

West Virginia Office of Miners' Health, Safety and Training

October 28, 2007

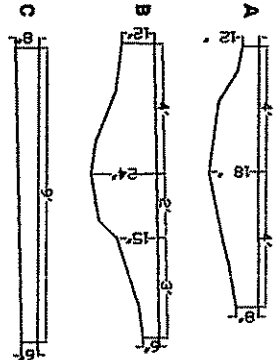
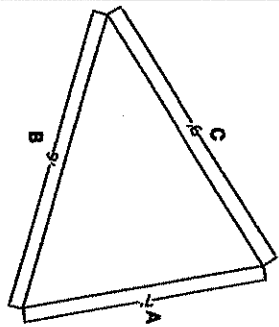
Struck by Material Fatality
Long Branch Energy
Mine No. 23
Permit No.: U-143-82-A

Region Three – Danville Office
137 Peach Court, Suite 2
Danville, WV 25053
Eugene White, Inspector-at-Large

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TOP ROCK



NOT TO SCALE

FATAL ACCIDENT

LONGBRANCH 23
CC 10 MINE
MSHA: 46-08637
STATE: U-143-82A

OCTOBER 28, 2007

LOCATION:
BREAK 55 AT STATION 220

* APPROXIMATE ROCK LOCATION PRIOR TO INCIDENT

42' BELT

RIB ROLL GOB

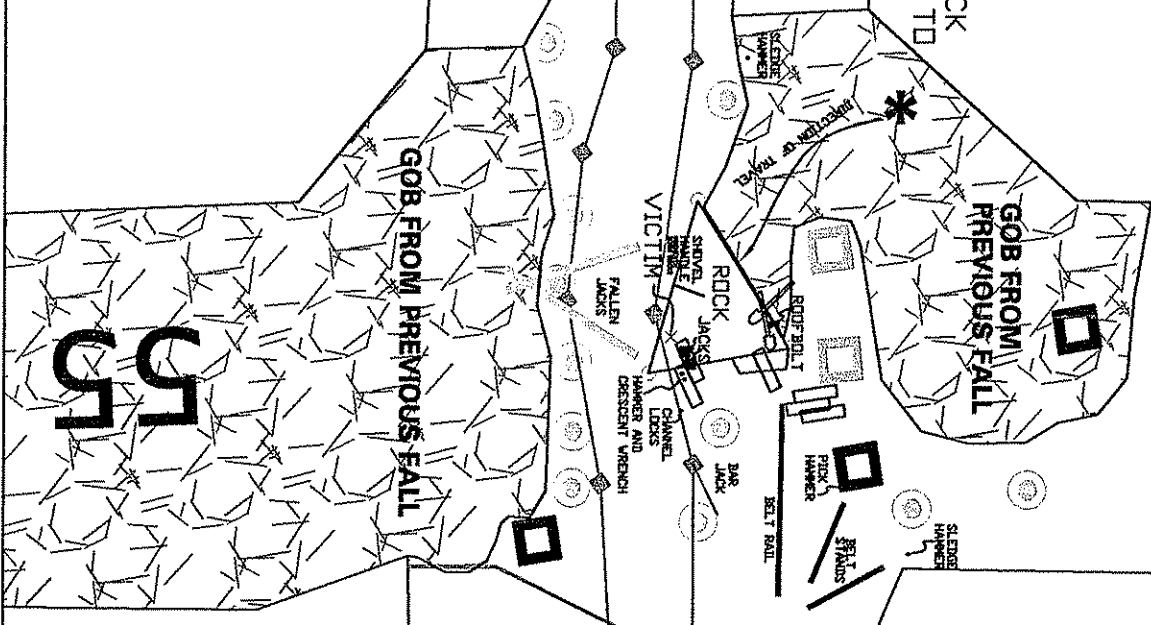
RIB ROLL GOB

BOTTOM ROCK

BOTTOM ROCK IS APPROXIMATELY 9" THICK



NOT TO SCALE



SCALE 1" = 10'

