May 24, 2006

Fatal Power Haulage Accident
(Underground Coal Mine)

Wolf Run Mining Company
Sycamore No. 2 Mine
Permit No. U-2002-02A

Region One
Brian Mills, Inspector-at-Large
Jeff Bennett, District Mine Inspector
John Scott, Electrical Inspector
Bennie Comer, Electrical Inspector
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General Information

A fatal underground haulage accident occurred on May 24, 2006 at the Wolf Run Mining Co. Inc., Sycamore Mine No. 2 at approximately 2:15 p.m. Todd Upton, a 34 year old, utility man, operating a scoop, was struck by two wooden planks which were approximately nine inches wide, three inches thick and twelve feet in length, which entered the scoop deck. The scoop was being trammed battery end first in the outby direction toward the surface near the end of Mr. Upton’s shift. The accident occurred in the No. 3 entry at a location known as 12 block. During interviews this location was referred to as the No. 2 entry. Mining ceased in the No. 1 entry, 4 blocks inby this location. The Sycamore Mine is located on the Jarvisville Road in Harrison County.

Co-workers came to Mr. Upton’s assistance within minutes. The planks had to be removed from the operator’s compartment to remove Mr. Upton from the machine. Once Mr. Upton was removed from the scoop CPR was administered. Mr. Upton was then transported to the surface where Dr. Roger Tilletson, of WVU Medical Center through radio communication with Tim Sergent (Paramedic), Harrison County EMS pronounced him dead at 3:25 p.m. The body was transported to United Hospital Center in Clarksburg, WV.

The Office of Miner’s Health, Safety and Training’s Fairmont Office was notified of the accident at 2:40 p.m. by the Homeland Security Call Center. Secretary, Linda Miller, took the call. The Call Center had been notified at 2:35 p.m., a joint investigation with the Mine Safety and Health Administration (MSHA) was started immediately. District Inspector, Jeff Bennett, completed the most recent quarterly inspection at this mine on April 11, 2006. The location where this accident occurred had been developed but was not being utilized as a haul road at the time Mr. Bennett made his quarterly inspection.

The mine was originally permitted as Anker WV Mining Co., Inc. on January 10, 2005. The name of the operation was changed to Wolf Run Mining Co., Inc. on May 12, 2006.
Description

The Wolf Run Mining Company, Sycamore Mine No. 2 Mine is a drift mine. It produces coal in the Pittsburgh seam and is located near Jarvisville, in Harrison County. Mining is conducted with two continuous miner units. Employees and supplies are transported by battery powered equipment. Coal is removed from the working sections via a conveyor belt to the surface.

The day shift at the Sycamore No. 2 Mine started at 6:00 a.m. on May 24, 2006. Foreman, Johnny Bishoff, assigned Mr. Upton to get the Fairchild Scoop, Model Number 35C-WH, company number 7, to start picking up trash in the Number 3 entry. Mr. Upton proceeded with his assignment until the scoop he was operating experienced battery problems. Outby foreman, Dwight Riegel, instructed Gary Campbell, Number 5 Scoop Operator, to pull the No. 7 scoop to 7 block, then to the No. 3 entry where a battery charging station is located. Mr. Upton traveled to the surface after changing the batteries to empty the trash and was then assigned to deliver rock dust to the dumping point of the No. 3 conveyor belt. Mr. Upton made three trips from the surface to this location, hauling two pallets of rock dust each trip. At approximately 1:50 p.m., Mr. Upton spoke with Mr. Riegel and stated that this would be his final trip since the end of his shift was approaching. Mr. Riegel instructed Mr. Upton to haul a load of trash to the surface. During his final trip to the surface at approximately 2:00 p.m., Upton stopped to speak with Chris Mayle and Dave Broll, near the 26 block of No. 3 entry. Mr. Mayle and Mr. Broll finished putting away their tools and started walking out the No. 3 entry toward the surface after Mr. Upton’s departure.

