



January/February 2005

"Under Mined - When a flood of toxic mining sludge wreaked havoc in Appalachia, how did the White House respond? By letting the coal company off the hook and firing the whistleblower."

By Clara Bingham

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On Oct. 11, 2000, in Inez, Ky., a town of 500 in the heart of the state's coal fields, a coal-waste reservoir the size of 306 Olympic-size swimming pools sprang a leak. Within six hours, 300 million gallons of thick sludge had flooded out of the Big Branch Refuse Impoundment, a hilltop facility owned by Martin County Coal, and into two tributaries of the Big Sandy River, which courses along the Kentucky-West Virginia border before emptying into the Ohio River.

The gooey mixture of black water and coal tailings traveled downstream through Coldwater and Wolf creeks, and later through the river's main stem, Tug Fork. Ten days later, an inky plume appeared in the Ohio River. On its 75-mile path of destruction, the sludge obliterated wildlife, killed 1.6 million fish, ransacked property, washed away roads and bridges, and contaminated the water systems of 27,623 people. Incredibly, no lives were lost. Even so, the EPA declared the spill the largest environmental catastrophe in the history of the southeastern United States. In fact, the Inez disaster was almost 30 times larger than the infamous Exxon Valdez tanker spill, which dumped 11 million gallons of oil into Alaska's Prince William Sound.

The company that owned the waste impoundment, a subsidiary of Massey Energy, the fourth largest coal producer in America, claimed that the flood was caused by an "act of God." Jack Spadaro, superintendent of the National Mine Health and Safety Academy, a training facility for the Mine Safety and Health Administration (MSHA) based in Beckley, W. Va., was part of the team assembled by MSHA to investigate. Working with eight colleagues from MSHA, an arm of the Department of Labor that regulates the coal industry, Spadaro began interviewing engineers, miners, and mine company officials to determine what had caused the impoundment to break. The investigation, which began on the eve of the 2000 presidential election, had within a month begun to collect evidence that Spadaro's team believed could prove negligence on the part of Martin County Coal.

But on Jan. 18, 2001, two days before President Bush's inauguration, Spadaro and his team were abruptly assigned a new boss to lead the investigation: Tim Thompson. A career MSHA official, Thompson had not participated in any of the investigation's interviews. However, he was known to be a political insider, according to two of the probe's staffers. Tim was a good soldier, said one long-time MSHA employee. "He would take orders. He was cooperative with headquarters to a fault." (MSHA officials declined to be interviewed for this story, citing agency policy not to discuss personnel issues with members of the press). Immediately after taking charge, Thompson told Spadaro's team that they had one week to conclude the investigation. The announcement came as a shock. Spadaro and his colleagues still had more than 30 witnesses to interview, and they had counted on having four or five more months to complete their work.

Even after the investigation was shut down by Thompson, Spadaro continued to fight the administration for three years - a bullheaded crusade that made him an Appalachian folk hero, but eventually got him thrown off the case, reassigned, and may have ultimately helped get him fired. As Spadaro later told *The Washington Monthly*, from the initial months of the investigation, he had felt that his superiors at MSHA were covering up "the fact that Massey had known for the past six years that there was a potential for the breakthrough in the impoundment." The slurry spill and the controversy surrounding Spadaro's aborted investigation has sparked several media probes, most prominently by *Salon* and "60 Minutes." But a further investigation by *The Washington Monthly* sheds new light on several aspects of the case, revealing Massey Energy's financial ties to the Bush administration, the efforts of MSHA officials to quash a media inquiry into the case, and the extent of the retaliation against Spadaro.

The government's file on the Martin County impoundment break has now been closed, and Massey Energy has paid only minimal fines to the federal government. MSHA declined to pursue the most serious charges of negligence that Spadaro's investigation developed, or to fix the lax systems of oversight that led Spadaro to blame the agency itself for contributing to the disaster. And though it has

left the whistleblower weary, retired, and bitter, Spadaro's struggle reveals the rough realities faced by regulators fighting a favored industry under the Bush administration.

