

**BEFORE THE COAL MINE SAFETY BOARD OF APPEALS
STATE OF WEST VIRGINIA**

IN THE MATTER OF CRAIG W. BELCHER;

Charged party,

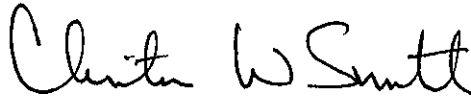
DOCKET NO.: 09-DEC-2

ORDER

On the 13th day of February 2009, came Ronald L. Wooten, Director of the Office of Miners' Health, Safety and Training, by counsel, Elaine L. Skorich, and filed its Petition for Withdrawal of Certifications of Craig W. Belcher, to act as a coal miner under any certificate, including underground apprentice miner 10493 and underground coal miner 2-5484 until the conclusion of the proceedings.

The Board having considered the same hereby finds probable cause to exist for withdrawal of said certifications of Craig W. Belcher, only upon proper application to the Board.

THEREFORE, it is hereby ORDERED that a hearing on the merits will be set at a future time and all parties will be notified officially of the hearing.



CLINTON W. SMITH, CHAIRMAN
MINE BOARD OF APPEALS

Dated this the 19th day of February, 2009.

**BEFORE THE COAL MINE SAFETY BOARD OF APPEALS
STATE OF WEST VIRGINIA**

IN THE MATTER OF:

CRAIG W. BELCHER,

DOCKET NO.: 09-DEC-2

Charged Party.

PETITION FOR WITHDRAWAL OF CERTIFICATIONS

Comes now Ronald L. Wooten, Director of the West Virginia Office of Miners' Health, Safety and Training, hereinafter Petitioner, by counsel, Elaine L. Skorich, Assistant Attorney General, and petitions this administrative tribunal for an order directing and authorizing the permanent withdrawal of all mine certificates issued to Craig W. Belcher (hereinafter "Respondent"), including certificates numbered 10493 (Underground Apprentice Miner) and 2-5484 (Underground Coal Miner), or to act as a miner under any certification issued or administered by the West Virginia Office of Miners' Health, Safety and Training. This petition is brought pursuant to West Virginia Code § 22A-1-31.

CHARGE 1

Respondent was issued Underground Apprentice Miner Card #10493 on April 26, 2005 and Underground Coal Miner Card # 2-5484 on May 6, 2005. (See Exhibit A attached hereto.) Petitioner has never issued Respondent a valid Underground Mine Foreman Card. In November of 2008, Respondent began working as a roof bolter for Spartan Mining Company (hereinafter "Spartan") in Wyoming County, West Virginia.

In mid-January of 2009, Spartan was in need of a foreman, and Respondent told Spartan that he had the appropriate certification. Spartan hired Respondent as a Belt Examiner. On January 23, 24, & 25, 2009, Respondent examined belt conveyors at Spartan and completed the required examination sheets as a certified underground mine foreman. (See Exhibit B attached

hereto.) On January 27, 2009, Respondent completed a preshift-mine examiner's report as if he were a certified underground foreman. (See Exhibit C attached hereto.)

On or about January 28, 2009, Respondent presented a copy of an underground mine foreman card to Spartan Mine Manager Joey Athey and Spartan Mine Foreman Steve Campbell. (See Exhibit D attached hereto.) Mr. Athey and Mr. Campbell both questioned the authenticity of the underground mine foreman card which Respondent presented. Spartan terminated Respondent's employment the same day. On January 29, 2008, Mr. Athey and Mr. Campbell went to Petitioner's office in Welch, West Virginia and met with Inspector-at-Large Fred Stinson to report what they had discovered regarding Respondent.

Upon investigation by Petitioner, it was revealed that Respondent apparently used the underground mine foreman number (38957-08) already issued to Howard J. Bennett on June 26, 2008. (See Exhibit E attached hereto.)

It is without question that Respondent performed underground mine foreman duties at the Spartan and that Respondent's illegal actions were confirmed by statements received by Spartan Mine Manager Joey Athey and Spartan Mine Foreman Steve Campbell.

OMHST submits that Respondent's actions violated 36 CSR 11.4(a) & (d) which state in pertinent part:

(a) Each applicant for certification as a mine foreman-fire boss shall, at the time he is issued a certificate of competency: ...**(2) have had at least five (5) years' experience in the underground working, ventilation and drainage of a coal mine**, which shall include at least eighteen (18) months' experience on or at a working section of a underground mine... and have had at least two (2) years practical experience in an underground mine, which shall include at least eighteen (18) months' experience on or at a working section of an underground mine...and **(3) have demonstrated his knowledge of dangerous mine gases and their detection, mine safety, first aid, safety appliances, state and federal mining laws and regulations and other subjects by completing such training, educations and examinations as may be required of him under these rules**

and regulations.