Mr. Mayle and Mr. Broll came upon the scoop at 12 block where they saw Mr. Upton’s cap light shining. Both men yelled to Mr. Upton. When Mr. Upton did not respond, they ran toward the scoop and found Mr. Upton trapped against the inby side of the operator’s compartment. They noticed that two planks had entered the operator’s compartment, pinning Mr. Upton. Mr. Mayle immediately ran to the mine telephone at the No. 2 belt drive and informed the dispatcher that there was an accident with a man pinned in a scoop at 12 block in the No. 3 entry. First Left Section Foreman, Steve Hively was informed of the accident and he and his crew proceeded to the accident site. Upon arrival, Mr. Hively administered first aid treatment while the planks pinning Mr. Upton were being removed. Once the planks were removed from the operator’s compartment, Mr. Upton was removed
from the machine, first aid treatment was continued and CPR efforts were started immediately.

While persons underground were freeing Mr. Upton, Safety Director, George Rannenberg, and members of the evening shift crew gathered additional first aid equipment and traveled to the accident site via mantrip. When Mr. Rannenberg arrived at the accident site Mr. Upton was being attended to by Mr. Hively while others were attempting to remove the wooden plank boards. Mr. Rannenberg turned the mantrip around that would be transporting Mr. Upton and prepared it to accommodate a backboard to secure Mr. Upton for transportation. CPR was continued while Mr. Upton was being transported. While transporting Mr. Upton to the surface, the mantrip met Jim Lacy, Second Shift Foreman, who was carrying an Automatic External Defibrillator (AED). The AED was administered without success and CPR was continued.

The Harrison County EMS with the assistance of Health Net continued emergency care when the mantrip arrived on the surface. Dr. Roger Tilletson, MD, WVU Medical Hospital through radio communication with Tim Sergent, Paramedic, Harrison County EMS, pronounced Mr. Upton dead at 3:25 p.m.

Findings of Fact

1. The machine involved in the accident was a rubber tired, battery powered, Fairchild Scoop, Model 35C-WH, Company Number 7, Serial Number T339-351, with MSHA approval Schedule 2G-3599-2. The No. 7 scoop was equipped with a bucket front-end attachment that could be raised and lowered by the scoop’s hydraulic system. The scoop is used to transport supplies from the surface.

2. Operational tests conducted on the No. 7 scoop during the investigation revealed no defects or deficiencies pertaining to tramming, steering, brakes, hydraulic system, emergency de-energization device, lights, etc. The operator’s compartment was located mid-machine on the right side, and was provided with an approved canopy. A protective metal grid enclosure was provided around three-quarters of the operator’s compartment. There is an opening measuring 18 ¼ inches wide by 28 inches in height, where an operator enters the operator’s compartment.
3. There were no witnesses to the accident.

4. During the dayshift of May 24, 2006 a certified person made two required examinations of the No. 3 entry haul road. Examiner, Fred Jamison, reported no hazardous conditions. Foreman, Dwight Riegel, escorted a red hat miner through the No. 3 entry, 12 block area within approximately 15 minutes prior to the accident. Mine Safety Director, George Rennenberg, also traveled through the No. 3 entry, 12 block area with MSHA inspectors, Ron Postelwaite and Jeremy Ross, earlier in the shift at approximately 7:30 to 8:00 a.m. All individuals that were interviewed did not observe a potentially hazardous condition when they passed through the accident site.

5. The entry height at the accident site was 52 inches, and the width was 17 ½ feet. The mine floor roadway, in the immediate area, was slightly damp and rolling. The entry roadway was rutted out and defined with two tracks. Just inby 12 block, on the right side next to the rib were two crib blocks and two planks. In the belt side crosscut at 12 block, there were 10 planks lying on the mine floor. The immediate roof above the scoop had three dislodged roof bolts, with plates missing that had been installed with accordance with the approved roof control plan.