Coal Creek corruption

Martin County Coal's Big Branch Refuse Impoundment, a huge reservoir of liquid waste from a nearby coal-cleaning plant, sits out of sight of neighboring houses. It is used to gather slurry - a mixture of mud, coal waste, water, and cleaning chemicals that is a byproduct of the process of washing coal - which is dumped into large holding ponds held back by dams. The steep mountainous terrain in Appalachia has always made the region vulnerable to floods caused by logging, erosion caused by coal mining, or leaks in slurry ponds.

At 3:00 a.m. on Oct. 11, 2000, pressure from the full impoundment caused the barrier wall between the slurry pond and the underground mine to collapse. Sludge inundated the underground mine below and flowed out into Coldwater and Wolf creeks.

At 5 a.m. on Oct. 11, 2000, Inez resident Abraham Lincoln "Linc" Chapman, up early to bow-hunt for deer, was driving his Chevrolet pick-up truck alongside Coldwater Creek. As he passed the entrance to the Big Branch Refuse Impoundment, a security guard waved him down. When he stopped, the guard informed him that he couldn't go any further up the road. Chapman then noticed that a tide of thick black sludge had risen to the level of a little wooden bridge over the creek.

Chapman asked the guard whether he had notified people downstream. The guard had not - he had no idea how much more sludge was coming. Chapman drove downstream to his house, which sits on a narrow two-acre strip of land bordering the creek. In Appalachia, the rare pieces of flat land, usually adjoining a creek or a river, are called bottoms. Chapman calls his land a "corn bottom" because it was where his family farmed corn when he was a boy.

Chapman took a flashlight to the creek, which coursed five yards from his back door. He watched with his wife and two children as the black sludge comin' real slow, just like lava, began to reach the top of the bank. The sludge in the creek kept rising all day and into the night until it reached five feet above water level and overflowed into Chapman's yard. By the next morning, Chapman realized that there was no water left in the creek, "it was just solid slurry." Chapman watched the seven-acre yard of his neighbor slowly fill with the sludge, like dough poured into a baking pan.

Chapman had long been aware that living directly below a coal-waste impoundment was risky. In fact, if the break hadn't been preceded by weeks of drought, and if the slurry had leaked into only one stream instead of two, the velocity of the flood could have been violent enough to kill hundreds of people living along heavily-populated Coldwater Creek.

For the next three months, the Chapmans and their neighbors endured the mining company's clean-up operation. Huge bulldozers and shovels scooped the sludge out of the creek and their front yards, tearing gas lines and knocking down trees. Chapman put his spacious 5,500-square-foot house on the market a few months after the flood because his 9-year-old daughter Paige didn't want to live there anymore. She complained of recurring nightmares that the house was buried in coal sludge and refused to sleep in her room on the ground floor. Two years later, when there were still no offers on the house, Chapman took it off the market. "This area used to be the most sought after property in Martin County - it used to be the most expensive real estate, but now no one wants it," Chapman says.

Today, although Chapman's neighbors' front yards are green again, and clear water flows through Coldwater Creek, there are still no fish in sight. "We had frogs, turtles, muskrats, minks, Kentucky spotted bass, channel cat fish, big mouth bass, mud cat, minnows, creek chubs that we used for bait," recalls Chapman, an avid hunter and fisherman. When Chapman digs a stick into the creek bed, it emerges covered in gummy, black coal sludge, which is buried an inch below the brown silt of the creek bed.

Massey Energy maintains that the slurry is no more toxic "than the dirt outside one's home." But Chapman, who once worked for coal mines, believes otherwise. He cites the presence of such toxins as mercury, arsenic, lead, and iron in the sludge. "We know better than to drink the water, but we have no choice but to bathe in it." The town water, treated at a nearby processing plant is sanctioned as drinkable, even though in 2001, an EPA study detected up to 30 times the normal levels of arsenic and mercury in the Inez community's groundwater supply.

