

Report of Fatality
Electrocution Accident
Surface Coal Mine
February 21, 2018

Bundy Auger Mining, Inc
SHM 52 Highwall Miner
Permit Number S0301013-A

Region IV Office
550 Industrial Drive
Oak Hill, West Virginia 25901
McKennis P. Browning, Inspector-at-Large

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REPORT OF FATALITY

ELECTROCUTION ACCIDENT INVESTIGATION

BUNDY AUGER MINING, INC

SHM 52 HIGHWALL MINER

WV PERMIT NUMBER S0301013-A

GENERAL INFORMATION

This report is based on an investigation conducted in accordance with Title 56, Series 3, Section 12 of the West Virginia Code of State Rules.

Bundy Auger Mining, Inc. was permitted to operate the SHM 52 Highwall Miner mine on October 26, 2017. The mine employs ten (10) people on two (2) shifts. The mine is using a Superior Highwall Miner to produce coal from the Pocahontas No. 6 seam. Both shifts work twelve (12) hour shifts: Dayshift 6:00 a.m. to 6:00 p.m. and nightshift 6:00 p.m. to 6:00 a.m.

Mr. James A. Whitlock, a certified surface miner, from Smithers, WV had been employed at the SHM 52 Highwall Miner mine for approximately eight (8) months and had a total of twenty plus (20+) years mining experience. Mr. Whitlock received a class 26 certified electrician low/medium/high voltage certification on June 15, 2007. Mr. Whitlock's last annual electrical retraining was dated December 19, 2015, which was not current.

Mr. Whitlock was electrocuted on February 21, 2018, at approximately 5:15 p.m. The accident occurred while Mr. Whitlock was apparently inside the high voltage transformer located on the back of the Superior Highwall Miner.

McKennis Browning, Inspector-at-Large, for the Office of Miners' Health, Safety and Training (OMHS&T) Oak Hill office was notified of the accident by Bundy Auger Mining, Inc. at approximately 5:22 p.m. The Jan-Care Ambulance Authority (911) received a call from Bundy Auger Mining, Inc. at 5:45 p.m. A joint investigation with the Mine Safety and Health Administration (MSHA) was immediately initiated.

An investigation control order, Title 56, Series 3, Section 51.1 was issued verbally by McKennis Browning, Inspector-at-Large, at 6:05 p.m. to Mr. Jeff Hartley, dayshift mine foreman for the mine.

Formal interviews were conducted on February 26, 2018.

The following individuals voluntarily testified:

1. Mr. David Bundy, Owner / Operator
2. Mr. Larry Cassell, Coal Loader
3. Mr. Jeff Harvey, Day Shift Groundman
4. Mr. Dustin Owens, Coal Miner
5. Mr. Terry Bird, Nightshift Mine Foreman

The following individuals refused to participate:

1. Mr. Jeff Hartley, Surface Mine Foreman
2. Mr. Kevin Owens, Mine Superintendent / Certified Electrician

DESCRIPTION

The dayshift miner crew entered the work area at approximately 6:00 a.m. on Wednesday, February 21, 2018, at their normal starting time under the direction of Mr. Jeff Hartley, the dayshift mine foreman. The crew could not mine due to pit conditions that needed to be addressed by employees of Pocahontas Coal Company, LLC who performed the contour mining advancement for the Superior Highwall Miner to operate. The dayshift miner crew started to perform maintenance on the miner until pit conditions were better. The crew performed maintenance for most of the shift. After pit conditions were suitable the miner crew attempted to begin mining. Mr. Whitlock was the designated miner operator for this shift and began to mine. According to employee testimony, Mr. Whitlock pushed one push beam up and at that point the miner lost power. Mr. Jeff Harvey, the day shift groundman, testified that Mr. Whitlock exited the miner cab and notified Mr. Hartley that the miner had lost power. Mr. Hartley then said he was going to take the front-end loader to the location of his truck and go to the high voltage sub-station. After Mr. Hartley left, Mr. Harvey and Mr. Larry Cassell began fueling the welder and air compressor located on a metal sled sitting in the pit on the left side of the miner. Mr. Harvey testified that he witnessed Mr. Whitlock repairing the miner's 7200 volt trailing cable near the metal sled. Mr. Harvey stated that after Mr. Whitlock was finished with the repair he left the area and he thought Mr. Whitlock went back to the miner's cab. Mr. Harvey and Mr. Cassell finished fueling the equipment, and while walking back towards the miner they heard Mr. Whitlock scream. Mr. Harvey and Mr. Cassell ran to the miner and Mr. Cassell went in the ECM room to see if Mr. Whitlock was there. Mr. Harvey went to the rear of the miner near the on-board transformer.

