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West Virginia Office of Miners' Health, Safety and Training

February 10, 2004

Fatal Surface Haulage Investigation Report  
Colony Bay Coal Company  
Colony Bay Surface  
Permit No. S-5009-89

Region Three – Danville Office  
137 Peach Court, Suite 2  
Danville, West Virginia 25053  
Harry Linville, Inspector-at-Large

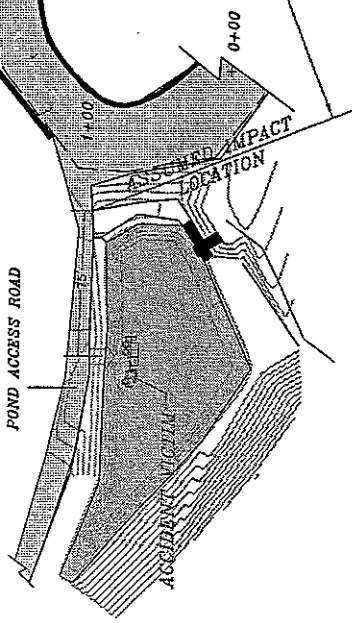
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WINIFREDE MINES POND  
U-6006-93 AND U-6007-93 PERMIT

POND ACCESS ROAD



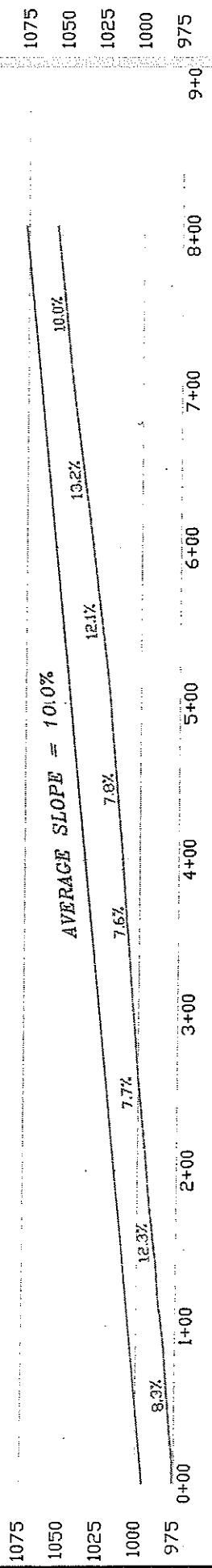
COLONY BAY PERMIT  
H-534 PERMIT  
HAULROAD/ ACCESS ROAD

HIGHWALL SIDE  
BERM SIDE

APPROX CL CONVEYOR

ASSUMED START OF BRAKE  
LOSS LOCATION

ROAD PROFILE



MAP SHOWING  
LUB-TRUCK ACCIDENT  
COLONY BAY COAL COMPANY  
FEB. 10, 2004



**Fatal Surface Haulage Investigation Report**  
**Colony Bay Coal Company**  
**Colony Bay Surface**  
**Permit No. S-5009-89**

**GENERAL INFORMATION**

A surface mine haulage accident occurred on February 10, 2004 at approximately 6:30 p.m. at the Colony Bay Coal Company Surface Mine located near Wharton in Boone County. Mr. Robert M. Littreal, age 54, was descending the mine's main access road in a 1993 Chevrolet (Kodiak) service truck which apparently went out of control striking a berm alongside a sediment pond. The truck traveled approximately 70 feet along an access road running parallel to the pond. The truck slid off the road down an embankment into the pond. Mr. Littreal was submerged inside the truck for at least two to three minutes. Mr. Littreal had 22 years and 14 weeks of surface mine experience and had worked at this mine for almost 18 years. Mr. Littreal was classified as a truck driver at the time of this accident. Following the accident, Mr. Littreal remained hospitalized until he passed away on February 26, 2004.