(d) After the effective date of this section, **all duties heretofore performed by persons certified as mine foreman, assistant mine foreman or fire boss shall be performed by persons certified as underground mine foreman-fire boss or an assistant underground mine foreman fire boss.** After the effective date of this section, every certificate heretofore issued to an assistant mine foreman or fire boss shall be deemed to be equal value to a certificate issued hereafter to an assistant mine foreman-fire boss, and every certificate heretofore issued to a mine foreman shall be deemed to be equal value to a certificate issued hereafter to a mine foreman-fire boss.

[Emphasis added.]

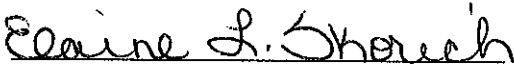
WHEREFORE, Petitioner prays that this administrative tribunal find probable cause that Craig W. Belcher violated statutory duties and schedule a formal hearing to determine whether all miner certifications of any and all types issued by the West Virginia Office of Miners' Health, Safety and Training should be permanently withdrawn and Craig W. Belcher permanently barred from holding any miner's certification.

Respectfully submitted,

RONALD L. WOOTEN, DIRECTOR
WEST VIRGINIA OFFICE OF MINERS'
HEALTH, SAFETY AND TRAINING,

By Counsel,

DARRELL V. McGRAW, JR.
ATTORNEY GENERAL



Elaine L. Skorich (State Bar No. 8097)

Assistant Attorney General

1615 Washington Street, East

Charleston, West Virginia 25311

Telephone: (304) 558-1425

Fax: (304) 558-1282

**BEFORE THE COAL MINE SAFETY BOARD OF APPEALS
STATE OF WEST VIRGINIA**

IN THE MATTER OF CRAIG W. BELCHER:

Charged party,

Docket No: 09-DEC-2

VERIFICATION

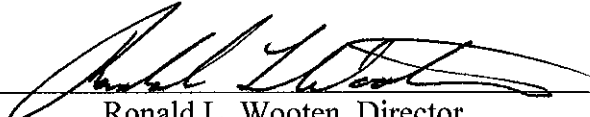
**STATE OF WEST VIRGINIA
COUNTY OF KANAWHA; to-wit:**

The undersigned, Ronald Wooten, Director of the State of West Virginia Office of Miners' Health, Safety and Training, being duly sworn, deposes and says the following:

I am the petitioner in the above captioned action. I have read the foregoing Petition for Withdrawal of Certifications and know its contents. The matters stated in the petition are true to the best of my knowledge, except for those matters based upon information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of West Virginia that the foregoing is true and correct.

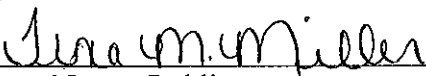
Executed on this 13th day of February, 2009, at Charleston, West Virginia.



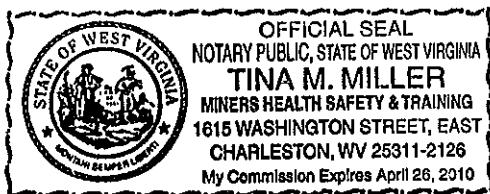
Ronald L. Wooten, Director

Subscribed and sworn before me this 13th day of February, 2009.

My commission expires April 26, 2010.



Notary Public



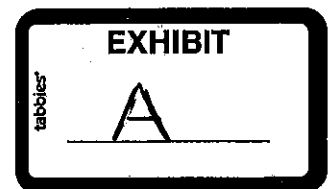
MASTER LIST OF ALL CERTIFICATIONS ISSUED TO THIS SSN

SSN: ██████████ 4708

Name: CRAIG W. BELCHER

CERTIFICATION	NUMBER	ISSUED	EXPIRED	REVOKED
01 Certified Electrician:	-----	-----	-----	---
91 Elect., Related Equip.:	-----	-----	-----	---
92 Prep Plant Electrician:	-----	-----	-----	---
93 Surface Electrician:	-----	-----	-----	---
94 Shaft/Slope Electrician:	-----	-----	-----	---
25 Certified LM Electrician:	-----	-----	-----	---
26 Certified LMH Electrician:	-----	-----	-----	---
02 Apprentice Electrician:	-----	-----	-----	---
03 Surface Coal Truck Driver:	-----	-----	-----	---
04 Surface Apprentice Miner:	-----	-----	-----	---
05 Ug. Apprentice Miner:	10493	04/26/2005	04/26/2006	---
06 Underground Coal Miner:	2 5484	05/06/2005	-----	---
07 Surface Coal Miner:	-----	-----	-----	---
08 Shot Firer Certificate:	-----	-----	-----	---
09 Underground Mine Foreman:	-----	-----	-----	---
10 Asst. Ug. Mine Foreman:	-----	-----	-----	---
11 Surface Mine Foreman:	-----	-----	-----	---

