

West Virginia Office of Miner's Health, Safety and Training

December 17, 2006

Report of a Roof Fall Fatality  
(Underground Coal Mine)

Dana Mining Company  
Prime No. 1 Mine  
Permit No. U-251A

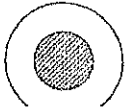
Region One Office  
205 Marion Square  
Fairmont, West Virginia 26554  
Brian Mills, Inspector-at-Large

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Prime Permit Boundary

Location of Roof Fall



TOP OF SLOPE EL. 941.32 (FLOOR)  
BOTTOM OF SLOPE EL. 933.64 (PAVEMENT)  
SLOPE LENGTH 74'

2 HEAD DRIVE  
+ TELEPHONE

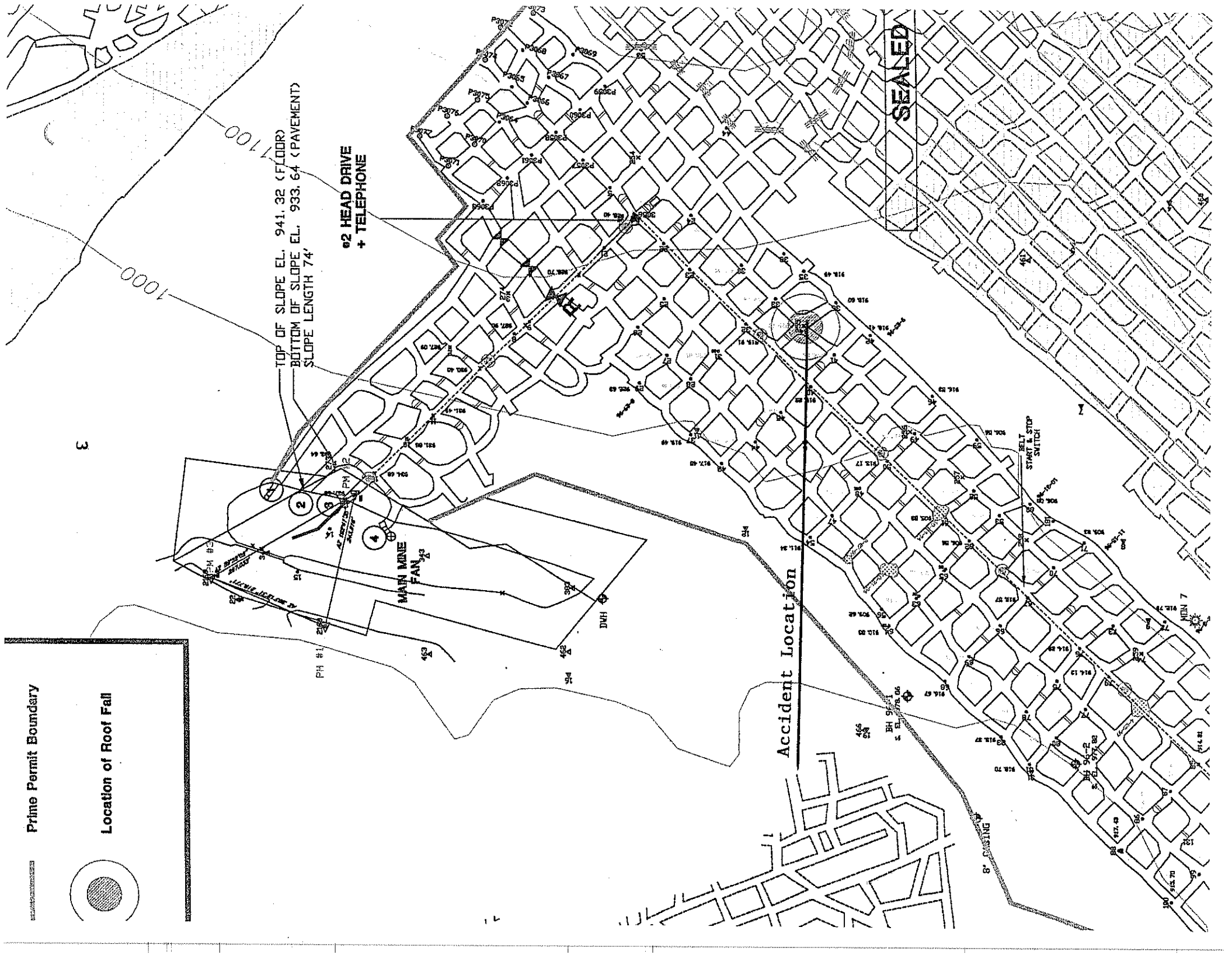
MAIN MINE  
FAN

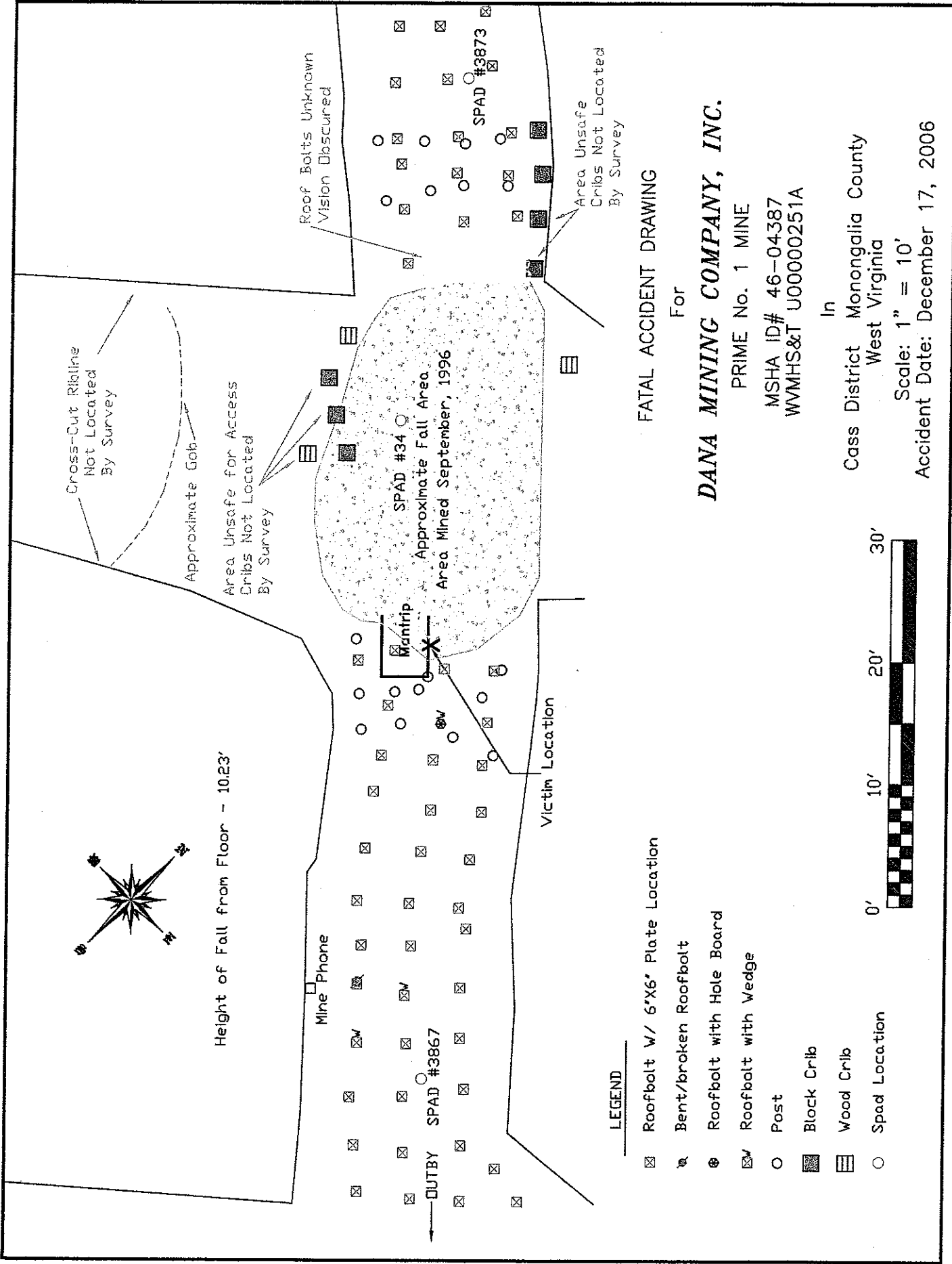
Accident Location

SEALED

BELT  
START & STOP  
SWITCH

8' CASING





Cross-Cut Ribline Not Located By Survey

Approximate Gob  
 Area Unsafe for Access Cribbs Not Located By Survey

Roof Bolts Unknown Vision Obscured

Area Unsafe Cribbs Not Located By Survey

Height of Fall from Floor - 10.23'