The accident was reported to Office of Miner's Health, Safety and Training Inspector-at-Large, Harry Linville, at approximately 6:45 p.m. on February 10, 2004. Harry Linville, Steve Cox, and Randall Bailey went to the mine later the same day to investigate the accident that was not expected to be fatal. Bailey inspected the accident site and the truck involved in the accident. Investigators from MSHA arrived the following day and the investigation continued.

The Colony Bay Coal Company, Colony Bay Surface Mine was permitted to begin mining on August 24, 1981. Thirty-five people are employed on two shifts. Mountain top mining methods are used. The mine's main access road starts at route 85 and extends for at least three miles to the mountaintop area where mining is conducted. The accident site location is approximately midway along the road.

**DESCRIPTION**

On Tuesday, February 10, 2004 the evening shift crew under the direction of Leland Bell began work at the normal starting time of 2:30 p.m. Robert Littreal and Al Proffitt were assigned to fuel equipment. The normal fuel truck was not operational, and the plan called for Littreal to drive a Caterpillar 777, rock truck with Proffitt assigned to pump fuel from the truck to other equipment to accomplish the necessary fueling. Mike Bell, Barry Ryder, and Bobby Deweese were assigned to work on a slip near the mid-point of the main access road. The three men were to use a backhoe, articulating truck and a bulldozer to stabilize the slip.

At approximately 5:30 p.m. Barry Ryder called foreman, Leland Bell and said that he needed a mechanic to cut a piece of metal that was hanging underneath the backhoe. Ryder felt that the hanging metal might damage the backhoe. Leland Bell instructed Proffitt and Littreal to go take care of the problem with the backhoe. Sometime later Leland Bell checked the progress of the work at the backhoe. Proffitt indicated that the backhoe had a burnt hydraulic line and that he and Littreal were going to the mountaintop shop to make a new line.

While at the shop Proffitt determined that he would need to return to the backhoe for another look before making the new hydraulic line. According to Proffitt, Littreal stated that since they had to make an additional trip to the backhoe he would check out the service truck and start it to warm it up because it would be needed later to put oil in the backhoe hydraulic system after the repairs were completed. After a second trip to the backhoe, Proffitt and Littreal returned to the shop and found the materials needed. Littreal then took the service truck and departed down the main access line to the backhoe with Proffitt following in a mechanic's truck at approximately 6:30 p.m.

Michael Bell and Ryder were sitting in the articulating truck at the slip area preparing to eat lunch when they heard Littreal yell, "Michael, is anybody coming up the hill? I've lost my brakes, and I'm going to ride it out". Deweese, who was located nearby in a bulldozer along with Proffitt, who was following Littreal in the mechanic's truck, also heard the radio transmission.

Michael Bell and Ryder looked up immediately after the radio transmission and saw the service truck coming down the main access road at a high rate of speed. They stated that Littreal apparently tried to make a right turn onto an access road to the "padded" pond. They stated that the service truck struck the pond's side berm knocking it onto the access road before veering to the left and overturning into the pond. Michael Bell and Ryder immediately drove the articulating truck toward the pond while utilizing their own radio to call for assistance from Leland Bell and others.

The drive to the pond took only a few seconds and Ryder jumped from the articulating truck as soon as it came to a stop near the pond. The two men could see only the service truck's rear wheels extending above the waterline. Deweese, who was nearby in a bulldozer also came immediately to the scene. Ryder then jumped into the water and proceeded to open the service truck's passenger side door since the truck was lying on its left side. Ryder was able to reach into the service truck cab and pull Littreal above the waterline. The others were able to wrap a chain around Littreal's sweatshirt hood to assist in pulling him from the pond. Artificial respiration was briefly administered by Leland Bell and Littreal began breathing on his own. An ambulance had been called within moments after the accident, and it arrived within fifteen minutes. Littreal was transported to Charleston Area Medical Center, General Division. Mr. Littreal remained hospitalized until he passed away on February 26, 2004.