⊗	VICTIM
◻	EXISTING CRIB
◻	NEW CRIB
⊙	HEINZMAN JACK
•	SMALL TOOL
—	BELT STRUCTURE AFFECTED
—	HIGH TOP BOUNDARY AVERAGE APPROXIMATELY 14'
—	CRIB BLOCK
—	RIB ROLL GOB
—	PREVIOUS FALL GOB

Struck By Material Fatality
Long Branch Energy
Mine No. 23
Permit No.: U-143-82-A
October 28, 2007

General Information

Long Branch Energy, Mine No. 23 received an underground mining permit July 11, 1997. This is a drift mine, operating in the Lower Campbell's Creek seam. The mine employs 55 people on three shifts, two production and one maintenance. One continuous mining section was in operation at the time of this accident. Employees and supplies are transported on battery powered rubber tired vehicles and coal is transported by conveyor belt. Coal is routinely produced Monday through Saturday.

Mr. Charles Jason Keeney, age 34, was fatally injured on October 28, 2007 at approximately 7:40 p.m. Mr. Keeney was cleaning the mine's No. 4 conveyor belt for purposes of clearing a walkway when a section of rock leaning against a 100 ton Heintzmann jack toppled over pinning him against the frame of the conveyor belt. The rock toppled when the Heintzmann jack suddenly became dislodged. Mr. Keeney had been employed at Mine No. 23 for approximately 27 months and had several years of mining experience at small mines. Mr. Keeney was classified as a roof bolt machine operator at the time of this accident.

Description

On Sunday, October 28, 2007 Mr. Keeney and other mine employees, Keith Maynor, Nicholas Jeffrey, Tommy Carpenter and Tim Light reported to work in preparation for a 3:00 p.m. afternoon shift starting time. The men had been scheduled to work under the direction of out-by foreman, Harold Dancy. No production had been scheduled for the day.

Prior to the 3:00 p.m. start, Mr. Dancy approached Mr. Keeney along with Nicholas Jeffrey and Keith Maynor in the maintenance shop located on the surface. The three men were assigned to rebuild two cribs and re-establish an adequate walkway along the No. 4 belt conveyor at the No. 55 crosscut.

The two cribs had been dislodged by a roof fall which occurred approximately three weeks prior. Two other men, Tommy Carpenter and Tim Light were directed to install a water discharge line elsewhere in the intake airway near the Four Left Section.

Nicholas Jeffrey brought a scoop loaded with crib blocks to the No. 59 crosscut on the main haulage road, where he was met by Mr. Keeney and Mr. Maynor sometime between

3:30 and 4:00 p.m. The crib blocks were loaded onto the No. 4 conveyor belt and transported to the No. 55 crosscut location along the No. 4 conveyor belt.

The three employees immediately began rebuilding the two cribs that had been damaged earlier by a roof fall. Due to previous falls, the height in this area was approximately thirteen feet. Typical height in this belt entry, in the immediate area, is roughly five feet and as low as four feet in some locations. When the employees arrived at the work location, they noticed a large section of rock standing along the rib line. The rock was standing nearly vertical with only a slight tilt and was resting against a 100 ton Heintzmann jack. Both Mr. Jeffrey and Mr. Maynor indicated that at times they were placing the crib blocks on the top of the large rock or were working off the top of the big rock in order to rebuild the cribs. Once the cribs were completed, they decided to break for lunch before starting to clean the belt walkway.

The three man crew began their lunch break a little before 7:00 p.m. and finished a little after 7:00 p.m. While the three men were on their lunch break, supervisor Harold Dancy stopped and checked on them. After lunch the three started the second part of their job, which was to clear a walkway on the off-side of the conveyor belt. When the large piece of rock had fallen three weeks earlier, a multitude of smaller pieces had fallen as well. Several of these smaller pieces were against the belt structure and in the off-side walkway.