Massey's miasma

In the course of the investigation, which also included reviewing piles of engineering reports, Spadaro was haunted by his memories of an earlier catastrophe, now infamous in coal country, known as the Buffalo Creek Disaster. In 1972, Spadaro, then a research engineer for the West Virginia School of Mines, had been dispatched to investigate a coal slurry spill in Buffalo Creek, W. Va. A break in the coal waste dam there had caused a 20-foot column of black sludge to hurdle down through Buffalo Creek's narrow hollow, twisting and crushing homes, leaving 4,000 people without shelter, and killing 125.

The Pittston Mining company, which like Massey claimed its mishap had been caused by an "act of God," was later found liable for the break in the dam, but escaped major sanctions. After Buffalo Creek, Spadaro had spent six months interviewing company employees and flood survivors, and watching bodies being picked out of the rubble. The experience has stayed with him. "Memories of those conversations are still with me," he said recently. "Buffalo Creek wasn't necessary. The neglect, the disregard...of the mine operators caused it."

In the Martin County Coal flood, Spadaro began to suspect a similar pattern of neglect. By April 2001, his team of MSHA investigators had drafted most of its report and was debating where to lay blame. The engineers believed it was appropriate to levy eight different citations against Massey Energy, but Thompson disputed all but one of those charges. One particularly fierce debate ensued over a charge related to the thickness of the barrier wall. After a smaller, but still significant leak in the Big Branch Impoundment in 1994, Massey had been required to submit an application for a permit to reopen the impoundment. The company presented MSHA with a map that showed a 70-foot barrier wall between the impoundment and the abandoned underground mine beneath the slurry reservoir.

But after the 2001 flood, the investigation hired an independent contractor to confirm the thickness of the barrier wall. Drilling revealed that in some spots the wall was only 15 feet deep. If this had been known earlier, Massey would never have gained a permit to reopen the impoundment. Massey denies that it misled regulators. However, Spadaro strongly suspects that Massey knew how thin the wall was. His team was just beginning to conduct interviews with miners who had worked in the area where the walls were particularly thin before the investigation was cut short.

Several of the engineers on the investigation team argued that Massey should be cited for misrepresentation. The coal company officials could then have been prosecuted for knowing violations of federal mine health and safety laws, which bring steep fines. The discrepancies between the map of the barrier wall on Massey's permit application and the actual dimensions of the wall as measured by an independent contractor was the strongest piece of evidence the investigators felt they had against the company because the discrepancy could be proven and documented. When Thompson fought bitterly against including a citation for the mapping discrepancy, some members of the investigative team became suspicious of his motives. "It looked like he was trying to protect the coal company," said one team member who asked for anonymity. "It looked like pure politics."

Frustrated by what he described as Thompson's "badgering" of his fellow team members, Spadaro asked everyone but Thompson to leave the room. He then blew up at Thompson, accusing him of undermining the credibility of the investigation, and threatened to leave the team.

Another section of the investigators' report that Thompson disputed concerned oversight. Spadaro's team had found a memo written after the 1994 leak by an MSHA employee named Larry Wilson. Wilson had made nine recommendations for fixing flaws in the impoundment, pointing out that the seals between the impoundment and the underground mine were inadequate, and that the company maps that showed the proximity of the mine to the impoundment were inaccurate. Major safety improvements were needed, Wilson had concluded: "If the water in the impoundment broke through and these seals were inundated, it is very possible that they would fail and a loss of life could occur." Six years later, Spadaro's team could find no evidence that Massey Energy had addressed MSHA's recommendations. Furthermore, the investigators discovered that MSHA had never followed up with Massey to check on the implementation of those recommendations.

