

West Virginia Office of Miners' Health, Safety and Training


MARCH 13, 2013

**Report of Investigation
Underground Coal Mine Fatality
(Roof Fall Accident)**

**Newtown Energy Inc.
Peerless Rachel Mine
Permit Number U-00500504**

**Region III
137 Peach Court, Suite 2
Danville, West Virginia 25053
John Kinder, Inspector-at-Large**

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Incident Print

Unit #1
Peerless Rachel

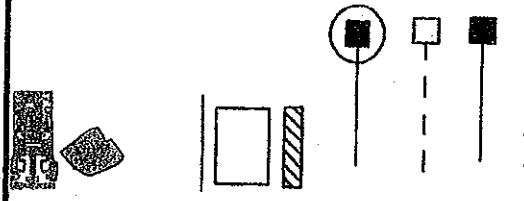


Scale: 1" = 10' Date: 4-29-2013

SPAD NIT

01111

- Installed Roof Bolt w/8in Plate
- Installed Roof Bolt w/8in Plate & 19in Diameter Draw Rock Shield
- Installed Roof Bolt w/8in Plate, 19in Diameter Draw Rock Shield & Red Reflector
- Non-Surveyed Roof Bolt
- Installed Rib Bolt w/8in Plate
- Drilled Hole for Rib Bolt
- Installed Rib Bolt w/8in Plate & 19in Diameter Draw Rock Shield
- Bolt Strap 5.5in Wide
- Pillar Projection
- Fallen Rock
- Roof Bolter