The three man crew began clearing the walkway using sledge hammers to break up the rock and shovels to transfer it onto the belt. The walkway being cleaned was between twenty to twenty-four inches wide, the distance between the belt and the Heintzmann jacks. This work was accomplished pretty quickly and the three men were almost finished with clearing the walkway, when, without warning the large rock leaning against the Heintzmann jack suddenly fell. The rock struck Mr. Keeney, shoving him down and trapping him between the rock and the belt line structure and/or mine floor.

When Mr. Jeffrey and Mr. Maynor heard the noise from the rock falling, they turned to see Mr. Keeney trapped beneath the rock. They jumped across the belt and moved to a point where they were alongside Mr. Keeney. They first tried to get Mr. Keeney from under the rock, seeing that they couldn't get him out, they attempted to pry the rock up but it was too large. Mr. Jeffrey decided to get help and instructed Mr. Maynor to stay with Mr. Keeney. He proceeded to get his ride and traveled to No. 7 intake to get help from Tommy Carpenter, Tim Light and Harold Dancy. Before leaving for No. 7 intake, Mr. Jeffrey called the outside man and told him to call an ambulance that a rock had fallen on Mr. Keeney. Mr. Jeffrey then traveled to No. 7 intake and informed the other three men of the situation. They all proceeded back to the accident scene, which took approximately ten minutes.

When Harold Dancy and the other crew members arrived at No. 4 belt, they grabbed the lifting jacks from their trips and proceeded to the accident scene. Before going to the

accident scene, Mr. Dancy instructed Mr. Jeffrey to go outside and bring the large first-aid kit to their location. Mr. Dancy and his co-workers used the lifting jacks to lift the rock and free Mr. Keeney from beneath it. Mr. Keeney was checked several times from the time he was first pinned until he was extricated from beneath the rock, and no-one was able to detect a pulse. Mr. Dancy and Mr. Light attempted to do CPR but were unsuccessful.

By the time Mr. Keeney was extricated from beneath the rock, Mr. Jeffrey had returned from outside with the first-aid kit. Mr. Keeney was loaded onto a stretcher, carried to the roadway where he was then loaded onto a rubber tired mantrip and transported to the surface; arriving shortly before 9:00 p.m. Mr. Keeney was transported by Boone County Ambulance Service to Boone Memorial Hospital where he was pronounced dead.

Findings of Fact

1. Mine No. 23 is owned and operated by Long Branch Energy.
2. The accident occurred on the No. 4 belt at crosscut No. 55.
3. A roof fall occurred on October 7, 2007, resulting in the large rock standing alongside the belt.
4. The large section of rock measured nine feet by seven feet by six feet.
5. Mr. Keeney was shoveling alongside the No. 4 belt when the rock toppled over.
6. The large piece of rock was in a vertical position against a 100 ton Henitzmann jack.
7. No contributing violations were issued as a result of the investigation.

Conclusion

Mr. Charles Jason Keeney, age 34, was fatally injured when he was crushed by a large section of rock. The rock measured nine feet by seven feet by six feet. The rock was positioned alongside the No. 4 belt when it suddenly toppled pinning Mr. Keeney against the frame of the No. 4 belt. Mr. Keeney and two other employees had been cleaning the walkway along the No. 4 belt when the accident occurred.

Recommendations

The following recommendation was offered by the company and agreed to by the West Virginia Office of Miners' Health, Safety and Training.

Additional General Safety Precaution to Roof Control Plan

28. If rehabilitation work is to be performed in the walkway or roadway next to conventional support (floor to roof support) where roof or rib failure has occurred, the following safety precautions will be observed:
- (A) A certified person will examine the area to be rehabilitated.
 - (B) Specific clean-up and support procedures will be developed and posted at the work site.
 - (C) All persons assigned to perform the rehabilitation work will be instructed in the clean-up and support procedure.
 - (D) All persons who perform the rehabilitation work will be experienced in this work or directly supervised by a person experienced in this work.