Spadaro saw MSHA's failure as evidence that the regulatory system was badly broken. But he believed that neither the Bush administration's MSHA nor the coal companies were interested in reform. Approximately 225 coal-waste impoundments sit precariously over abandoned mines. Making them safe would involve tightening regulations and closing loopholes. Proposed alternative methods for disposing of the coal waste are unlikely to be adopted because they would cost the coal industry more. Preventative measures, such as drilling to measure the true thickness of a barrier wall between an impoundment and an underground mine, would also be costly.

According to an official internal report, on the same day that Spadaro took Thompson to task for undermining the investigation's credibility, Thompson received a call from his superiors at MSHA

headquarters in Arlington, Va. After Thompson hung up the phone, the team of investigators assembled in his office watched as their boss crossed out a section of the report that criticized MSHA for its lack of oversight. Dumbfounded and angry, Spadaro packed up his papers and left the room: "I went to my office, and wrote my letter of resignation [from the investigation]."

Who's the boss

In Thompson, Spadaro had confronted one face of a new regulatory bureaucracy that had fundamentally shifted its approach to mine oversight in the four months since the new administration had taken office. George W. Bush had won the presidency in part thanks to an upset victory in West Virginia (with help from the coal industry), and his administration had begun to set new pro-coal policies in motion. In his first few months on the job, Bush unveiled an energy plan that promoted the use of coal, backed off his campaign pledge to cut coal-related carbon-dioxide emissions, and loosened restrictions on coal mining's most environmentally destructive practice - mountaintop removal - which tears off huge masses of rock in order to mine valuable low-sulfur underground coal seams. Coal companies prefer this method because it can be done cheaply, relying on heavy machinery and using only minimum man-power. In 10 years, environmentalists predict that an area equivalent to the state of Delaware - 2,200 square miles - will have been cut off the mountains of Appalachia. Coal had done well under President Clinton - it was his administration that began to soften the mountaintop removal regulations, and his MSHA that had been lax in checking up on the Big Branch Impoundment wall. But coal executives, threatened by Vice President Al Gore's green background and his pledge to increase taxes on fossil fuels, thought they could get a better deal with the Republicans - when they raised a record \$3.8 million dollars for the 2000 federal election, 88 percent went to the GOOP. At the annual meeting of the West Virginia Coal Association a few months after Bush's inauguration, the group's director told 150 industry executives, "You did everything you could to elect a Republican president. [Now] you are already seeing in his actions the payback."

Massey Energy, Martin County Coal's parent company, gained a front-row seat to the new Bush administration when it invited Jams H. "Buck" Harless to join its board in 2001. Harless, a West Virginia coal and timber baron, had raised \$275,000 for Bush's 2000 campaign, given \$5,000 for the Florida recount, and contributed \$100,000 to the president's inaugural fund. Bush nicknamed Harless "Big Buck" and invited him to join the administration's transition task force on energy. "We were looking for friends, and we found one in George W. Bush," Harless told The Wall Street Journal.

Bush also demonstrated his friendship to industry leaders when he awarded the top job at MSHA to an executive with Utah's Energy West Mining Company, David Lauriski, whose top two deputies would also be recruited from mining companies. The woman who would become their boss, Secretary of Labor Elaine Chao, is the wife of Kentucky's Republican senator Mitch McConnell, a long time political ally of coal companies. Chao soon hired several of McConnell's Senate staffers to work in top positions at the Department of Labor. According to Common Cause, from 1997 to 2000 - when McConnell was chairman of the National Republican Senatorial Committee - the coal industry gave \$584,000 to the NRSC. In 2002, while the company was still under investigation, Massey Energy would give the committee a first-time donation of \$100,000, although by then McConnell was no longer the chairman. McConnell left his fingerprints on his wife's agency despite their insistence that there was no conflict of interest. Chao's chief of staff, Stephen Law, was one of McConnell's top aides and Stuart Roy, Chao's spokesman, was formerly McConnell's press secretary. Another former McConnell staffer, Andrew Rajec, was hired to work as a special assistant at MSHA, where he attended several meetings on the Martin County report. In 2002, a Kentucky mine owner named Bob Murray threatened to have some MSHA inspectors fired because they had cited his mines for failing to comply with regulations. "Mitch McConnell calls me one of the five finest men in America," Murray told the inspectors, according to local press accounts. "And the last time I checked, he was sleeping with your boss."