Mr. Harvey observed Mr. Whitlock on the floor of the on-board transformer enclosure near the 7200 volt to 995 volt/480 volt transformers and he was unresponsive. Mr. Harvey then reached into the transformer enclosure, grabbed Mr. Whitlock's arm and tried to pull him out. Mr. Harvey was unable to remove Mr. Whitlock, so he called Mr. Cassell for assistance. Both men removed Mr. Whitlock half way out of the on-board transformer enclosure and Mr. Whitlock was still unresponsive. The two men then started administering CPR. Prior to administering CPR, Mr. Cassell testified that he texted Mr. Hartley and told him "not to turn the power on and come to the miner fast". Mr. Cassell testified that he also tried to call Mr. Kevin Owens, the mine superintendent / certified electrician. Mr. Owens was not on mine property at the time of the accident. When Mr. Owens received the call from Mr. Cassell, Mr. Owens told Mr. Cassell that he would contact Mr. Hartley by using his cell phone and tell him about the situation.

At the time Mr. Cassell and Mr. Harvey were administering CPR, Mr. Terry Bird, nightshift mine foreman, arrived for the start of the second shift. Mr. Bird stopped at the high voltage sub-station and spoke with Mr. Hartley. Mr. Hartley asked if he could place his cell phone on Mr. Bird's cell phone booster in his truck. When Mr. Hartley placed his phone on Mr. Bird's booster it immediately rang. According to Mr. Bird, Mr. Owens was calling Mr. Hartley to inform him of

what had happened at the miner. Mr. Hartley and Mr. Bird then rushed to the highwall miner and began assisting Mr. Harvey and Mr. Cassell with CPR. When Mr. Hartley got to the miner he said, by written testimony, that he called MSHA, the Office of Miner's Health, Safety and Training and 911 at approximately 5:45 p.m. and the ambulance was dispatched at 5:47 p.m.

By this time, the second shift crew had arrived and were made aware of what had happened. They went to the miner to assist the men carry Mr. Whitlock down off of the miner and placed him on a push beam. The men administered CPR until the ambulance arrived at 7:00 p.m. The EMS personnel placed an AED on Mr. Whitlock, the AED stated that a shock was not advised so they continued with CPR.

There were three (3) ambulances dispatched to the SHM 52 Highwall Miner mine. Testimony given, and a written report issued by Jan Care stated that all the ambulances had difficulty reaching the site due to the unsafe road conditions. One (1) ambulance got stuck and had to be pulled out by a caterpillar D6 dozer. Pocahontas Coal Company, LLC being the permit holder is responsible for maintaining all access / haul roads in a safe condition. The ambulances were dispatched at approximately 5:47 p.m., arrived at the scene at approximately 7:00 p.m., reached the patient at approximately 7:07 p.m., and left the site at approximately 8:27 p.m. Mr. Whitlock was transported by Jan-Care Ambulance to Melton's Funeral Home in Beckley, WV

FINDINGS OF FACT

1. The Highwall Miner being used to mine coal at this mine site was the #52 Superior Highwall Miner. The Highwall Miner is powered by 7,200 volts which is stepped down to 995 / 480 volts by an on-board transformer located behind the ECM room on the rear of the machine.
2. Upon arrival the OMHS&T investigators found that an access panel on the transformer cabinet had been removed and the high voltage switch in the cabinet was in the open position.
3. The accident occurred inside the on-board transformer enclosure between the high voltage switch and the 7,200 volts to 995 / 480 volts transformer.
4. The high voltage sub-station that fed power to the #52 Highwall Miner was located approximately 1.5 miles, or eight thousand (8,000) feet from the miner.
5. At the time of the accident, Mr. Hartley was stationed at the high voltage sub-station working with and communicating with Mr. Whitlock as he performed electrical repairs. According to Mr. Hartley, Mr. Whitlock was repairing the miner's trailing cable prior to the accident.
6. While Mr. Whitlock made his repairs, Mr. Hartley remained at the high voltage sub-station turning the power on and off as requested by Mr. Whitlock. Mr. Hartley and Mr. Whitlock were communicating using text messages via cell phones.
7. Shortly after the accident it was discovered that the power to the miner was turned off, but the switch was not locked or tagged out at the high voltage sub-station.
8. The #52 Highwall Miner has two (2) crews that work twelve (12) hour shifts. Dayshift – 6:00 a.m. to 6:00 p.m. and nightshift – 6:00 p.m. to 6:00 a.m.