Mine Phone

Victim Location

SPAD #34  
 Approximate Fall Area  
 Area Mined September, 1996

SPAD #3873

SPAD #3867

Mantrip

FATAL ACCIDENT DRAWING

For

**DANA MINING COMPANY, INC.**

PRIME No. 1 MINE

MSHA ID# 46-04387  
 WVMHS&T U00000251A

In

Cass District Monongalia County  
 West Virginia

Scale: 1" = 10'

Accident Date: December 17, 2006

LEGEND

- ☒ Roofbolt w/ 6"x6" Plate Location
- ☒ Bent/broken Roofbolt
- ⊗ Roofbolt with Hole Board
- ☒ Roofbolt with Wedge
- Post
- ▣ Block Crib
- ▤ Wood Crib
- Spad Location



Fatal Roof Fall Accident Investigation Report  
Dana Mining Company  
Prime No. 1 Mine  
Permit No. U-251-A

General Information

A fatal roof fall accident occurred at approximately 7:30 pm on Sunday, December 17, 2006 at the Dana Mining Co. Prime # 1 Mine. The accident occurred on the active roadway, travelway in the mine at #18 block in the #2 entry. Mr. John Elliot, age 26, was struck by falling roof and pinned against a battery powered rubber tired personnel carrier. Mr. Elliot had a total of 1 year and 5 months of experience all at this mine. The West Virginia Mine Safety Hotline was notified at 7:35 pm. Mine Superintendent Steve Polce notified Inspector at Large Brian Mills at 8:10 pm. A joint investigation with the Mine Safety and Health Administration and Dana Mining Co. was started immediately.

Description

The Dana Mining Company, Prime #1 Mine is a drift opening mine producing coal from the Sewickley seam. The mine is located near Madsville on Lazzelle Union Road in Monongalia County West Virginia. The height of the coal seam is approximately 52 inches. Coal is transported via shuttle cars and conveyor belt. Employees and supplies are transported by rubber tired battery powered equipment. The company has 66 employees and 5 contract employees. The mine works three shifts per day. Coal is produced on the midnight and day shifts with the afternoon shift doing maintenance work. Continuous mining methods are currently being used on the two sections in which both advance and pillar mining are currently being performed.

Mr. Kenneth Losh, Section Foreman arrived at the mine at approximately 6:10 pm to start the pre-shift examination of the mine. It should be noted that the mine had been idle for more than 24 hours due to a normal weekend shut down. Mr. Richard Croasmun was the responsible person on the surface. Mr. Losh entered the mine at approximately 6:30 pm on a battery powered rubber tired personnel carrier to conduct a pre-shift examination of the active roadway, travelway. Mr. Losh arrived at the South section feeder location at approximately 7:00 p.m.

Mr. James Brandon, Section Foreman, Mr. Gary Mayle, Miner Operator and Mr. John Elliot, Electrician arrived at the mine at between approximately 6:50 p.m. to 7:00 p.m. At approximately 7:00 p.m. Mr. Brandon received a call from Mr. Losh on the mine phone who asked if Mr. Mayle and Mr. Elliot were at the mine. Mr. Losh informed Mr. Brandon that the active roadway, travelway was clear and that he was coming outside to get Mr. Mayle and Mr. Elliot to take them to the South section to do preparation work to load coal. Mr. Mayle was instructed to water the roadways and Mr. Elliot was instructed

to clean the shuttle cars on the South section. Mr. Brandon, Mr. Mayle and Mr. Elliot prepared to enter the mine as Mr. Losh traveled from the South section to the surface, arriving on the surface at approximately 7:25 p.m.