MSHA, ID 46-09258

STATE ID #U-S005-04

GENERAL INFORMATION
 NEWTOWN ENERGY INC.
 PEERLESS RACHEL MINE
 PEERLESS SEAM

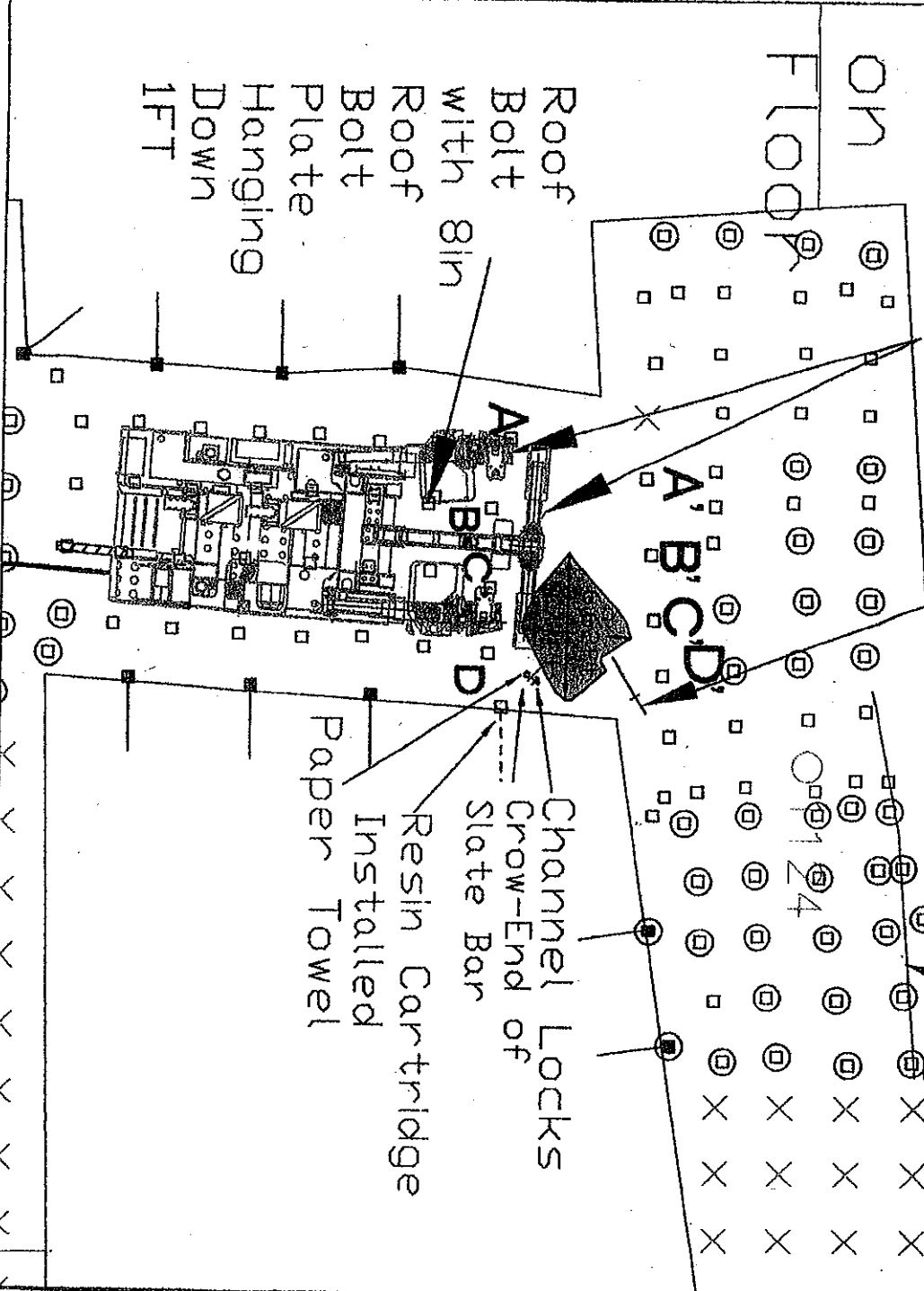


Roof Bolt Line Curtain In Place Hanging from Bolts Along Rib

Wrenches

ON FLOOR

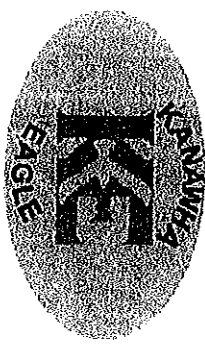
Roof Bolt with 8in Roof Bolt Plate Hanging Down 1FT



Channel Locks
 Crow-End of Slate Bar
 Resin Cartridge Installed
 Paper Towel

Incident Print

Unit #1
Peerless Rachel

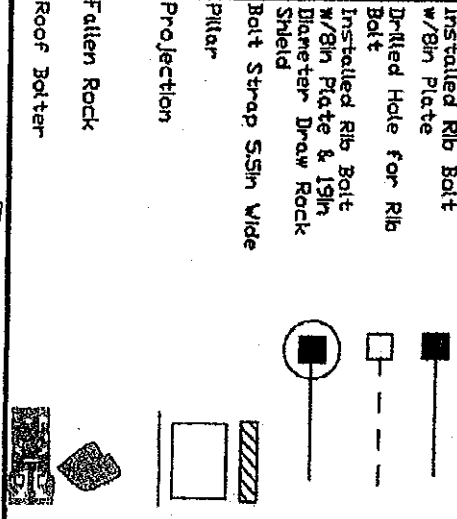


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GENERAL INFORMATION
NEWTOWN ENERGY INC.
PEERLESS RACHEL MINE
 PEERLESS SEAM