### FINDINGS OF FACT

1. The opinion contained in an autopsy report obtained from the West Virginia Office of the Chief Medical Examiner reads as follows: "Robert B. Littreal, a 54 year old man, died as a result of sepsis and micro-abscess formation of central nervous system, lungs, liver and kidneys. The deceased was an unrestrained driver of a service truck that was involved in a roll-over accident on February 10, 2004, while at work, with admission diagnosis of pulmonary contusion and aspiration pneumonia. The deceased was hospitalized for 16 days and developed sepsis. The manner of death is classified as accident."
2. The vehicle involved in the accident was a 1993 Chevrolet (Kodiak) truck designed and used for service and lubrication purposes.

3. The vehicle is equipped with a Detroit Allison automatic transmission. The transmission has six speeds and automatically up-shifts to prevent engine damage. The transmission and engine provide no holdback or retarding capabilities.
4. Several brake stroke adjustment measurements on the vehicle exceeded North American Standards Criteria when inspected by OMHST and MSHA inspectors on February 12, 2004. (See Enforcement Actions, Violation No. 1, page 6)
5. Pre-operational examination records pertaining to this vehicle for the previous thirty days were not produced. (See Enforcement Actions, Violation No. 2, page 7)
6. Mr. Littreal picked up the Chevrolet Kodiak service truck at the mine's maintenance shop located on the mountaintop area. This location is 2.2 miles from the accident location known as the "padded" pond.
7. Mr. Littreal was classified as a truck driver but did not routinely drive this vehicle.
8. Water samples were taken from the pond by an MSHA industrial hygienist on March 12, 2004. The results indicated that the water contained quantities of O'B Flocc Pac 100, O'B Defoamer, and Sodium Hydroxide.

### CONCLUSION

The Chevrolet Kodiak service truck went out of control striking a berm and overturning in a pond. The loss of control may be attributed to significant braking capacity loss. Several of the vehicle's brake stroke measurements did not meet OMHST and MSHA standards when examined after the accident.

### ENFORCEMENT ACTIONS

The following notice of violation was determined to have contributed to this accident.

**Title 56, Series 3, Section 42.4(d):** The 1993 Chevrolet Kodiak lube truck involved in an accident on February 10, 2004 did not have adequate brakes when examined by MSHA and OMHST inspectors on February 12, 2004. The right front brake chamber push rod was fully extended and would not release. During an examination with the truck blocked up the right front drive axle brake and the left rear drive axle brake would not stop the wheels from turning when the emergency parking brake was applied. The left front brake stroke measured 3 inches when not applied and 4 ½ inches when applied. The right front brake stroke measured 2 ¾ inches when not applied and 5 ¼ inches when applied. The left front drive axle brake stroke measured 4 ½ inches when not applied and 6 ¼ inches when applied. The right front drive axle brake stroke measured 3 ¼ inches when not applied and 5 ¾ inches when applied. The left rear drum axle brake stroke measured 2 ¼ inches when not applied and 4 inches when applied. The right rear drum axle brake stroke measured 4 inches when not applied and 6 ¼ inches when applied. The North American Standards criteria call for a truck to be removed from service if one brake stroke

measurement exceeds the allowable range by ¼ inch. The maximum brake stroke measurement for type 30 brake chambers is 2 inches, and the maximum brake stroke measurement for type 24 brake chambers is 1¾ inches. This truck was equipped with type 24 chambers on the front axles and type 30 chambers on the rear axles. According to information obtained from the MSHA Technical Support Group, the four tandem drive axle drum diameters exceeded manufacturer's specifications for normal wear. The drum diameter measurement for newly manufactured drums is 16.5 inches and allowable wear may not exceed that measurement by more than 0.120 inches. The front and rear drum diameters on this truck measured 16.750 inches.

The following notice of violation may have contributed to this accident.