6. Training records indicate that Mr. Upton received a West Virginia Apprentice Miner’s Certificate on February 14, 2005 and was issued a West Virginia Underground Miner’s Certificate on December 16, 2005. He also received task training on the following equipment:

October 31, 2005-----------------Fork Lift and Scoop
March 3, 2005-----------------488 S & S Scoop
March 6, 2006-----------------Gunit Machine
March 27, 2006-----------------488 Long Airdox Scoop
Conclusion

While tramming the Fairchild scoop outby in the Number 3 entry at Number 12 block the victim received a fatal injury when two plank boards entered into the operators compartment pinning him inside the operator’s cab.

Recommendations

Mine management shall hold safety meetings with all mine personnel to discuss the safe operation of off track equipment to prevent a recurrence of the accident.

Enforcement Actions

The following enforcement action was taken as a result of the investigation.

A non-assessed control order was issued in accordance with West Virginia Administrative Regulation Title 36, Series 19, Section 7.1

A violation was issued that directly attributed to the cause of the accident. Title 36, Series 30, Section 4.1  Following the investigation of a fatal accident on May 24, 2006, resulting in the death of scoop operator, Todd Upton, evidence indicates and it has been determined that the roadway at 12 block, No. 3 entry was not being maintained in a safe condition and free of hazards. Required roof supports were damaged and loose plank boards were present at the accident scene.

During this investigation a total of three notices of violation were issued that did not contribute to the accident. (See Attachments – Appendix)
Acknowledgement

The West Virginia Office of Miners’ Health, Safety and Training gratefully acknowledges the cooperation of the employees and management of Wolf Run Mining Company and the Mine Safety and Health Administration during this investigation.

Terry Farley, Administrator
Date

Brian Mills, Inspector-at-Large
July 18, 2006

Jeff Bennett, District Mine Inspector
7-18-2006

John Scott, Electrical Inspector
7-26-2006

Bennie Comer, Electrical Inspector
7/18/2006
APPENDIX

* List of persons providing information or present during the investigation.

* Mine Information

* Victim Information

* Drawings

* Violations (non-contributing)
Investigation / Interviews

The following persons were present at the on-site investigations and/or interviews:

WV Office of Miners’ Health, Safety & Training

Jim Dean
Terry Farley
Brian Mills
Jeff Bennett
John Scott
Bennie Comer

Director
Administrator
Inspector-at-Large
District Mine Inspector
Electrical Inspector
Electrical Inspector

Mine Safety & Health Administration

Jan B. Lyall
Jerry W. Vance
Craig S. Aaron
Frank Thomas
Kenneth Tenney
Ron Wyatt

MSHA Inspector-Roof Control
Educational Field Services
Mining Engineer, Health Specialist
MSHA Inspector-Electrical
Field Office Supervisor
Staff Assistant

International Coal Group, LLC

Samuel R. Kitts
Tim A. Martin
H. Tyrone Coleman
Greg L. Nestor
Denise Smith-Kastick, ESQ
Mark E. Heath

Vice-President
Corporate Director Health & Safety
Manager of Safety
Safety Director
Attorney with Spilman, Thomas & Battle
Attorney with Spilman, Thomas & Battle

Wolf Run Mining Company

Randy Riddle
Roger Spencer
*Johnny Bishoff
*George Rannenberg
*Dwight Riegel
*Steve Hively
Bill Hoover
*Fred Jamison
*David Broll
*Gary Campbell
*Roy Payne, Jr.
*Johnny Wilfong
*Everett Kalbaugh
*William Short

General Manager
Superintendent
Production Coordinator
Safety Manager
Outby Foreman
Section Foreman
Maintenance Superintendent
Outby Mine Examiner
Utility/Scoop Operator
Utility/Scoop Operator
Continuous Miner Operator
Section Mechanic
Utility/Scoop Operator
Shuttle Car Operator
*Mark Ross

Outby Foreman

Mine Temp, LLC

*Christopher J. Mayle

Contact Laborer

Alpha Engineering Services, Inc.