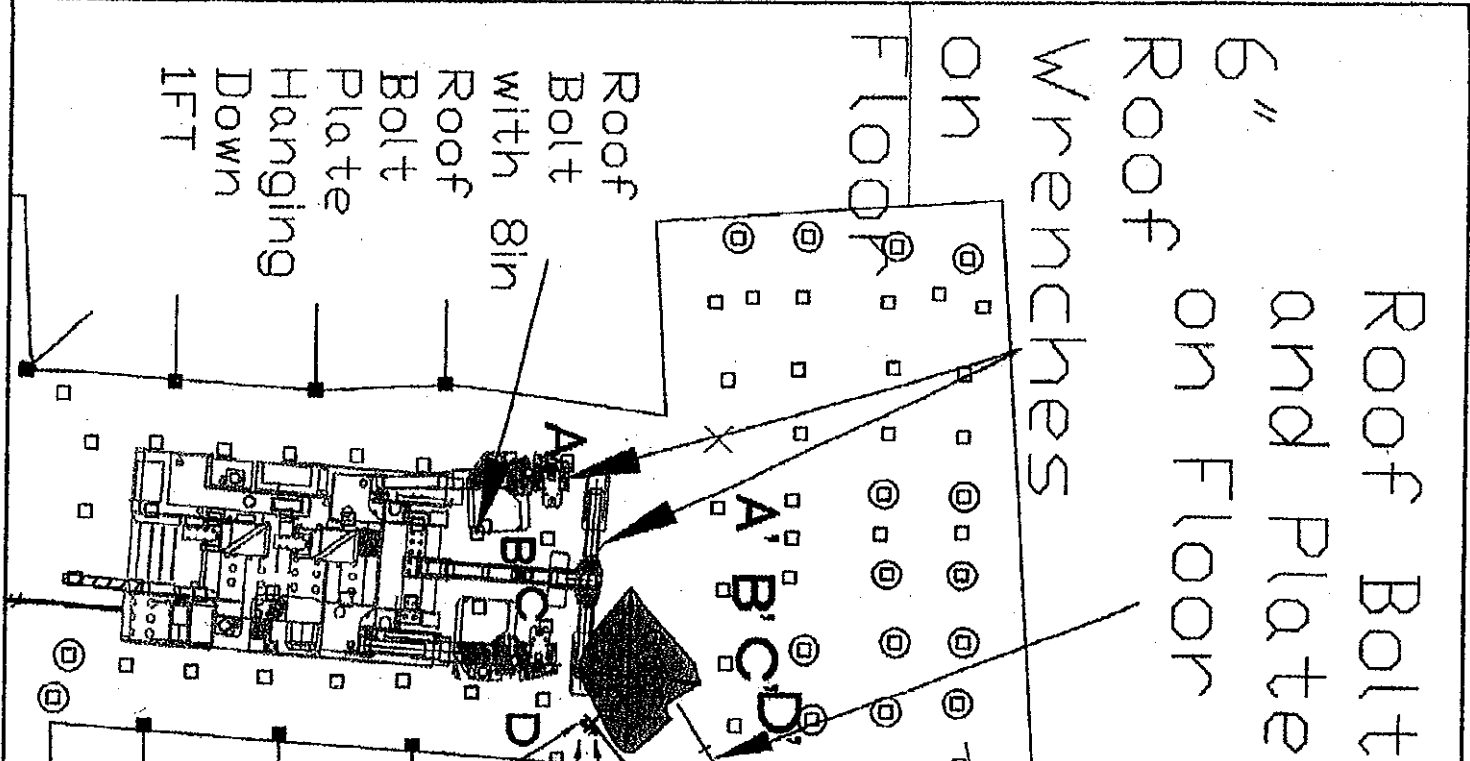


Inspected By:
West Virginia Office of Miners' Health,
Safety & Training

NOTES:
X Approximate Location Of Victim

Newtown Energy Inc., Peerless Rachel Mine provided this engineering drawing to the West Virginia Office of Miners' Health, Safety & Training without identifying an approximate location of the victim.

Based on the information provided during the interviews of witnesses who were present at the time of the accident or shortly thereafter the West Virginia Office of Miners' Health, Safety & Training marked this drawing with the symbol - X identifying the approximate location where it concluded the victim was found immediately after the accident.



General Information

This report is based on an investigation conducted in accordance with Chapter 22A, Article 1, Section 14 of the mining laws of the State of West Virginia.