9. Mr. Whitlock was a certified surface coal miner, certification No. 8-4403.
10. Mr. Whitlock received his certified LMH electrician, certification No. 4-457, on June 15, 2007; however, his last annual electrical retraining occurred on December 19, 2015. Due to the fact that Mr. Whitlock had not taken the required annual electrical retraining, he was not a qualified person / certified electrician authorized to perform electrical work.
11. Mr. Hartley is a certified surface coal miner, certification No. 4-7385 and a certified surface mine foreman, certification No. S-5220-14.
12. Mr. Owens is a certified surface coal miner, certification No. 4-5479, certified surface mine foreman, certification No. S-4804-10, and a certified electrician, certification No. 8-4103.
13. David Bundy, President of Bundy Auger Mining, Inc. is a certified surface coal miner, certification No. 1-17382 and a certified surface mine foreman, certification No. S-2787-92.
14. Mr. Bundy testified that he knew Mr. Hartley did not have an electrical certification.
15. Bundy Auger Mining, Inc. had only one (1) qualified person / certified electrician to perform electrical work on both crews at this mine site which was the superintendent, Mr. Owens.
16. Mr. Bundy testified that he knew Mr. Whitlock didn't have a current electrical certification.
17. The accident occurred at approximately 5:15 p.m. on February 21, 2018.
18. The Jan-Care Ambulance report shows that the 911 call was made at 5:45 p.m. on February 21, 2018.
19. According to Mr. Bundy, Pocahontas Coal Company, LLC holds the permit where mining was being performed and was required to maintain the haul road so that the ambulance could get to the miner.
20. Due to an excessive amount of mud on the haul road, the ambulances had difficulty reaching and leaving the accident site.
21. The high voltage disconnect devices were not locked out and suitably tagged before electrical work by the certified person performing the work began.
22. All power circuits and electrical equipment were not de-energized before high voltage electrical work was performed on the #52 Superior Highwall Miner.
23. Mine management did not see that the employees working complied with the provisions of the West Virginia Surface Mining Rules. During the investigation it was found that Mr. Hartley allowed Mr. Whitlock to perform electrical work when he was not a qualified person / certified electrician. During the investigation it was found that Mr. Owens allowed Mr. Whitlock to perform electrical work when he was not a qualified person / certified electrician.
24. Mr. Owens and Mr. Hartley exercised their constitutional rights and declined to be formally interviewed.

CONCLUSION

The victim was performing electrical work in the high voltage on-board transformer enclosure on the rear of the #52 Highwall Miner. The victim was not a qualified person / certified electrician and the power was not de-energized from the transformer cabinet nor was it properly locked out and suitably tagged by a qualified person / certified electrician. The victim apparently came in contact with the line side of the high voltage switch located in the transformer cabinet which resulted in a fatal electrocution.

ENFORCEMENT ACTION

The following enforcement actions were taken as a result of the investigation.

A non-assessed control order was issued in accordance with Title 56, Series 3, Section 51.1 of the West Virginia Mining Rules and Regulations to preserve evidence following the accident.

A total of three (3) violations were issued during this investigation. Two (2) special assessment violations were issued and one (1) regular assessed violation was issued.

The following are the special assessed violations:

(Violation #1) Title 56, Series 3, Section 37.1(a)(b)

Disconnecting devices were not locked out and suitably tagged by the person performing electrical work in that upon investigation it was found that Mr. Whitlock, an employee of the above said company / operator, was performing electrical work inside the high voltage transformer located on the #52 Superior Highwall Miner and did not lock out and suitably tag the high voltage disconnect device at the sub-station before performing work on the high voltage transformer. Testimony gave clear and concise evidence that the mine foreman, Mr. Hartley, traveled to the sub-station to disconnect, lock out, and suitably tag power for Mr. Whitlock.

All power circuits and electrical equipment were not de-energized before high voltage electrical work was performed on the #52 Superior Highwall Miner in that upon investigation it was found that the seven thousand two hundred (7,200) volt power circuit supplying power for the #52 Highwall Miner was not de-energized before Mr. Whitlock, an employee of the above said company / operator, performed electrical work in the transformer located at the rear of the highwall miner. Mr. Whitlock was electrocuted thus giving clear and concise evidence that he was performing work on power circuits or electrical equipment while the circuits or equipment was energized. This is a violation of a safety rule, is of a serious nature and involves a fatality. WV Code §22A-1-21(b)(2)(a).

(Violation #2) Title 56, Series 3, Section 46.1(a)

Mine Management did not see that the employees, working for the above said company / operator, complied with the provisions of the West Virginia State Surface Mining Rules and Regulations in that upon investigation it was found that Mr. Hartley, the mine foreman, allowed an employee, Mr. Whitlock, that was not a qualified person / certified electrician, to perform electrical work on the on-board high voltage sub-station located at the rear of the #52 Superior

Highwall Miner. Mr. Whitlock was fatally electrocuted. This is a violation of a safety rule, is of a serious nature and involves a fatality. WV Code §22A-1-21(b)(2)(a).