Mr. Losh, Mr. Mayle and Mr. Elliot immediately started back in the mine riding on the personnel carrier, which was operated by Mr. Losh. Mr. Brandon followed on a separate personnel carrier to conduct a pre-shift examination of the conveyor belts and the North section. Mr. Brandon traveled on the active roadway, travelway to the #2 belt head, then moved to the beltline to begin his examinations. Mr. Losh, Mr. Mayle and Mr. Elliot proceeded on the active roadway, travelway to #18 block where Mr. Mayle noticed the roof starting to fall. Mr. Mayle informed Mr. Losh, who then stopped the personnel carrier and attempted to back up. Mr. Mayle, Mr. Losh and Mr. Elliot jumped off the vehicle and attempted to run outby. Mr. Mayle made it safely outby, Mr. Losh was knocked down by falling roof but was unhurt and crawled to safety. Mr. Elliot was struck by falling roof and pinned against the personnel carrier receiving fatal injuries. Mr. Losh saw Mr. Elliot at the rear of the personnel carrier and removed rock from around his arms and felt for a pulse but did not detect one. Mr. Losh then instructed Mr. Mayle to inform Mr. Brandon that there had been an accident. Mr. Brandon who was examining the #2 belt head heard a sound similar to a roof fall and then the power went off. Mr. Mayle went to Mr. Brandon's location and informed him of the accident, both men immediately went to the accident scene. Mr. Losh instructed Mr. Brandon to go outside to summon help and to notify authorities. Mr. Brandon left his personnel carrier at the accident scene and he and Mr. Mayle walked outside. After notifications were made Mr. Brandon and Mr. Mayle loaded supplies on another personnel carrier and went back underground to start recovery efforts. They were soon joined by Mr. Steve Polce, Mine Superintendent, Mr. James Laurita Jr., Company Owner, Mr. Curtis Shannon, Mine Foreman, Mr. Vaughn Forman, Maintenance Foreman, Mr. Brian Friend, Assistant Foreman/Crew Leader and Mr. Steve Simms, Electrician. The victim was recovered and then transported to the surface. Dr. Sean Smith through radio communication with Paramedic William Boyd pronounced Mr. Elliot dead at 10:46 p.m. An on-site investigation was started immediately.

### Findings of Fact

1. The mine had been idle the proceeding 24 hours before Mr. Losh began the pre-shift examination
2. Mr. Losh testimony states he examined the active roadway, travelway from the surface to the South section feeder only.
- 3 The active workings of the mine had not been completely examined by the pre-shift examiners before the miners of such shift were allowed to enter the mine.
4. The victim was struck by a large section of roof rock and pinned against the personnel carrier.
5. The accident occurred approximately 1150 feet underground at the intersection of

#18 block, 52 feet inby survey Spad #3868.

6. The dimensions of the roof fall were approximately 28 feet in length, 20 feet in width and 5.5 feet thick.

7. The battery powered rubber tired personnel carrier involved was a Johnson Industries Four Wheel Super Car.  
Model number: SXSC36V Serial number: SXSC05836V

8. Mr. Kenneth Losh and Mr. Gary Mayle both escaped the roof fall without injury.

9. At approximately 1:00 pm on December 16, 2006 at the #18 block, three cribs were built, two in the #1 to #2 crosscut, one on the inby corner and one in the center of the crosscut, the other crib in the #2 to #3 crosscut on the inby corner.

### Conclusion

Mr. John Elliot was fatally injured when the personnel carrier he was a passenger on was struck by a falling section of roof at the #18 block, four way intersection, on the active roadway/travelway.

### Enforcement Action

A Non-Assessed Order was issued in accordance with Title 36, Series 19, Section 7.1 of the West Virginia Mining Administrative Regulations to preserve the accident scene.

The West Virginia Office of Miner's Health, Safety and Training issued two notices of violation during this investigation. One is considered to have contributed to the accident and is listed as follows.

The West Virginia Code Chapter 22a, Article 2, Section 25(a),

The roof of the active underground roadway/travelway was not supported or otherwise controlled adequately to protect persons from the falls of roof in that on December 17, 2006 at approximately 7:30 pm Mr. John Elliot received fatal injuries from a roof fall while traveling through a 4 way intersection in the #2 entry at the #18 block on the active underground roadway/travelway.