Newtown Energy Inc. was issued a permit to operate the Peerless Rachel mine on December 9, 2010 and that permit remains active to this day. The mine has a total of three (3) openings, consisting of one (1) slope, one (1) intake air shaft and one (1) return air shaft into the Peerless seam. The mine normally operates five (5) days per week and employs a total of 120 persons. Coal is mined on two advancing continuous miner sections producing coal on day and evening shifts and maintenance work is performed on the owl shift. The average mining height is approximately 91 inches. The evening shift employees on the No. 1 section were classified as production crew workers performing duties such as mining of coal and bolting mine roof.

A fatal roof fall accident occurred at approximately 4:55 p.m. on Wednesday, March 13, 2013, at Newtown Energy Inc., Peerless Rachel Mine (U-00500504) located near Comfort, WV, in Boone County. The accident occurred on the No. 1 working section in the crosscut between No. 8 and No. 9 entries near survey station No. 1123. Mr. Asa Fitzpatrick, 63 years of age, received fatal crushing injuries while operating a Fletcher, C-DDR-13-A, walk through roof bolter. Mr. Fitzpatrick was in the process of installing a rib bolt, when he was struck by a piece of mine roof, which measured approximately 6.62 (ft.) x 8.73 (ft.). According to Mr. Fitzpatrick's records, he had been operating a roof bolter (off and on) for 31 years. His official job classification is roof bolter operator and he had been operating the No. 404 roof bolter since November, 2012.

The Boone County Emergency Services Authority, Station 20, was notified of the accident at approximately 5:03 p.m., the M-40 ambulance was dispatched to the mine site. The Boone County Ambulance Authority transported Mr. Fitzpatrick to Charleston Area Medical Center where he was pronounced dead at 7:04 p.m., by the emergency room physician, Dr. Andres Arboleda. The Mine and Industrial Accident Emergency Operations Center was notified of the accident at 5:05 p.m., by Mr. Jimmy Higginbotham, the mine tracking and communications dispatcher at Newtown Energy Inc., Peerless Rachel Mine. Inspector-at-Large, John Kinder Region 3, West Virginia Office of Miners' Health, Safety and Training was notified of the accident at 5:12 p.m., on March 13, 2013. Mr. Kinder issued a verbal control order for the accident site, from the feeder and inby in all entries, and then notified Region 3 district inspectors, to go to the accident site, to conduct an investigation. A non-assessed written

control order was issued by Fred Newsome (roof control inspector) immediately after he arrived at the mine site, effective from the dumping point inby in all entries on the No. 1 miner section, for the health and safety of all employees and for the purposes of conducting the investigation and preservation of evidence. A joint investigation with state officials, company officials and the Mine Safety and Health Administration began immediately.

Description

The evening shift production crew for the No. 1 section, supervised by Mr. Bill Smith, Section Foreman, entered the mine at 3:00 p.m. on Wednesday, March 13, 2013. The crew traveled via a diesel rubber tired personnel carrier to the No. 1 section and arrived at approximately 3:30 p.m.

The scheduled work activities performed prior to the accident progressed normally with production and installation of roof and rib supports, cleaning and dusting. At the beginning of the shift, the right side continuous miner completed mining the eight (8) right crosscut. As the process began, the face area was cut through into the adjacent entry and several shuttle cars were loaded finishing the cut that had been left from the previous shift. Miner operator Robbie DeBoard moved the continuous miner into the No. 7 face area. The bolter is a walk through type bolter. Roof bolt machine operators, Brian Allport and Asa Fitzpatrick moved the No. 404 right side roof bolter to the No. 8 right crosscut to begin bolting. After installing the eighth row of roof bolts, the crew began to install the rib bolts. Mr. Fitzpatrick drilled the right rib bolt hole; he traveled inby the mast of the bolter, because he could not insert the glue and rib bolt into the drilled hole from the other side of the mast. Mr. Fitzpatrick walked back in front of the mast to return to the operator levers of the roof bolter that was located in the center of the bolter. While Mr. Fitzpatrick was partially under unsupported roof, a slicksided roof rock fell, pinning, Mr. Fitzpatrick between the mast and roof rock in a standing position. Mr. Allport heard the roof rock fall and turned to look for the roof rock that had fallen, and noticed that Mr. Fitzpatrick was pinned by the roof rock. Mr. Allport tried to push the rock off Mr. Fitzpatrick, but due to the weight of the roof rock he could not move it. Mr. Allport dropped the ATRS of the roof rock bolter approximately three (3) inches to release Mr. Fitzpatrick from the fallen roof rock but was afraid to continue adjusting the bolter because he was afraid that he might cause further injuries to the victim. Mr. Allport stated that he ran to the mouth of the crosscut to yell for help, when he turned back toward the bolter; the roof rock had fallen to the