Signed, sealed, and delivered

Spadaro realized that the industry-friendly climate at MSHA meant that his findings on the Martin County flood were not going to be heard - which meant, he believed, that the only way to find justice was to go public. On April 11, 2001, the Charleston Gazette and the Lexington Herald-Leader ran stories about Spadaro's resignation from the investigation. They quoted him calling the report a whitewash. "I do not believe," Spadaro wrote in his resignation letter, which the newspapers published, "that the accident investigation report, as it is now being developed, will offer complete and objective analysis of the accident and its causes." Spadaro's decision to go public struck his colleagues as suicidal, and no one else followed him.

The next week, Secretary Chao responded to the press reports about the internal war at MSHA by telling a reporter: "It's time to call off the MSHA food fight over the Martin County Coal Slurry investigation."

Chao requested that the Department's Inspector General review Spadaro's complaints, but her characterization of the investigation controversy as a "food fight" was not well received by the local press. A Louisville Courier-Journal editorial accused Chao of trivializing the Martin County catastrophe and its victims: "If water supplies had been ruined in a bunch of eastern seaboard suburbs, instead of in mountain hollows, would she have dared to be so flip?"

Even with Spadaro off the case, Thompson continued to run into problems with the investigative team. When he assigned four of its engineers to draft a list of violations, they presented him with eight, of which Thompson would only agree to two. For the next several months, Thompson stopped meeting with the investigators altogether and didn't give them access to information about the report's progress until it was completed and ready to be signed.

In October 2001, Thompson asked the seven remaining team members to sign the report without seeing the final draft. According to two of the probe's staffers and an internal report, when Thompson asked them to sign it blind, four in the office refused. After a conference call with David Lauriski, MSHA's top official in Washington, the four dissenting team members were given permission to read the report, but only to check for typographical errors. When the engineers reviewed the final drafts, they saw that Massey Energy had only been cited for two relatively weak violations - the charge that it had provided inaccurate maps did not make the shortlist. After Lauriski told them that it would be good for the agency if they signed the report, all of the investigators complied. "I didn't think it would be a good career move not to [sign], one of them told me. (Lauriski declined to be interviewed for this story, citing MSHA policy).

In April 2002, MSHA levied \$110,000 in fines upon Massey Energy - \$55,000 (the maximum fee allowable) for each of two violations for an unwarrantable failure to prevent the spill. (A Kentucky administrative law judge would later reverse one of the charges, proving how weak it was, and reduce its fine from \$55,000 to \$5,600.) Had all the violations Spadaro's team found been included in the final report, Massey would have been subject to far heavier fines, increased legal liability, and possible criminal penalties. And MSHA would have produced a report that blamed itself for failing to adequately police the industry - an embarrassment for an administration that was fighting to loosen restrictions on coal companies.

Of coal and cronyism

Spadaro returned to his day-to-day government job as superintendent of the National Mine Health and Safety Academy. But after Martin County, he had begun to see himself as a whistleblower on a mission to draw attention to the corruptions of the Mine Health and Safety Administration. First, he continued to press the Martin County case, charging, in his conversations with reporters and in the letters he sent to the Department of Labor's Inspector General, that MSHA had covered up Massey's transgressions. Then in May 2002, Spadaro launched another sequence of letters to the IG claiming that two independent contractors had been hired by the academy without any competitive bid process. The contractors, who taught educational training programs for mining inspectors, were close friends and old business associates of Lauriski and his two deputy assistant secretaries, John Caylor and John Correll. Spadaro followed up on his two May letters to the Inspector General with another one in August in which he said that, on August 1, Caylor had threatened to fire him if he didn't stop raising questions about the no-bid contracts.