### Recommended Special Assessment

West Virginia Code Chapter 22a-2-14:

During the investigation of a fatal accident that occurred on December 17, 2006 at approximately 7:30 pm it was revealed through testimony that the active workings of the mine were not completely examined by the pre-shift examiners within 3 hours before the miners of such shift entered the mine. Mr. Ken Losh, South Section Foreman stated that he traveled to the feeder area only on the South Section and did not examine the face area. Also, testimony revealed that the South section power center was energized. Mr. Gary Mayle and Mr. John Elliot entered the mine under Mr. Losh's supervision before

supervision before the pre-shift exam was completed.

Note: Also the North Section and the roadway/travelway to the North Section had not been examined.

Notice of individual Violations – Issued to Mr. Ken Losh

West Virginia Code Chapter 22a-2-14

During the investigation of the fatal accident involving John Elliot on December 17, 2006 at approximately 7:30 PM, your testimony stated that you took John Elliot and Gary Mayle underground under your supervision before the active workings of the mine were completely examined. Your statement was that you traveled to the South Section feeder only on your pre-shift exam. Your testimony also is that the South Section power center was energized. Your testimony also stated that the employees job assignment was on the South Section. Mr. Elliot was to wash shuttle cars and Mr. Mayle was to water roadways. Also the North Section and the roadway/travelway to the North Section had not been examined. The only statement in the pre-shift book is as follows:

Haulage clear outside to South 6:30 – 7:00 PM KL (Copy Attached)

### Recommendations

1. Revisions were made to the roof control plan and approved on Dec. 18, 2006, please see a copy attached in the appendix
2. Mine management has reviewed pre-shift requirements prior to mine foremen performing pre-shift duties.



## Appendix

* <b>Mine Information</b>	<b>11</b>
* <b>Victim Information</b>	<b>12</b>
* <b>List of persons present during interviews and investigation</b>	<b>13, 14, 15, 16</b>
* <b>Roof Control Addendum</b>	<b>17, 18, 19</b>
* <b>Copy of Violations</b>	<b>20, 21</b>
* <b>Copy of I.P.A.</b>	<b>22</b>
* <b>Copy of Page out of Pre-Shift Book</b>	<b>23</b>

## Mine Information

COMPANY: Dana Mining Company, Inc.

MINE NAME: Prime #1 Mine

WV PERMIT: U-251A

ADDRESS: 2121 Lazzelle Union Road, Madsville, WV 26541

COUNTY: Monongalia

DATE PERMIT ISSUED: June 27, 1996

WORKING STATUS: Active

LOCATION: Near Madsville, WV

UNION: NON-UNION Yes

DAILY PRODUCTION: 4,000 ANNUAL PRODUCTION TO DATE:           

TOTAL EMPLOYEES: 70

NUMBER OF SHIFTS: 3

COAL SEAM AND THICKNESS: Sewickley

ACCIDENT INCIDENT RATE: 4.29 LOST TIME ACCIDENTS: 3

TYPE OF HAULAGE: Belt

WVOMHST INSPECTOR: Jeff Bennett

DATE OF LAST INSPECTION: December 15, 2006

NOTIFIED BY: WV Mine Safety Hotline / Steve Polce

TIME OF NOTIFICATION: 8:10 P.M.

CMSP-ANNIVERSARY DATE: July 26, 2007

CMSP-CONTACT PERSON: Steve Polce

## Investigation

The following persons were present during the on site investigation conducted on December 17, 2006

### Dana Mining Company

Curtis Shannon	Mine Foreman
Steve Simms	Electrician
Brian Friend	Assistant Foreman/Crew Leader

### Mine Safety and Health Administration

Ron Tulasoski	Coal Mine Inspector/Roof Control
Jason Rinehart	Acting Staff Assistant
* Jerry Vance	Mine Safety and Health Specialist, Training

### WV Office of Miners' Health, Safety and Training

Mark Wilfong	Assistant Inspector-At-Large
Barry Fletcher	Roof Control Inspector
Jeff Bennett	District Mine Inspector
* Brian Mills	Inspector -At-Large

\*Denotes on surface

## Investigation

The following persons were present during the on site investigation conducted on December 18, 2006

### Dana Mining Company

Curtis Shannon	Mine Foreman
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### WV Office of Miners' Health, Safety and Training

Mark Wilfong	Assistant Inspector-At-Large
Barry Fletcher	Roof Control Inspector
*Jeff Bennett	District Mine Inspector

\*Denotes on surface

## Investigation

The following persons were present during the on site investigation conducted on December 19, 2006.