mine floor and Mr. Fitzpatrick was found beside the roof rock on the mine floor. Mr. Robbie DeBoard, the right side continuous miner operator stated that he heard someone yell for help, so he walked through the fly pads that were hung in the crosscut of eight (8) right and observed Mr. Allport yelling for help. When he observed Mr. Fitzpatrick on the mine floor he immediately ran to the victim, to offer assistance. When Mr. DeBoard arrived, Mr. Allport ran to retrieve the first aid supplies located next to the power center. James Raines, shuttle car operator, observed Mr. DeBoard running toward the roof bolter, in the eight (8) right crosscut. As Mr. Raines entered the area, where the victim was located, he noticed that Robbie DeBoard, was attempting to move the roof rock with a slate bar. After further review of the roof rock, he realized that the roof rock was not pinning Mr. Fitzpatrick to the mine floor. He pulled Mr. Fitzpatrick by the knees, to place Mr. Fitzpatrick on his back. Mr. Fitzpatrick was found lying on his left side. Robbie DeBoard stated that when Mr. Fitzpatrick was picked up and placed on the stretcher, he realized, that Mr. Fitzpatrick was not breathing. Mr. DeBoard, Brian Allport and Bill Smith (section foreman) began to give Mr. Fitzpatrick CPR. Steve Block (left miner operator) stated that a pulse could not be found. Bill Smith (section foreman) could not find a pulse, and therefore, CPR was continued. Steve Block stated that he went to the mine phone to inquire about assistance from other areas of the mine, and asked for a difibulator and neck brace. Mr. Fitzpatrick was loaded onto the section emergency battery man trip to be brought toward the surface. Steve Block operated the emergency man trip; while Mr. Smith, Mr. Allport and Ralph Smith continued to administer CPR on Mr. Fitzpatrick as the battery man trip preceded to the surface they met Mr. Jeff Carney, who was operating a diesel man trip. Mr. Fitzpatrick was transferred to the diesel man trip to be brought to the surface. Mr. Carney brought a difibulator with him which was placed on Mr. Fitzpatrick. When initiated, shock was not advised, therefore CPR was continued. Upon arrival on the surface Mr. Fitzpatrick was transported by the Boone County Authority to the Charleston Area Medical Center, General Division where he was pronounced dead at 7:04 p.m., by the emergency room physician.

Conclusion

On March 13, 2013, Mr. Asa Fitzpatrick, a roof bolt machine operator, on the No. 1 production evening shift crew, received fatal crushing injuries as he was installing a rib support bolt in the crosscut between the No. 8 and No. 9 entries. A large piece of roof rock fell pinning Mr. Fitzpatrick between the roof rock and the mast of the roof bolter causing a fatal injury.