Just one month after Caylor's threat, Spadaro's government credit card and travel records were audited. It turned out that between November 2001 and July 2002, he had used his government credit card to take out 13 cash advances when he needed money to entertain dignitaries and students at the academy. The processing fees for those 13 cash advances totaled \$22.60. Spadaro paid his bills on time. In October 2002, Spadaro was told that his abuse of the credit card was a "serious offense." One year later, he was informed that he would be suspended for three days for the crime of making cash advances when he wasn't on official government travel.

Ellen Smith, the editor of Mine Safety and Health News, an independent newsletter that covers MSHA, stumbled onto the story. Smith, who knows far more about this small, obscure agency than any other journalist, had been looking through the department's employee credit card violation records, which she had obtained under the Freedom of Information Act. She was working on a story about employees who did not pay their credit card bills, and found Spadaro's name on the very bottom of the list of 50 offenders. "Jack Spadaro's name was on that list, but it was for such a miniscule amount of charges, and he had always paid them back," said Smith. "He wasn't the kind of person I was targeting in my story. I was targeting people who didn't pay back." Then Smith discovered that Spadaro, unlike many of the more serious offenders, was being disciplined for his credit-card offenses. "After I started asking questions about Jack, they asked me to package up all of the FOIA information they had sent me and send it back

to them so they could sanitize it." Smith consulted a lawyer first and refused to return the files. Fearful that the government might try to confiscate the material, she made a copy and gave it to a friend to keep safely.

On Oct. 28, 2002, Smith published an article claiming that Spadaro had been unfairly targeted for his credit-card problems because senior agency officials had tabbed him as a troublemaker since the Martin County fiasco. Smith showed that 50 MSHA employees had charged a total of \$51,001 on their government credit cards which they never paid back. One employee even charged \$2,000 on his card at Value City Furniture. Spadaro's case was so minor in comparison to the others that, Smith wrote, "it appears as though the alleged 'credit card offenses' might be an attempt to get rid of a whistleblower."

Smith continued to write about several of Spadaro's complaints - the Martin County flood report, the sole-source contracting, and an ignored sexual-harassment case at the academy. After she had published three stories based on Spadaro's information, Lauriski paid Smith a home visit. The assistant secretary for MSHA and one of his deputies traveled all the way from Washington to the little town of Mendon, outside Rochester, N.Y., for an "off-the-record" discussion about Smith's newsletter. One of the items on Lauriski's agenda was Spadaro. "They brought two letters from people at the academy who had complaints about Jack and crossed out their names," said Smith. "At MSHA there are always complaints. If two is best you can do out of the whole academy, that's pretty weak. They just kept on saying to me there are things [about Jack] that you don't know. We can't tell you because it's a personnel issue. It's a privacy thing. They kept saying, 'you aren't accurate here or there,' and I said 'show me' and they wouldn't so I said, 'then you can't tell me I'm not accurate.'"

Bond, Sam Bond

In the winter of 2003, two reports came just short of vindicating Spadaro. In January, an internal MSHA review admitted that the agency's oversight of the Martin County slurry impoundment had been lax, but did not lay blame for the flood on the agency. Then, on Feb. 19, 2003, the Labor Department's Inspector General released its report on the Martin County investigation. The IG confirmed some of Spadaro's allegations: that MSHA officials had backed off six out of eight citations against Massey Energy, that investigators were denied access to the files, and that several members of the investigative team had initially refused to sign the report because they were prohibited from reading it. The IG even reported that Spadaro "may have" been subjected to retaliation by higher ups, but concluded that the Martin County report was fair and accurate, and that Spadaro had not substantiated his charges that it was a whitewash.