**Title 56, Series 3, 42.1(a):** Immediately prior to the beginning of each working shift all equipment except licensed vehicles subject to state highway inspection requirements shall be examined by the equipment operator or a mechanic if designated by the foreman in charge of the daily operation for safety defects. The mine operator could not provide a record of the required examinations that should be maintained for thirty (30) days to the authorized representative of the Director for the 1993 Chevrolet Kodiak lube truck no. 365.

### RECOMMENDATIONS

The following practices will be implemented at this mine as a result of this accident. The practices will also apply to contractors and vendors.

#### **Brakes**

All braking systems shall be maintained as specified by the original manufacturer. Modifications shall be approved by the original manufacturer.

Documentation shall be kept on any maintenance performed on such braking systems.

Any vehicle not meeting the minimum functional requirements specified by the manufacturer shall be removed from service.

#### **Secondary Retarding Systems**

All vehicles on mine property must be equipped with a secondary retarding type system that provides the operator with an additional means of slowing a vehicle if the primary braking system malfunctions.

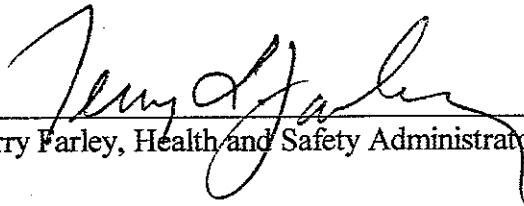
#### **Vehicle Weight Rating**

All vehicles on mine property shall operate at or below the Gross Vehicle Weight Rating (GVWR) specified by the original manufacturer.

Any vehicle that is fitted with a fixture (i.e. utility bed, tanks, dump bed, crane, boom, etc.) not supplied by the original manufacturer of the vehicle must be weighed on an annual basis and documented that the GVWR is maintained.

**ACKNOWLEDGMENT**

The West Virginia Office of Miners' Health, Safety and Training gratefully acknowledges the cooperation of the employees and management of Colony Bay Coal Company, the United Mine Workers of America, and the Mine Safety and Health Administration during this investigation.

  
\_\_\_\_\_  
Terry Farley, Health and Safety Administrator 6-7-04  
Date

  
\_\_\_\_\_  
Harry Linville, Inspector-at-Large 6-1-04  
Date

  
\_\_\_\_\_  
Randall Bailey, Surface Inspector No. 77 6-2-04  
Date



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## **APPENDIX**

- Mine Information Sheet
- Victim Information Sheet
- Supplemental Information
- Persons Present During Investigation

**MINE INFORMATION**

COMPANY Colony Bay Coal Company

MINE NAME Colony Bay Surface

WV PERMIT S-5009-89

ADDRESS P. O. Box 150 Wharton, WV 25013

COUNTY Boone

DATE PERMIT ISSUED August 24, 1981

WORKING STATUS Active - Reclaiming

LOCATION Wharton, West Virginia

UNION  NON-UNION

DAILY PRODUCTION 0 ANNUAL PRODUCTION TO DATE 0

TOTAL EMPLOYEES 35

NUMBER OF SHIFTS 2

COAL SEAM NAME AND THICKNESS Not applicable

ACCIDENT INCIDENT RATE 0 LOST TIME ACCIDENTS 0

TYPE OF HAULAGE Truck

WVOMHST INSPECTOR Randall Bailey

DATE OF LAST INSPECTION November 21, 2003

NOTIFIED BY George Taylor

NOTIFICATION TIME 6:30 p.m. February 10, 2004

CMSP - ANNIVERSARY DATE December 10, 2004

CMSP - CONTACT PERSON C. B. Howell

**VICTIM INFORMATION**

NAME Robert M. Littreal

ADDRESS 516 Teel Road Beckley, WV 25801

TELEPHONE NO. (304)252-0240 AGE 54 SOCIAL SECURITY NO. [REDACTED] 9025

AVERAGE NUMBER OF DAYS WORKED PER WEEK 5

AVERAGE NUMBER OF HOURS WORKED PER WEEK 36.5 PER DAY 7.25

LENGTH OF SHIFTS AT THIS MINE 7.25 hrs. TRAVEL TIME TO/FROM WORK 1.25 hrs.