Finding of Facts

1. The ATRS is functional and the operator controls are in good condition.
2. Roof bolts that were found installed in the mine roof had been installed according to the Office of Miners, Health, Safety and Training approved minimum roof control plan.
3. Conditions of the mine roof indicated signs of large to small slickensided slip formations.
4. The section ribs appeared to be in good condition.
5. After drilling the rib hole, the victim traveled between the roof bolter boom (mast) and ATRS to install glue and the rib bolt. This method of travel would require a portion of the person's body to be under unsupported roof. Based on testimony given under oath, traveling between the boom (mast) and the ATRS to install the rib bolt was a common practice.
6. The rib bolt hole was drilled approximately 8 inches beyond the last row of permanent roof support.
7. Roof bolter operator, Brian Allport stated that he heard a roof rock fall and he turned and observed Mr. Fitzpatrick pinned by the roof rock, between the roof rock and the mast of the roof bolter; He was unsuccessful in moving the roof rock by hand, due to the weight of the rock, he yelled for help.
8. The slickenside roof rock fell from the mine roof inby the ATRS.
9. The slickenside roof rock measured approximately 6.62 (ft.) x 8.73 (ft.).
10. After a re-enactment of the accident was conducted, by aligning the drilled rib bolt with the drill mast, the drill mast was extended to its furthest position which places the victim under the ATRS system, with a portion of the person's body under unsupported roof.

Enforcement Action

The following actions were taken as a result of the investigation:

A non-assessed control order was issued in accordance with chapter 22A, Article 2, section 68 of the WV code to preserve the accident scene and complete an investigation.

The WV Office of Miners' Health, Safety and Training issued one special assessed notice of violation to Newtown Energy Inc., during this investigation. The violation was written as follows:

(Violation No. 120413) Title 36 Series 10.3 Section 3.2. Based on a fatal accident which occurred on the No. 1 section on 3-13-13 when a roof bolt operator received crushing injuries when a rock fell from the mine roof, pinning the operator between the rock and the drill mast. Evidence indicates, and testimony from witnesses revealed that during the rib bolting process it is a common practice for the roof bolt operator to walk around the drill mast, for the purpose of inserting the glue and rib bolt into the drilled hole. This is considered an unsafe procedure in that it places the operator partially in the unsupported area. This violation is a violation of a health and safety statute is of a serious nature and involved a fatality.

Five (5) additional violations were issued during the investigation.

Recommendations

In accordance with West Virginia Code § 22A-2-25(a) of the WV mining laws the roof control plan for the Peerless Rachel Mine shall be revised to add an additional section of safety precautions to address rib bolting.

In accordance with West Virginia Administrative Rule § 56-8-2 (2.1) an addendum to the approved Comprehensive Mine Safety Program shall be revised to add additional training requirements and rib hazard recognition.

Acknowledgement

The West Virginia Office of Miners' Health, Safety and Training gratefully acknowledges the cooperation of the employees and management of Newtown Energy, Inc. Peerless Rachel Mine, the Mine Safety and Health Administration and MSHA's Office of Technical Support during this investigation.

Appendix

- Mine Information

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MINE INFORMATION

COMPANY Newtown Energy, Inc.

MINE NAME Peerless Rachel Mine

WV PERMIT U-00500504 MSHA MINE ID NUMBER 46-09258

ADDRESS P.O. Box 189 Comfort, WV 25049

COUNTY Boone PHONE NUMBER (304) 513-0627

DATE PERMIT ISSUED December 9, 2010

WORKING STATUS Active

LOCATION Left fork at Joe's Creek, Comfort, WV

UNION _____ NON-UNION X

DAILY PRODUCTION 916 ft. ANNUAL PRODUCTION TO DATE 412,000 Tons

TOTAL EMPLOYEES 120

NUMBER OF SHIFTS 3

COAL SEAM NAMES(S) AND THICKNESSES Peerless 6'

ACCIDENT INCIDENT RATE 13.4 LOST TIME ACCIDENTS four

TYPE OF HAULAGE shuttle car- section, belt to outside

WVOMHST INSPECTOR Randy Murphy

DATE OF LAST INSPECTION February 21, 2013

NOTIFIED BY Jimmy Higginbotham NOTIFICATION TIME 5:12 pm

CMSP ANNIVERSARY DATE January 21, 2014

CMSP CONTACT PERSON Chris Cox



Newtown Energy, Inc.