The following is the regular assessed:

(Violation #3) Title 56, Series 19, Section 5.17

The above said company / operator did not require any person involved in a serious or fatal accident to be drug and alcohol tested immediately after the accident in that upon investigation it was found that Mr. Hartley, the dayshift mine foreman, was not drug tested immediately after a fatal accident that occurred on February 21, 2018, at approximately 5:15 p.m., on the #52 Superior Highwall Miner. Records show that Mr. Hartley was not drug and alcohol tested until February 28, 2018 at 4:15 p.m. Mr. Hartley was waiting at the sub-station feeding power to the #52 Highwall Miner when Mr. Whitlock, a dayshift employee, was fatally electrocuted.

The following are the withdrawal of certifications:

Withdrawal of certification #1 (Jeff Hartley)

The Office of Miners' Health, Safety and Training recommended suspending Mr. Jeff Hartley's surface mine foreman certification for a period of three (3) years and petitioned the Board of Appeals for a probable cause order. The Board of Appeals has issued the probable cause order and this matter is pending a hearing.

Withdrawal of certification #2 (Kevin Owens)

The Office of Miners' Health, Safety and Training recommended suspending Mr. Kevin Owens' surface mine foreman certification and certified electrician (low, medium, and high voltage) certifications for a period of three (3) years.

RECOMMENDATIONS

In accordance with Title 56, Series 8, Section 9.4 of the West Virginia Code of State Rules, modifications have been made to Bundy Auger Mining, Inc., SHM 52 Highwall Miners' Comprehensive Mine Safety Program following the investigation of a fatal accident involving Mr. Whitlock that occurred February 21, 2018. The modifications shall include, but not limited to, the following:

1. A letter of agreement between employees and company will be implemented which states that only qualified and certified persons will perform electrical work. The letter will be signed by each employee and a company safety representative. A copy will be maintained in the employee file at the main office and at the mine site.
2. Lid switches will be installed on all accessible panels on the on-board transformer cabinet of the SHM 52 Highwall Miner.

3. Inside the on-board transformer cabinet of the SHM 52 Highwall miner a non-conductive arc flash shield to cover incoming leads on the line side of the blade switches shall be installed. Additionally, a grounding bar shall be installed allowing the blade switches to rest fully to ensure bleed off of stored electrical energy.
4. A visual disconnect with manual / vacuum switch shall be installed on the second level of the highwall miner at the back corner of the BMP room. This disconnect shall include a ground bar on which the disconnected blades shall rest. The disconnect shall be equipped with a lid switch and an emergency stop switch. Prior to performing any electrical work on the highwall miner electrical system, where high voltage is exposed, the qualified and certified person shall lock and suitably tag out and test for residual current using an ASTM approved voltage appropriate insulated static discharge stick equipped with a 6-foot copper grounding cable. Each terminal lead will be touched to bleed residual power. Voltage appropriate insulated gloves shall be worn during the procedure.
5. A base 2-way communication device shall be installed in the SHM 52 highwall miner cab where it can be heard by the highwall miner operator, handheld devices shall be made available and worn when employees are not in the cab.
6. The provisions of this preventative action plan will be made part of the training plan and the Comprehensive Mine Safety Program for the SHM 52 Highwall Miner and all miners will be trained on the materials immediately upon its approval.

ACKNOWLEDGEMENT

The West Virginia Office of Miners' Health, Safety and Training acknowledges the cooperation of employees and management of Bundy Auger Mining, Inc., SHM 52 Highwall Miner, Pocahontas Coal Company, LLC, Devils Fork No. 2 Surface Mine, and the Mine Safety and Health Administration during this investigation.

APPENDIX

- Mine Information Sheet
- Victim Information Sheet

MINE INFORMATION

COMPANY Bundy Auger Mining, Inc

MINE NAME SHM 52 Highwall Miner

WV PERMIT S0301013-A

ADDRESS 2005 Webster Road

COUNTY Raleigh

DATE PERMIT ISSUED October 25, 2017 WORKING STATUS Active

LOCATION Near Rhodell, West Virginia

UNION _____ NON-UNION Yes

DAILY PRODUCTION _____ 0 _____

ANNUAL PRODUCTION TO DATE _____ 0 _____

TOTAL EMPLOYEES 10 NUMBER OF SHIFTS 2

NAME OF COAL BED Pocahontas No. 6

SEAM THICKNESS Average thirty (30) inches

ACCIDENT INCIDENT RATE 0 LOST TIME ACCIDENTS 0

TYPE OF HAULAGE N/A

WV OMHST INSPECTOR Victor Shingler

DATE OF LAST INSPECTION January 29, 2018

NOTIFIED BY Jeff Hartley/ Dayshift Foreman

TIME OF NOTIFICATION Approximately 5:22 p.m., February 21, 2018

CMSP – ANNIVERSARY DATE October 25, 2018

CMSP – CONTACT PERSON David Bundy