OCCUPATION AT TIME OF ACCIDENT Truck Driver

REGULAR OCCUPATION Truck Driver

COAL MINER'S CERTIFICATION S-8117

OTHER CERTIFICATIONS None

SPOUSE'S NAME Mona

DEPENDENTS wife

DATE OF ACCIDENT: 10<sup>th</sup> DAY OF February, 2004

AT 6:30 O'CLOCK p.m.

CAUSE OF ACCIDENT: The victim was descending the main access road in a service truck when the truck's braking system failed. The apparent brake failure resulted in the service truck's hitting the berm alongside a sediment pond, traveling approximately 70 feet up the pond road and sliding into the pond. The service truck landed on the driver's side in about 10 feet of water.

DATE OF DEATH: 26<sup>th</sup> DAY OF February, 2004.



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## UNITED MINE WORKERS OF AMERICA

Richard E. Glover	International Representative
Gene Saunders	International Representative
Eddie Kincaid	Safety Committeeman
Charles Albu*	Blaster
Michael Bell*	Truck Driver
Bobby Deweese*	Dozer Operator
Barry Ryder*	Backhoe Operator
Gary Walker, Jr.*	Mechanic

(\* denotes those interviewed)

## MINE SAFETY AND HEALTH ADMINISTRATION

Terry D. Price	Supervisor
Bobby Moreland	Accident Investigator
George R. Nelson	Surface Mine Inspector

## MINERS' HEALTH, SAFETY AND TRAINING

Terry Farley	Health and Safety Administrator
Harry Linville	Inspector-at-Large
Randall Bailey	Surface Inspector
Steve Cox	Safety Instructor

OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING

Region 3  
Case No. 5-5009 89  
Violation No. 1

1015 Washington Street East  
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator Colony Bray Coal Co. Contractor: Yes  No   
Permit Number S-5009 89 Mine Name Colony Bray Surface  
Date of Issue April 5, 2004 Time 10:30  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 \_\_\_\_\_, Article \_\_\_\_\_, Section \_\_\_\_\_ and/or West Virginia Administrative Regulation: Title 56, Series 3, Section 42.4(d) exists as follows: \_\_\_\_\_

The 1993 Chevrolet Kodiak Lube Truck involved in an accident on 2-10-04 did not have adequate brakes when examined by MSHA and OMSHA inspectors on 2-12-04. The right front brake chamber pad was fully extended and would not release. During an examination with the truck blocked up the right front drive axle brake and the left rear drive axle brake wouldn't stop the vehicle from turning when the emergency parking brake was applied. The left front brake stroke measured 3" when not applied and 4 1/2" when applied. The right front brake stroke measured 2 3/4" when not applied and

Type of Issuance: N.O.V.  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 \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. on \_\_\_\_\_ 20\_\_\_\_

Action taken to abate the violation: \_\_\_\_\_

Company / Operator Agent Served: Mike Elkins

Authorized Representative: R. D. Bailey Inspector No. 575

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

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%) \_\_\_\_\_ Extra effort (-15%) \_\_\_\_\_

OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East  
Charleston, West Virginia 25311-2126

Region 3  
Case No. 077-0774  
Violation No. 1(A)

NOTICE OF VIOLATION

Company / Operator Colony Day Coal Co. Contractor: Yes    No 1  
Permit Number S-500989 Mine Name Colony Day Surface  
Date of Issue \_\_\_\_\_, 20\_\_ Time \_\_\_\_\_ 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 \_\_\_\_\_, Article \_\_\_\_\_, Section \_\_\_\_\_ and/or West Virginia Administrative Regulation: Title \_\_\_\_\_, Series \_\_\_\_\_, Section \_\_\_\_\_ exists as follows: \_\_\_\_\_