Press RETURN to continue -->





STATE OF WEST VIRGINIA
OFFICE OF MINERS' HEALTH, SAFETY & TRAINING
CLASS 06 UNDERGROUND COAL MINER

NAME CRAIG W. BELCHER

DATE OF ISSUE	DATE OF EXPIRATION
05/06/2005	N/A
2-5484	XXX-XX-4708
CERTIFICATE NUMBER	SOCIAL SECURITY NUMBER
<i>Walter Smallwood</i>	1462003637 <i>Donald L. Dink</i>
CERTIFYING OFFICIAL	VERIFYING OFFICIAL

EXAMINATION OF BELT CONVEYORS

DATE 1-25-09 SHIFT 2nd TIME OF EXAMINATION: FROM 9:30 A.M. OR P.M. TO 10:50 A.M. OR P.M.

BELT CONVEYOR EXAMINED	VIOLATIONS AND OTHER HAZARDOUS CONDITIONS OBSERVED	ACTION TAKEN	EXAMINER
Stacker Belt	Need cleaned at tail	Reported	CB
Slope Belt	Need cleaned at tail		CB
#1 Belt	Need spot cleaned		CO
#2 Belt	Need spot cleaned		CO
#2 North Belt	None Observed		CB
	CO - OK		
	CLY - 0%		
	O2 - 20.8%		
	rpm - 136		

SIGNED BY: [Signature]
Belt Examiner

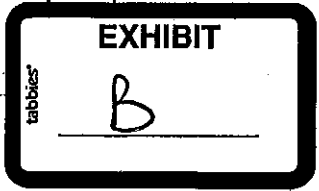
38957
Certificate No.

COUNTERSIGNED BY: [Signature]
Mine Foreman

31042
Certificate No.

Superintendent

Certificate No.



EXAMINATION OF BELT CONVEYORS

OR P. DATE 1-24-09 SHIFT 3rd TIME OF EXAMINATION: FROM 400 A.M. OR P.M. TO 500 A.M. OR P.M.

INNER	BELT CONVEYOR EXAMINED	VIOLATIONS AND OTHER HAZARDOUS CONDITIONS OBSERVED	ACTION TAKEN	EXAMINER
	Stacker	Needs addl. Clearing at tail	Reported	CB
	Slope	Needs clean on offside at tail	Reported	CB
	#1 Belt	Needs spot cleaned	Reported	CB
	#2 Belt	Needs spot cleaned	Reported	CB
	2 North Belt	NONE observed	NONE	CB
		CO OK		
		CH ⁴ 0.00%		
		O ₂ 20.8%		
		rpm. 130		

SIGNED BY: *L. W. Bunk* Belt Examiner 38957 Certificate No.

COUNTERSIGNED BY: *[Signature]* Mine Foreman None Certificate No.

Superintendent _____ Certificate No. _____

EXAMINATION OF BELT CONVEYORS

DATE 1-23-09 SHIFT 3rd TIME OF EXAMINATION: FROM 400 A.M. OR P.M. TO 500 A.M. OR P.M.

BELT CONVEYOR EXAMINED	VIOLATIONS AND OTHER HAZARDOUS CONDITIONS OBSERVED	ACTION TAKEN	EXAMINER
Stacker	Needs clean at tail	Reported	CB
Slope	Needs clean on off side	Reported	CB
#1 Belt	Needs spot cleaned	Reported	CB
#2 Belt	Needs spot cleaned	Reported	CB
2 North Belt	Needs pineapple spray's fixed	Reported & Fixed	CB
	O ₂ 20.8%		
	CH ₄ 0.0%		
	CO OK		
	Spm = 138		

SIGNED BY: [Signature] Belt Examiner
 Certificate No. 38957

COUNTERSIGNED BY: [Signature] Foreman
 Certificate No. 38957

Superintendent
 Certificate No.

Use Indelible Pencil or Ink

PRESHIFT-MINE EXAMINER'S REPORT

Report shall be signed when made

Date of Examination 1-27-09 20 Section or Area Examined Main S
 Time of Examination: from 9:30 a.m. or p.m. to 10:30 a.m. or p.m.
 Was this report phoned to outside: Yes no
 By whom C. Rejcher Time 10:54 P.M.
 Report received by Ricky Neffull 1258-A
 (Signed)

Violations and other Hazardous Conditions Observed and Reported

Location	Violation or Hazardous Condition	Action Taken
1. #1 12	None Observed	Reported
2. 2 12	Part Bolted	Tagged
3. 3 13	None Observed	Reported
4. 4 13	Scrap Cut	Tagged
5. 5 1	Need Cleaned	Reported
6. 6R 13	Need Cleaned	" "
7. 7 1	None Observed	" "
8. 8R 2	Part Bolted	Tagged
9. 9 1	Part Bolted	" "
10. 10 1	None Observed	Reported

Air Measurements

Location	CFM	Location	CFM
L.O.B.	28,155		

Remarks: Power Center
Chargers
Travelways
Phones
KVA's
pumps
Track & High places
SCSR's

0% CH4 20.8% O2
OK at time of exam.