Mike Gosnell
Travis Hartsog
David Prelaz

Contract Surveyor
Contract Surveyor
Contract Surveyor

*Denotes Persons Interviewed
MINE INFORMATION

COMPANY  Wolf Run Mining Company

MINE NAME  Sycamore Mine No. 2

WV PERMIT  U-2002-02A  MSHA PERMIT NO.  46-09060

ADDRESS  RR 4, Box 612, Salem, WV  26426

COUNTY  Harrison  PHONE NUMBER  (304) 782-4433

DATE PERMIT ISSUED  May 12, 2006

WORKING STATUS  Active

LOCATION  West of Clarksburg, 3 miles off Rt. 50 on Jarvisville Road

UNION  X  NON UNION  X

DAILY PRODUCTION  1146 Tons Daily

ANNUAL PRODUCTION TO DATE  102,568 Tons

TOTAL EMPLOYEES  81

NUMBER OF SHIFT  3

COAL SEAM NAME AND THICKNESS  Pittsburgh  80 Inches

ACCIDENT FREQUENCY RATE  7.96  LOST TIME ACCIDENTS  5

TYPE OF HAULAGE  Belt

WVOMHST INSPECTOR  Jeff Bennett

DATE OF LAST INSPECTION  May 15, 2006  (John Scott)

NOTIFIED BY  Tina Myers

TIME OF NOTIFICATION  2:35 PM

CMSP – ANNIVERSARY DATE  April 17, 2007

CMSP – CONTACT PERSON  George Rannenberg
VICTIM INFORMATION

NAME OF VICTIM ________________________________ Todd Lewis Upton

ADDRESS _____________________________________________________________________
Montana Mines, WV 26586

AGE ______________________________________________________________________
Thirty-four (34)

SOCIAL SECURITY NUMBER ______________________________________________________

TOTAL MINING EXPERIENCE _____________________________________________________
1 year 3 months 10 days

EXPERIENCE AT THIS MINE _____________________________________________________
7 months

OCCUPATION AT TIME OF ACCIDENT __________________________ Section Utility

REGULAR OCCUPATION _________________________________________________________
Section Utility

COAL MINER’S CERTIFICATION ____ (Issued 12/16/05)

OTHER CERTIFICATIONS ______ (Issued 5/20/06)
Apprentice Electrician

SPouse’s NAME _____________________________________________________________
Simee Upton

DEPENDENTS ________________________________________________________________
Three (3)

DATE OF ACCIDENT _______________ 24TH. DAY OF ______ May _______ 2006

AT ______ 2:25 O’CLOCK ______ PM______

CAUSE OF ACCIDENT: Victim was stuck by two (2) 3”x9”x12’ wood planks
which entered the Fairchild scoop canopy causing fatal crushing injuries.

DATE OF DEATH: _______________ 24TH. DAY OF ______ May _______ 2006

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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: WOLF RUN MINING
Permit Number: 11-2002-02-A
Mine Name: SYCAMORE H-2
Date of Issue: 6-25-06
Time: 4:10 A.M.
Contractor: Yes _ No _

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 40 (20) and/or West Virginia Administrative Regulation: exists as follows:

INVESTIGATION OF A FATAL ACCIDENT INVOLVING THE NO. 17 MODEL NO. 35C WEL FAIRCHILD 5000 HP SERIAL NO. 7-339-351. A NEWS CONTRIBUTING VIOLATION WAS DISCOVERED INSIDE THE MAIN PANEL ON THE SCOOP. THE INTRINSIC SWITCH, WHICH IS DESIGNED TO DE-ENERGIZE THE MAIN CIRCUIT BREAKER ON THE PANEL WHEN THE PANEL LID IS REMOVED, WAS SECURE IN THE CLOSED POSITION BY A PIECE OF TAPE MAKING IT INOPERATIVE.