P. O. Box 189
Comfort, WV 25049
Phone: 304-837-8587

March 20, 2013

Mr. John Kinder – Inspector at Large
WVOMHST – Inspector at Large
137 Peach Court, Suite 2
Danville, WV 25053


Re: **Newtown Energy, Inc. – Peerless Rachel Mine**
Mine ID: U-500504
Supplement to Roof Control Plan

Dear Mr. Kinder:

Please find attached for your approval a revision to the approved Roof Control Plan for the above stated mine. This revision is submitted to add an additional section of safety precautions to address rib bolting. All changes were made to page 9 of the plan.

This proposed plan has also been posted on the mine bulletin board for review.

If there are any questions concerning this submittal, please contact me at directly at (304) 513-0628 or Chris Cox at (304)513-0659, by e-mail at Ccox@patriotcoal.com, or by fax at (304) 734-2035.

Sincerely, 

Brandon Bowling
Superintendent

Supplemental Roof Support Requirements

The Yellow Zone is defined as the insitu stress (the combination of overburden and multiple seam stress) in excess of 950 psi but less than 1150 psi (roughly the equivalent to 900 to 1000 feet of overburden).

1. The primary roof bolt density will be increased when mining in these areas by installing 6 roof bolts per row instead of 4. A minimum of a T3 channel or roof mat will be installed with these roof bolts.
2. Entries and crosscuts will be narrowed to 19' width maximum.
3. Ribs will be bolted in these areas if the cavity height is 7' or higher and/or if there is more than 18" of top rock being mined.

The Red Zone is defined as insitu stresses greater than 1150 psi.

1. The red zone areas will be supported the same as the yellow zone with the addition of suitable length cable bolts (minimum of 8') on a pattern between rows of primary support. The pattern is defined as two cable bolts between each row of primary roof support or four cable bolts installed every other row of primary supports.
2. Rib support will be required regardless of the mining height in these areas.

The Yellow and Red Zones will be delineated and maintained on the Rachel Peerless Mine 75.1200 map that is posted, as well as on the Annual Ventilation Map as required by 75.372.

Safety Requirements for Rib Bolting Procedures

If rib bolting is conducted on cycle with the installation of primary support where there are areas of unsupported roof inby, then the following steps shall be taken:

1. At least two full rows of primary support shall be installed inby the proposed location of a rib bolt before any work is performed to install rib support. At least two rows of primary support are required for additional support inby the rib bolting location.
2. Devices will be maintained on all roof bolt machines at this mine that will aid in the insertion of a resin cartridge during rib bolting operations. This device will be available to operators at anytime a machine is in operation.
3. Prior to operating a roof bolt machine at this mine training will be conducting under these safety precautions and documented on an MSHA 5000-23 form and maintained at the mine for review.



Newtown Energy, Inc.

P. O. Box 189
Comfort, WV 25049
Phone: 304-837-8587

March 20, 2013

Mr. John Kinder -- Inspector at Large
WVOMHST -- Inspector at Large
137 Peach Court, Suite 2
Danville, WV 25053

Re: **Newtown Energy, Inc. -- Peerless Rachel Mine**
Mine ID: U-500504
Update to Comprehensive Mine Safety Program

Dear Mr. Kinder:

Please find attached for your approval an addendum to the approved CMSP for the above stated mine. This revision is submitted to add additional training requirements for roof and rib hazard recognition. This addendum will be added to the back of the plan.

This proposed plan has also been posted on the mine bulletin board for review.

If there are any questions concerning this submittal, please contact me at directly at (304) 513-0659, by e-mail at Ccox@patriotcoal.com, or by fax at (304) 734-2035.

Sincerely, *Brandon Bowling*

Christopher S. Cox
Manager of Safety and Training

Component #13

Training for Roof and Rib Hazard Recognition

Employees will be trained on hazards associated with roof and ribs. This will include but not be limited to: work place examinations, scaling of rock, evaluation of immediate roof, body positioning and safety precautions and guidelines of the Roof Control Plan. This portion of the plan will also focus on rib bolting procedures and safe job procedures for the process. The Hazard Recognition Training and Roof Control Plan requirements for rib bolting procedures will be reviewed with employees upon approval of this addendum and at least annually thereafter.