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 [Signature]
 Preshift-Mine Examiner

38957
 Certificate No.

[Signature]
 Assistant Foreman

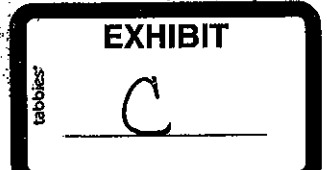
38957
 Certificate No.

Countersigned _____
 Mine Manager Mine Foreman

[Signature]
 Assistant Foreman

1258-A

Superintendent or Assistant



STATE OF WEST VIRGINIA
OFFICE OF MINERS' HEALTH, SAFETY & TRAINING

CLASS 09 UNDERGROUND Mine Foreman
NAME CRAIG W. BELCHER

DATE OF ISSUE	DATE OF EXPIRATION
08/20/2008	N/A

CERTIFICATE NUMBER 38957-08 SOCIAL SECURITY NUMBER XXX-XX-4708

William Smallwood (1694021857) *Donald L. Dick*
CERTIFYING OFFICIAL VERIFYING OFFICIAL

tabbles®
EXHIBIT
D

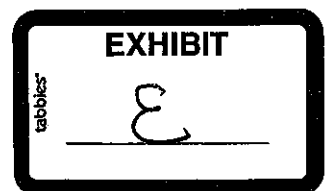
MASTER LIST OF ALL CERTIFICATIONS ISSUED TO THIS SSN

SSN: ██████████-5254

Name: HOWARD J. BENNETT

CERTIFICATION	NUMBER	ISSUED	EXPIRED	REVOKED
01 Certified Electrician:	NR 1454	_____	_____	---
91 Elect., Related Equip.:	_____	_____	_____	---
92 Prep Plant Electrician:	_____	_____	_____	---
93 Surface Electrician:	_____	_____	_____	---
94 Shaft/Slope Electrician:	_____	_____	_____	---
25 Certified LM Electrician:	_____	_____	_____	---
26 Certified LMH Electrician:	_____	_____	_____	---
02 Apprentice Electrician:	_____	_____	_____	---
03 Surface Coal Truck Driver:	_____	_____	_____	---
04 Surface Apprentice Miner:	_____	_____	_____	---
05 Ug. Apprentice Miner:	_____	_____	_____	---
06 Underground Coal Miner:	N 526	10/23/1970	_____	---
07 Surface Coal Miner:	_____	_____	_____	---
08 Shot Firer Certificate:	_____	_____	_____	---
09 Underground Mine Foreman:	38957 08	06/26/2008	_____	---
10 Asst. Ug. Mine Foreman:	_____	_____	_____	---
11 Surface Mine Foreman:	_____	_____	_____	---

Press RETURN to continue -->



STATE OF WEST VIRGINIA
OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING
1615 WASHINGTON STREET EAST
CHARLESTON, WEST VIRGINIA 25311-2126

RECOMMENDATION FOR WITHDRAWAL OR SUSPENSION OF CERTIFICATION

2 Welch February 12, 2009
REGION DATE

Spartan Mining Company, P.O. Box 565, Pineville, WV 25678
NAME OF COMPANY AND ADDRESS

Roadfork No. 51 Permit No. U-4001-05A
NAME OR NUMBER OF MINE AND LOCATION

Craig W. Belcher Rt. 4 Box 22, Bluefield, WV 24701 2-5484
NAME OF RESPONDENT ADDRESS CERTIFICATION NUMBER

Joey L. Athey 601 North Highland Dr., Beckley, WV 25801 Mine Manager
WITNESS ADDRESS OCCUPATION

Steven H. Campbell P.O. Box 284, Corinne, WV 25826 Mine Foreman
WITNESS ADDRESS OCCUPATION

The undersigned authorized representative of the director of the West Virginia Office of Miners' Health, Safety and Training, as described in the attached finding, and in accordance with W.V. Code 22A-1-31 recommends that the certification of the above named respondent be withdrawn or suspended.

WITHDRAWN

SUSPENDED DAYS

MONTHS

Arvid B. Steinhilber
AUTHORIZED REPRESENTATIVE