Type of Issuance: N.O.V. _ Order _

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by 4:10 a.m. _ p.m. on 5-25-06
The foregoing violation was totally abated by _

Action taken to abate the violation: THE TAPE WAS REMOVED AND NOW THE SWITCH OPERATES PROPERLY

Company / Operator Agent Served: BILL HEAVEN

Authorized Representative: Joe Ander, Inspector No. 124

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) _ 10+ (10)
Negligence: None (0) _ Low (10) _ Moderate (15) _ High (20) _
Knowing Violation: No _ Y _ Repeat 
Good Faith in Abatement: Lack of good faith (+15%) 
No compliance (extenuating circumstances) (0%) _ Y _ Extra effort (-15%) _
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: Wolf Run Mining Co.  Contractor: Yes  No
Permit Number: 0-200-02A  Mine Name: Jumanji
Date of Issue: 5-25  Time: 4:45  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 28A, Article ___ Section 28A, and/or West Virginia Administrative Regulation: Title ___ Series ___ Section ___ exists as follows: During the investigation of a total accident the approved roof control plan is not being conformed with in that located in the #3 entry (main road) between #36 and #37 disks, four (4) required posts have been dislodged that are required to reduce the roof span. Also at 15' left 3 required permanent roof supports are not being provided with bearing plates (this is 3 arc located all in the same row) also the 25' from this condition a bearing plate is not tight against the mine roof and this is also a required support installed in pattern as required by the approved roof control plan.

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

The foregoing violation shall be totally abated by 4:30 a.m. p.m. on 5-26 2006
The foregoing violation was totally abated by  a.m. p.m. on
Action taken to abate the violation: 

Company / Operator Agent Served: Roger Spencer
 Authorized Representative: Jeff Bennett / Brian Miller Inspector No. 155101

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 (3)  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, West Virginia 25311-2125

NOTICE OF VIOLATION

Company / Operator: Bull Run Mining Co. Contractor: Yes ___ No ___

Permit Number: W-2002-02 A Mine Name: Sycamore II
Date of Issue: 5-25-20___ Time: 8:50 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: 29 __ 30 4.1 exists as follows: During the investigation of a total accident the following conditions exist in the haul road located in the #5 entry which is used daily to transport miners and supplies to the main working section. At #19-40 62ft, planks are present on the outside end of the existing wooden bridge. At 324ft, a concrete slab is present that is approximately 8” thick. Also the following conditions exist in the haul road located in the #3 entry. At 30-45 6ft 6” (overcast) 5 bams that measured 4”x4”x17’ in length and measured 29” from the rib are along side the roadway. At 384ft several loose boards are present in and along the roadway. This same condition exist between #6 and #7 ores and evidence indicates they are being ran over by mobile equipment (battery powered scoop).

Type of Issuance: N.O.V. ___ Order ___

Area or equipment (if order is issued): ran over by mobile equipment (battery powered scoop)

The foregoing violation shall be totally abated by: 4:00 a.m. 5-26 20___ p.m.
The foregoing violation was totally abated by: __________ a.m. __________ p.m. __________

Action taken to abate the violation: __________

Company / Operator Agent Served: Roger Spencer

Authorized Representative: Jeff Kistler, Brian Mill

Inspector No. 155/01

REVIEW: In accordance with Section 22A-4-17 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)__ Likely (10) Reasonably likely (20) Occurred (30)

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 *(3)___ 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%) ___
NOTICE OF VIOLATION

Company / Operator: WOLF Run Mining Co.  Contractor: Yes ☑ No ☐

Permit Number: M-2002-00A  Mine Name:  Section:  No. 2

Date of Issue: 7-17 2002  Time: 2:07 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 46, Article 31, Section 4.1, exists as follows: Following the investigation of a fatal accident on May 24, 2000, resulting in the death of coal operator, Tedd Wilson, evidence indicates that the roadway at 12 block, No. 3 entry was not being maintained in a safe condition and free of hazards. Requirements for support were strained. Loose plank boards were present at the accident scene.

Type of Issuance: N.O.V. ☑ Order ☐

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by 2:07 A.M. on 7-17-2002.

The foregoing violation was totally abated by 2:07 A.M. on 7-17-2002.

Action taken to abate the violation: DISCUSSED VIOLATION WITH MINI MANAGEMENT AND

Company / Operator Agent Served: LARRY REICHARDT, ROCKY BONSAI

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%) ☑