Enforcement Action

There were no violations cited that contributed directly to the accident. Two non-contributing violations were issued during this investigation

Appendix

- Mine Information Sheet
- Victim Information Sheet
- Persons Present During Investigation
- Non-contributing Violations

MINE INFORMATION

COMPANY Long Branch Energy

MINE Mine No. 23

WV PERMIT U-143-82-A MSHA PERMIT 46-08637

ADDRESS P. O. Box 776, Danville, WV 25053

COUNTY Boone PHONE NO. 304-247-6971

DATE PERMIT ISSUED 05/07/1997

WORKING STATUS Active

LOCATION Bennetts Fork of Pond Fork near Wharton, WV

UNION X NON-UNION

DAILY PRODUCTION 1,100 tons ANNUAL PRODUCTION TO DATE 226,358

TOTAL EMPLOYEES 55

NUMBER OF SHIFTS 2 production, 1 maintenance

COAL SEAM NAME AND THICKNESS Campbells Creek 40" to 60"

ACCIDENT INCIDENT RATE 6.91 LOST TIME ACCIDENT 3

TYPE OF HAULAGE Shuttle Car & Belt

WVOMHST INSPECTOR Timmy Duffey

DATE OF LAST INSPECTION 10/25/2007

NOTIFIED BY Chris Crawford

NOTIFICATION TIME Approximately 8:00 pm

CMSP – ANNIVERSARY DATE 09/27/2007

CMSP – CONTACT PERSON Philip Ball

VICTIM INFORMATION

NAME Charles Jason Kenney

ADDRESS [REDACTED]

PHONE NO. _____ AGE 34 SOCIAL SECURITY NO. _____

TOTAL MINING EXPERIENCE _____ EXPERIENCE AT THIS MINE 27months

AVERAGE NUMBER OF DAYS WORKED PER WEEK 4

AVERAGE NUMBER OF HOURS WORKED PER WEEK PER DAY 10

LENGTH OF SHIFTS AT THIS MINE 10 hours

TRAVEL TIME TO/FROM WORK 30 minutes

OCCUPATION AT TIME OF ACCIDENT Beltman

REGULAR OCCUPATION Roof Bolt Machine Operator

COAL MINER'S CERTIFICATION [REDACTED]

OTHER CERTIFICATIONS [REDACTED] surface Coal Miner Certification

SPOUSE'S NAME [REDACTED]

DEPENDENTS [REDACTED]

DATE OF ACCIDENT 28th DAY OF October, 2007

AT 7:00 O'CLOCK p.m.

CAUSE OF ACCIDENT Struck by Material

DATE OF DEATH 28th DAY OF October, 2007

The following persons were present for the initial onsite investigation conducted on October 28, 2007.

Long Branch Energy

Greg Patterson	President
Gerald Doss	Mine Foreman
Harold Dancy	Out-by Foreman

Mine Safety and Health Administration

Rodney Lusk	Accident Investigator
Jack Hatfield	CMI

United Mine Workers of America

Reggie Wade	Safety Committeeman
Ray Bennett	Safety Committeeman
Roger Greene	Safety Committeeman

West Virginia Office of Miners' Health, Safety and Training

Eugene White	Inspector-at-Large
Steve Cox	Assistant Inspector-at-Large
Tim Duffey	District Inspector

The following individuals were present during the underground investigation conducted on October 29, 2007.

Long Branch Energy

Greg Patterson	President
Phillip Ball	Superintendent
Gerald Doss	Mine Foreman

Mine Safety and Health Administration

Rodney Lusk	Accident Investigator
Rich Cline	Assistant District Manager
Don Winston	Roof Control Specialist
Jack Hatfield	CMI
Brian Morris	CMI

United Mine Workers of America

Gary Trout	International Representative
Joe Carter	International Vice-President
Ray Bennett	Safety Committeeman
Reggie Wade	Safety Committeeman

West Virginia Office of Miners' Health, Safety and Training

Terry Farley	Enforcement Administrator
Steve Lafferty	District Inspector
Willie Barker	Safety Instructor

The following persons were present during the formal interviews conducted at the Mine Safety and Health Administration Office at Uneededa, WV.