### Dana Mining Company

Curtis Shannon  
Roger Summerfield

Mine Foreman  
Section Foreman

### Marshall Miller & Associates

Jerry Enigk

Consultant –  
Spillman, Battle and Thomas

### Mine Safety and Health Administration

Ron Tulanowski  
Nelson Blake  
Paul Tyrna  
John Cook

Coal Mine Inspector/Roof Control  
Chief-Roof Control Section  
Technical Support  
Technical Support

### WV Miners' Health, Safety and Training

Barry Fletcher  
Jeff Bennett

Roof Control Inspector  
District Mine Inspector

## Interviews

The following people were present during interviews conducted on December 18, 2006.

### Dana Mining Company

Gary Dixon	Human Resources
Kevin O'Dell	Human Resources Director
David Hardy	Attorney, Spillman, Battle and Thomas
* Ken Losh	Section Foreman
*Gary Mayle	Miner Operator
*James Brandon	Section Foreman
*Steve Polce	Mine Superintendent
*Curtis Shannon	Mine Foreman
*Steve Simms	Electrician
*Brian Friend	Outby Foreman
*Vaughn Forman	Maintenance Foreman

\*Denotes persons interviewed

### Mine Safety and Health Administration

Ron Tulanowski	Coal Mine Inspector/Roof Control
Jason Rinehart	Acting Staff Assistant
Jerry Vance	Mine Safety and Health Specialist, Training

### West Virginia Office of Miner Health Safety and Training

Mark Wilfong	Assistant Inspector at Large
Barry Fletcher	Roof Control Inspector
Jeff Bennett	District Mine Inspector

## Interviews

The following persons were present during interviews conducted on January 16, 2007.

### Dana Mining Company

Gary Dixon	Human Resources
Kevin O'Dell	Human Resources Director
Chris Harich	Attorney, Spillman, Battle & Thomas
*Richard Croasmun	Outside Person
*Tony Johnson II	Outside Person
*Ken Losh	Section Foreman
*Gary Mayle	Miner Operator
*James Brandon	Section Foreman

\*Denotes persons interviewed

### Mine Safety and Health Administration

Jason Rinehart	Acting Staff Assistsant
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### West Virginia Miners' Health, Safety and Training

Mark Wilfong	Assistant Inspector-at-Large
Barry Fletcher	Roof Control Inspector

**STATE OF WEST VIRGINIA  
OFFICE OF MINERS' HEALTH, SAFETY & TRAINING  
BUREAU OF COMMERCE  
205 MARION SQUARE  
FAIRMONT, WV 26554**

*Region One*

December 21, 2006

COMPANY: Dana Mining Co., Inc.

ADDRESS: P.O. Box 1170, Morgantown, WV 26507

This is to acknowledge receipt of your Roof Control Plan for:

Prime No.1 Mine  
Mine Name

U-251A  
Permit No.

Your submitted plan has been:

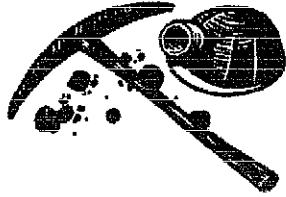
  X   Accepted

       Rejected

REMARKS: Your request dated December 19, 2006 to add Addendum #8 to the Approved Roof Control Plan is approved as submitted.

Barry J. Stetson  
Underground Inspector

Mark Wilfong  
Inspector-at-Large



**Dana Mining Company, Inc.**  
P.O. Box 1170  
Morgantown, WV 26507  
(304) 296-9701

December 19, 2006

Mr. Brian Mills  
Inspector at Large  
WV Office of Miner's Health, Safety & Training  
205 Marion Square  
Fairmont, WV 26554

RE: Prime No. 1 Mine  
S.R.P. U 251 A  
Roof Control Addendum #8

Dear Mr. Mills:

Dana Mining Company, Inc. is submitting the following addendum to the approved roof control plan. The addendum addresses the installation of a minimum of eight foot cable bolts in the intersections along the regularly traveled haulroad in the mine as well as the re-measuring of intersection along this route as well. With additional support added to intersections measuring over sixty feet in diagonal.

