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
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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. Kenney 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

PHONE NO. AGE 34 SOCIAL SECURITY NO.

TOTAL MINING EXPERIENCE EXPERIENCE AT THIS MINE 27 months

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

OTHER CERTIFICATIONS Surface Coal Miner Certification

SPOUSE'S NAME

DEPENDENTS

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  
Gerald Doss  
Harold Dancy  

President  
Mine Foreman  
Out-by Foreman

Mine Safety and Health Administration

Rodney Lusk  
Jack Hatfield  

Accident Investigator  
CMI

United Mine Workers of America

Reggie Wade  
Ray Bennett  
Roger Greene  

Safety Committeeman  
Safety Committeeman  
Safety Committeeman

West Virginia Office of Miners' Health, Safety and Training

Eugene White  
Steve Cox  
Tim Duffey  

Inspector-at-Large  
Assistant Inspector-at-Large  
District Inspector

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

Long Branch Energy

Greg Patterson  
Phillip Ball  
Gerald Doss  

President  
Superintendent  
Mine Foreman

Mine Safety and Health Administration

Rodney Lusk  
Rich Cline  
Don Winston  
Jack Hatfield  
Brian Morris  

Accident Investigator  
Assistant District Manager  
Roof Control Specialist  
CMI  
CMI
United Mine Workers of America

Gary Trout
Joe Carter
Ray Bennett
Reggie Wade

International Representative
International Vice-President
Safety Committeeman
Safety Committeeman

West Virginia Office of Miners’ Health, Safety and Training

Terry Farley
Steve Lafferty
Willie Barker

Enforcement Administrator
District Inspector
Safety Instructor

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

Long Branch Energy

Greg Patterson
Julia Shreve
Mike Cimino
Harold Dancy *
Nicholas Jeffrey *
Chris Cook *
Keith Maynor *
Thomas Carpenter *

President
Attorney-Jackson & Kelly
Attorney-Jackson & Kelly
Out-by Foreman
Underground Utility
Supervisor
Roof Bolter Operator
Scoop Operator

*Denotes persons interviewed

Mine Safety and Health Administration

Rodney Lusk
Luther Marrs
Sharon Cook

Accident Investigator
Assistant District Manager
Training Specialist

West Virginia Office of Miners’ Health, Safety and Training

Terry Farley
Eugene White
Steve Cox

Enforcement Administrator
Inspector-at-Large
Assistant Inspector-at-Large

United Mine Workers of America

Gary Trout
Ray Bennett

International Representative
Safety Committeeman
Danny Breedlove  
Reggie Wade  

Safety Committeeeman
Safety Committeeeman
STATE OF WEST VIRGINIA
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
Permit Number: 16-001432-A  Mine Name: mine #283
Date of Issue: 11-13  Time: 8:00 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 (6) and/or West Virginia Administrative Regulation: Title 8, Series 1, Section 8020 exists as follows: The state approved roof control plan at this mine is not being complied 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 crib, Roof Balls and Horizontal Jack and Beam across the north conveyor B14.
Also the state approved roof control plan is not being complied 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 sitting on them and the top of the arches Twometal has been damaged 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. on 11-30-2007
The foregoing violation was totally abated by

Action taken to abate the violation:

Company / Operator Agent Served: Marshall Davis

Authorized Representative: Jim O'Illy  Inspector No. 035

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:  

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%)

Entire effect (100%)
STATE OF WEST VIRGINIA

OFFICE OF MINERS’ HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Long Branch Energy

Permit Number: U-0014382-A, Mine Name: Mine #23

Date of Issue: 12-17-2007, Time: 10:30 A.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 No. 4 conveyor belt, no dates, times, or initials were found to show that the area was examined for mine gases and hazardous roof or rib conditions. Prior to men working along the No. 4 conveyor belt, three men were working along the No. 4 conveyor belt, also the belt examined mine Foreman-Eric Ross or Assistant mine Foreman. Did not record in the book provided to show the No. 4 conveyor belt was examined for unsafe conditions. Evidence shows the No. 4 conveyor belt was ran on the evening shift.

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 __________ p.m. on __________ 20__________

Action taken to abate the violation: Talk to mine Foreman about his responsibility to making sure that the mine is safe.

Company / Operator Agent Served: Gerald Ross

Inspection 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

Sand S Violation: ________ Recommend Special Assessment: ________

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

Severity of Injury Expected: None: *(0)_______ 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%) ________

Extra effort (-15%) ________

No compliance (extenuating circumstances) (0%) ________
INSPECTION OF 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 Feb. 21, 20 08
______ a.m. _______ p.m., extended to 20 ______, modified to
________ Order, Withdrawn.

Action taken to abate the violation: From Violation No. 2 to Violation No. 20 0017. In addition, violation should read as follows: During an accident investigation made on No. 4 Belt concerning an accident which occurred on October 28, 2007, no dates, times or initials were found to verify an examination made on No. 4 Belt from break 40 to break 50. Also, the No. 4 Belt conveyer was not properly examined, in that, the belt was not fined bound from break 40 to break 50, the entire belt was not examined, but was run several times on evening shift. This change was made as a result of an accident 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 ______, modified to
______ 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 ______, modified to
______ a.m. _______ p.m., extended to 20 ______, modified to
________ Order, Withdrawn.

Action taken to abate the violation: ____________________

Company/Operator Agent served: ________ Date: ________

Authorized Representative: ________ Inspector Number ________