Long Branch Energy

Greg Patterson	President
Julia Shreve	Attorney-Jackson & Kelly
Mike Cimino	Attorney-Jackson & Kelly
Harold Dancy *	Out-by Foreman
Nicholas Jeffrey*	Underground Utility
Chris Cook *	Supervisor
Keith Maynor *	Roof Bolter Operator
Thomas Carpenter*	Scoop Operator

*Denotes persons interviewed

Mine Safety and Health Administration

Rodney Lusk	Accident Investigator
Luther Marrs	Assistant District Manager
Sharon Cook	Training Specialist

West Virginia Office of Miners' Health, Safety and Training

Terry Farley	Enforcement Administrator
Eugene White	Inspector-at-Large
Steve Cox	Assistant Inspector-at-Large

United Mine Workers of America

Gary Trout	International Representative
Ray Bennett	Safety Committeeman

Danny Breedlove
Reggie Wade

Safety Committeeman
Safety Committeeman

my copy

IF-018
Revised 4-07

STATE OF WEST VIRGINIA

Copies - Company
Inspector
Assessment
Regional Office
Post
Rep of Mines

OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East
Charleston, West Virginia 25311-2126

Region 3
No. 225-0017
Violation No. 1

NOTICE OF VIOLATION

Company / Operator Lony Branch Energy Contractor: Yes No
Permit Number 12-0014382-A Mine Name mine #23
Date of Issue 11-13, 20 07 Time 8:00 A.M. P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 25 (a) and/or West Virginia Administrative Regulation: Title _____, Series _____, Section _____ exists as follows:

The state approved Roof control Plan at this mine is not being comply with in that at Break 53 to Break 55 Roof is showing cracks and is sagging in these areas, excessive weight is also showing on the cribs, Roof Bolts and Heavies track and beam across the No 4 conveyor Belt

Also the state approved Roof control Plan is not being comply with in the No 5 Entry (Roadway) at Break 37 to 35 Break in that the Legs of the Arches are Bent Due to equipment hitting them and the top of the Arches Tin or metal has been Damage Due to Rocks falling on Top of Arches

Type of Issuance: N.O.V. Order
Area or equipment (if order is issued): _____

The foregoing violation shall be totally abated by 8:00 a.m. p.m. on 11-30 20 07

The foregoing violation was totally abated by _____ a.m. _____ p.m. on _____ 20 _____

Action taken to abate the violation: _____

Company / Operator Agent Served: Gerald Davis

Authorized Representative: Jim Duffy Inspector No. 225

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S and S Violation: Recommend Special Assessment:

Likelihood of Occurrence: Unlikely: *(0) _____ Reasonably likely (10) Occurred (20) _____

Severity of Injury Expected: None: *(0) _____ No lost work days *(6) _____ Lost or restricted days (11)

Permanently disabling (15) _____ Fatal (20) _____

No. of Persons Potentially Affected: 0 (0) _____ 1 (1) _____ 2 (2) 3 (4) _____ 4-5 (6) _____ 6-9 (8) _____ 9+ (10) _____

Negligence: None (0) _____ Low (10) Moderate (15) _____ High (20) _____

Knowing Violation: No _____ Yes _____ Repeat _____

Good Faith in Abatement: Lack of good faith (+15%) _____

No compliance (extenuating circumstances) (0%) _____

OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator Long Branch Energy Contractor: Yes No [checked]
Permit Number U-0014382-A Mine Name mine #23
Date of Issue 12-17, 20 07 Time 10:30 A.M. [checked] P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 39 (a) and/or West Virginia Administrative Regulation: Title, Series, Section exists as follows:

In conduct of an investigation made along the N° 4 conveyor Belt, no Dates, Times, or Initials were found to show that the area was examine for mine Gases and Hazardous Roof or Rib conditions Prior to men working along the N° 4 conveyor Belt. Three men was working along the N° 4 conveyor Belt. Also the Belt examiner mine Foreman - Fire Boss or Assistant mine Foreman Did not Record in the Book Provided to show the N° 4 conveyor Belt was examine for unsafe conditions. Evidence shows the N° 4 conveyor Belt was RAN on the Evening shift.