The installations which are necessary with this addendum will be ongoing and with a good faith commitment by Dana Mining Company, Inc. this work shall be completed on or before January 15, 2007.

Please feel free to contact either myself at (304) 328-5275 or Samantha Stahle at the telephone number listed above if you should have any questions or require additional information about the attached addendum to the approved roof control plan for the Prime No. 1 Mine.

Sincerely,

Steve Polce  
Superintendent



### **Roof Control Plan: Addendum #8**

In addition to the approved roof control plan in place:

1. There will be six (6) cable bolts with a minimum length of eight (8) feet installed with 18" by 18" monster mats in each intersection along the regularly traveled haulroad from the #1 Belt Head to the #2 Belt Tail Piece.
2. All intersections from #3 Belt Head to the #4 Belt Tail Piece along the regularly traveled haulroad will be re-measured. Any intersections measuring more than sixty (60) feet in diagonal will be supported by cribs or an equivalent support in the crosscuts to bring the intersection to within 60' in diagonal distance.

IF-O18  
Revised 11-02

STATE OF WEST VIRGINIA

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

OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East  
Charleston, West Virginia 25311-2126

Region One  
Case No. 155-0108-2007  
Violation No. 1

NOTICE OF VIOLATION

Company / Operator Dana Mining Company Contractor: Yes \_\_\_ No X  
Permit Number U-251A Mine Name Prime #1 Mine  
Date of Issue Feb. 8, 2007 Time 7:45 X 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 roof of the active underground roadway/travelway was not supported or otherwise controlled adequately to protect persons from the falls of roof in that on December 17, 2006 at approximately 7:30 PM Mr. John Elliot received fatal injuries from a roof fall while traveling through a 4-way intersection in the #2 Entry at the #18 Block on the active underground roadway/travelway.

Type of Issuance: N.O.V. X 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 7:45 X a.m. \_\_\_\_\_ p.m. on Feb. 8 20 07

Action taken to abate the violation: An addendum to the roof control plan was approved on December 21, 2006.

Company / Operator Agent Served: Steve Polce

Authorized Representative: Jeff Bennett Inspector No. 155

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) X

Severity of Injury Expected: None: \*(0) \_\_\_\_\_ No lost work days \*(6) \_\_\_\_\_ Lost or restricted days (11) \_\_\_\_\_  
Permanently disabling (15) \_\_\_\_\_ Fatal (20) X

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

Negligence: None (0) \_\_\_\_\_ Low (10) X Moderate (15) \_\_\_\_\_ High (20) \_\_\_\_\_

Knowing Violation: No X Yes \_\_\_\_\_ Repeat \_\_\_\_\_

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

No compliance (extenuating circumstances) (0%) X Extra effort (-15%) \_\_\_\_\_

Region One  
Case No. 155-0109-2007  
Violation No. 1

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

**NOTICE OF VIOLATION**

Company / Operator Dana Mining Company Contractor: Yes  No

Permit Number U-251A Mine Name Prime #1 Mine

Date of Issue Feb. 8, 2007 Time 7:48  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 14 and/or West Virginia Administrative Regulation: Title \_\_\_\_\_, Series \_\_\_\_\_, Section \_\_\_\_\_ exists as follows: \_\_\_\_\_

During the investigation of a fatal accident that occurred on 12/17/06 at approximately 7:30 PM it was revealed through testimony that the active workings of the mine were not examined completely by the pre-shift examiner within 3 hours before the miners of such shift entered the mine. Mr. Ken Losh, South Section Foreman stated that he traveled to the feeder area only on the South Section and did not examine the face area. Also, testimony revealed that the South Section power center was energized. Mr. Gary Mayle and Mr. John Elliot entered the mine under Mr. Losh's supervision before the pre-shift exam was completed.

Note: Also the North Section and the roadway/travelway to the North Section had not been examined.

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 7:48  a.m. \_\_\_\_\_ p.m. on Feb. 8 2007

Action taken to abate the violation: Proper pre-shift requirements were explained to mine management and foreman. Management held meeting with pre-shift examiners before they resumed their duties.