5 1/4" when applied. The left front drum axle brake stroke measured 4 1/2" when not applied and 6 1/2" when applied. The right front drum axle brake stroke measured 3 1/4" when not applied and 5 3/4" when applied. The left rear drum axle brake stroke measured 2 1/4" when not applied and 4" when applied. The right rear drum axle brake stroke measured 4" when not applied and 6 1/4" when applied. The North American Standards criteria call for a truck to be removed from service if one brake stroke measurement exceeds the allowable range by 1/4". The maximum brake stroke measurement for Type 30 brake chamber is 3" and the maximum brake stroke measurement of Type 24

Type of Issuance: N.O.V. \_\_\_\_\_ 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 \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. on \_\_\_\_\_ 20\_\_

Action taken to abate the violation: \_\_\_\_\_

Company / Operator Agent Served: Mike Elkins

Authorized Representative: R D Bailey Inspector No. 077

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

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%) \_\_\_\_\_ Extra effort (-15%) \_\_\_\_\_

OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING

1015 Washington Street East  
Charleston, West Virginia 25311-2126

Region 3  
Case No. 077-0117  
Violation No. 1(B)

NOTICE OF VIOLATION

Company / Operator Colony Boy Coal Co Contractor: Yes  No   
Permit Number S-500989 Mine Name Colony Boy Surface  
Date of Issue \_\_\_\_\_, 20\_\_ Time \_\_\_\_\_ 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 \_\_\_\_\_, Article \_\_\_\_\_, Section \_\_\_\_\_ and/or West Virginia Administrative Regulation: Title \_\_\_\_\_, Series \_\_\_\_\_, Section \_\_\_\_\_ exists as follows:

break chambers is 13 1/2". This truck was equipped with type 24 chambers on the front axle and type 30 chambers on the rear axle. According to information obtained from the MSHA Technical Support Group, the four tandem drive axle drum diameters exceeded manufacturer's specifications for normal wear. The drum diameter measurement for newly manufactured drums is 16.5" and allowable wear may not exceed that measurement by more than 0.120". The front and rear drum diameters on this truck measured 16.750".

Type of Issuance: N.O.V. \_\_\_\_\_ 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 \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. on \_\_\_\_\_ 20\_\_

Action taken to abate the violation: \_\_\_\_\_

Company / Operator Agent Served: MIKE ELKINS

Authorized Representative: R D Bailey Inspector No. 055

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

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%) \_\_\_\_\_ Extra effort (-15%) \_\_\_\_\_



Region 2 0783  
Case No. 077-044  
Violation No. 2

OFFICE OF  
MINERS' HEALTH SAFETY AND TRAINING

1615 Washington Street East  
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator Colony Day Coal Co. Contractor: Yes  No   
Permit Number 5-500989 Mine Name Colony Day Surface  
Date of Issue April 5, 2004 Time 11:00  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 \_\_\_\_\_, Article \_\_\_\_\_, Section \_\_\_\_\_ and/or West Virginia Administrative Regulation: Title 56, Series 3, Section 42.1(a) exists as follows:

Immediately prior to the beginning of each working shift, all equipment except licensed vehicles subject to state highway inspection requirements shall be examined by the equipment operator or a mechanic if designated by the person in charge of the daily operation for safety defects. The above company could not provide a record of above examinations that should be maintained for thirty (30) days to the authorized representative of the Director on the 1993 Chevy Radiac lube truck #365

Type of Issuance: N.O.V. \_\_\_\_\_ 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 1:30 a.m.  p.m. on 4-5 20 04

Action taken to abate the violation: \_\_\_\_\_  
Records on all equipment were made ~~available~~ available for (30) days

Company / Operator Agent Served: Mike F/Kins

Authorized Representative: R D Bailey Inspector No. 077

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

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%)  Extra effort (-15%) \_\_\_\_\_