But the IG chose to invoke exceptions in the federal open-records law and censored almost half of the 26-page document (a step very rarely taken), leaving more questions than answers. The credibility of the report's conclusion that there had been no cover-up was therefore hindered by its own cover-up. A scathing editorial in the Louisville Courier-Journal accused the IG of withholding important information: "Public confidence in MSHA won't be bolstered by a report that's full of black lines where information should be."

On June 4, 2003, Spadaro drove up to MSHA headquarters in Arlington, Va., for a routine administrative meeting. When the meeting ended, he was told to report to his boss, Jeff Duncan, the director of Education Policy and Development. It was getting dark and Spadaro remembers that no lights were on in Duncan's office. When Spadaro walked in, he noticed that Duncan had company - a woman from the personnel office and a lawyer from the Department of Labor. Both of these strangers sat quietly.

"I need to talk to you about Sam Bond," said Duncan. Bond was an MSHA mine inspector who had developed multiple sclerosis and could no longer work in the field. For the past three years, he had been teaching a course at the academy and living there during the week free of charge.

"Who gave you the authority to let him stay at the academy for free?" Duncan asked.

"You did, Jeff," Spadaro said, a little thrown.

Then Duncan handed Spadaro a letter and told him that he had been placed on administrative leave. He was being investigated for abuse of authority and was forbidden to return to his office or to contact any of the employees at the academy. Spadaro was stunned. He had never been warned about Sam Bond. Instead of being disciplined for helping the disabled inspector, Spadaro expected to be commended for finding a way to keep Bond working. To Spadaro, the accusation seemed beyond absurd. Without another word, he stood up and left the room.

When Spadaro called his secretary at the academy to give her the news, she told him that three MSHA officials were already in his office, putting files into boxes and confiscating his computer's hard drive.

They had even dismantled the photos of his wife and daughter on his desk to search for any incriminating documents that might lie inside the frames. When they had asked to have the locks on Spadaro's office door changed, the maintenance staff refused. The MSHA officials had to find a locksmith in the yellow pages.

Worn-down whistleblower

On Oct. 2, 2003, Jack Spadaro was fired. A 10-page memo written by Frank Schwamberger, deputy director of education policy and development at MSHA, listed a series of cases where Spadaro had allegedly abused authority and failed to follow official procedures and instructions. It detailed complaints from academy employees who were upset about being forced to move from one office space to another, employees upset over having to change the scope of their jobs, and, in one case, being denied a promotion. The memo also detailed the \$22.60 in cash advance fees on Spadaro's government credit card. Spadaro fought back by filing a grievance with the Office of Special Counsel (OSC), a federal agency that handles whistle-blower complaints, and four months later, his status was switched back from termination to administrative leave.

Spadaro also hired a West Virginia lawyer and filed suit against MSHA for retaliating against him. In February 2004, he was told that he would be transferred to the Agency's Pittsburgh MSHA office and demoted. He appealed the demotion and transfer on the grounds that it was in retaliation for his whistleblowing. The OSC ruled that he would have to work in Pittsburgh while he was waiting for his appeal to be processed.

Rather than move to Pittsburgh, Spadaro decided to give up the fight. On Oct. 1 - just two months shy of his 28th anniversary as a federal government employee - he resigned. A serious case of high blood pressure, lawyer's fees of over \$20,000, and frustration with how long it was taking for his appeal to be decided by the Merit Systems Protection Board contributed to Spadaro's decision to throw in the towel. "I'm just very tired of fighting," he said. "I've been fighting this administration since early 2001. I want a little peace for a while."

His three-year-fight against the Bush administration may have cost him his job, but it also made him a folk hero in Kentucky coal country. "Normally, I don't like federal mining investigators," Linc Chapman told me. "But it's a shame that some one who stood up for what was right has to pay for it. Everyone here [in Inez] is like me. They think Jack got a raw deal. He rocked the boat so they threw him overboard."

Clara Bingham is the author of *Women on the Hill* and co-author of *Class Action*.

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