Company / Operator Agent Served: Steve Polce

Authorized Representative: Jeff Bennett Inspector No. 155

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%) \_\_\_\_\_

**State of West Virginia**  
**OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING**  
1615 Washington Street, East, Charleston, WV 25311-2126

**Notice of Individual Violation**

Case Number: 155-0110-2007

Name of person charged: Ken Losh Social Security Number: [REDACTED]  
Address: [REDACTED]  
Home phone number: [REDACTED] Certification number: \_\_\_\_\_  
Applicable type of certification: Mine Foreman 35926-07  
Name of mine operator/company: Dana Mining Company Mine: Prime #1  
Date: Feb. 8, 20 07 Time 8:05 X A M \_\_\_\_\_ P M  
Location of violation: Portion of underground mine.

**Notice is hereby given that you have been found in violation of the following: West Virginia Code,**

Chapter 22A, Article 2, Section 14 and/or Administrative Regulation \_\_\_\_\_

Title \_\_\_\_\_, Series \_\_\_\_\_, Section \_\_\_\_\_ in that you were: During the investigation of the fatal accident involving John Elliot on 12/17/06 at approximately 7:30 PM, your testimony stated that you took John Elliot and Gary Mayle underground under your supervision before the active workings of the mine were completely examined. Your statement was that you traveled to the South Section feeder only on your pre-shift exam. Your testimony also is that the South Section power center was energized. Your testimony also stated that the employees job assignment was on the South Section. Mr. Elliot was to wash shuttle cars and Mr. Mayle was to water roadways. Also the North Section and the roadway/travelway to the North Section had not been examined. The only statement in the pre-shift book is as follows: Haulage clear outside to South 6:30 - 7:00 PM KL (Copy Attached)

**Proposed Order of Assessment**

Likelihood of occurrence: Unlikely (0) X Reasonably likely (10) \_\_\_\_\_ Occurred (20) \_\_\_\_\_  
Severity of injury normally expected: None (0) \_\_\_\_\_ No lost work days (5) X \_\_\_\_\_  
Lost workdays/restricted days (10) \_\_\_\_\_ Permanently disabled (15) \_\_\_\_\_ Fatal (20) \_\_\_\_\_  
Number of persons potentially affected: 0 (0) \_\_\_\_\_ 1 (5) \_\_\_\_\_ 2 (10) X 3 (15) \_\_\_\_\_ 4-5 (20) \_\_\_\_\_  
6-9 (25) \_\_\_\_\_ more than 9 (30) \_\_\_\_\_  
History of prior violations during past thirty-six (36) months: 0 (0) \_\_\_\_\_ 1 (15) \_\_\_\_\_ 2 or more (30) \_\_\_\_\_  
Total Points: 15

Authorized representative: Jeff Bennett

Assessment Officer: Mark Wilfong

Assessment Review Officer: \_\_\_\_\_

*Jeff Bennett #155*

Use Indelible  
Pencil or Ink

### PRESHIFT-MINE EXAMINER'S REPORT

Report shall be  
signed when made

Date of Examination 12-17-00 20 00 Section or Area Examined Down

Time of Examination: from \_\_\_\_\_ a.m. or p.m. to \_\_\_\_\_ a.m. or p.m.

Was this report phoned to outside: Yes \_\_\_\_\_ no \_\_\_\_\_

By whom \_\_\_\_\_ Time A.M. P.M.

(Signed)

#### Violations and other Hazardous Conditions Observed and Reported

Location	Violation or Hazardous Condition	Action Taken
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

#### Air Measurements

Location	CFM	Location	CFM
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Remarks: Haulage Plan out. See to Safety 630-2000 KI

This is to certify that: (a) This section of the mine was properly examined by me, (b) all violations of the W. Va. Mining Laws and the Federal Coal Mine Health and Safety Act of 1969 and other unsatisfactory conditions and practices observed by me are listed in this report.

Signed By \_\_\_\_\_

Preshift-Mine Examiner

Certificate No. \_\_\_\_\_

Assistant Foreman \_\_\_\_\_

Certificate No. \_\_\_\_\_

Countersigned \_\_\_\_\_

Mine Manager Mine Foreman

Assistant Foreman

379-0109