecca Shelton (Appalachian Citizens’ Law Center) and published by Appalachian Citizens’ Law Center. We hope that a bulletin can be sent out every four months. Please contact your chapter president or Courtney Rhoades if you have ideas for content (articles you would like to see, or art or poetry you would like to share), if you would like to participate in editing and distributing this bulletin, if you do not want to receive this bulletin, or if you would prefer to receive this bulletin via email.

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