Type of Issuance: N.O.V. [checked] Order

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by a.m. p.m. on 20

The foregoing violation was totally abated by 6:00 p.m. on 12-18 20 07

Action taken to abate the violation: TALK to mine Foreman about his Responsibility to making sure that the mines is Fire Boss.

Company / Operator Agent Served: Gerald Pass

Authorized Representative: Jim Duffey Inspector No. 225

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S-and S Violation: [] Recommend Special Assessment: []
Likelihood of Occurrence: Unlikely: *(0) Reasonably likely (10) [checked] Occurred (20)
Severity of Injury Expected: None: *(0) No lost work days *(6) [checked] Lost or restricted days (11)
Permanently disabling (15) Fatal (20)
No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) [checked] 4-5 (6) 6-9 (8) 9+ (10)
Negligence: None (0) Low (10) Moderate (15) [checked] High (20)
Knowing Violation: No [checked] Yes Repeat
Good Faith in Abatement: Lack of good faith (+15%)
No compliance (extenuating circumstances) (0%) Extra effort (-15%)

State of West Virginia
Office of Miners' Health, Safety and Training

1615 Washington Street, East
Charleston, West Virginia 25311-2126

White - Company
Blue - Inspector
Green - Charleston
Canary - Regional Office
Pink - Post
Goldenrod - Rep. of Mines

Region 3
Case No. 225-0017

INSPECTION OF VIOLATION

Good faith in abatement: Lack of good faith (+15%) _____

No compliance (extenuating circumstances) (0%) _____ Extra effort (-15%) _____

Violation Number 2 was/is hereby MODIFIED totally abated by Feb. 21, 20 08
10:00 a.m. _____ p.m., _____ extended to _____, 20 _____, _____ modified to _____
Order, _____ Withdrawn.

Action taken to abate the violation: From Violation No. 2 to Violation No. 1 under Case No. 225-0017. In addition, violation should read as follows: During an accident investigation made on No. 4 Belt concerning an accident which occurred on

Good faith in abatement: Lack of good faith (+15%) _____

No compliance (extenuating circumstances) (0%) _____ Extra effort (-15%) _____

Violation Number _____ was/is hereby _____ totally abated by _____, 20 _____
_____ a.m. _____ p.m., _____ extended to _____, 20 _____, _____ modified to _____
Order, _____ Withdrawn.

Action taken to abate the violation: October 28, 2007, no dates, times or initials were found to verify an examination made on No. 4 Belt from break 60 to break 50. Also, the No. 4 Belt conveyer was not properly examined, in that, the belt was

Good faith in abatement: Lack of good faith (+15%) _____

No compliance (extenuating circumstances) (0%) _____ Extra effort (-15%) _____

Violation Number _____ was/is hereby _____ totally abated by _____, 20 _____
_____ a.m. _____ p.m., _____ extended to _____, 20 _____, _____ modified to _____
Order, _____ Withdrawn.

Action taken to abate the violation: only fire-bowed from break 60 to break 50, the entire belt was not examined, but was ran several times on evening shift. This change was made as a result of an assessment conference.

Good faith in abatement: Lack of good faith (+15%) _____

No compliance (extenuating circumstances) (0%) _____ Extra effort (-15%) _____

Violation Number _____ was/is hereby _____ totally abated by _____, 20 _____
_____ a.m. _____ p.m., _____ extended to _____, 20 _____, _____ modified to _____
Order, _____ Withdrawn.

Action taken to abate the violation: _____

Good faith in abatement: Lack of good faith (+15%) _____

No compliance (extenuating circumstances) (0%) _____ Extra effort (-15%) _____

Violation Number _____ was/is hereby _____ totally abated by _____, 20 _____
_____ a.m. _____ p.m., _____ extended to _____, 20 _____, _____ modified to _____
Order, _____ Withdrawn.

Action taken to abate the violation: _____

Company/Operator Agent served: Gerald Doss Date: 2-25, 20 08
Authorized Representative: Jim Duffey Inspector Number 225