

UNITED STATES
DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

REPORT OF INVESTIGATION

Surface
(Coal)

Fatal Falling, Rolling, or Sliding Rock or Material of Any Kind Accident
January 11, 2022

Colmar
Nally & Hamilton Enterprises Inc
Calvin, Bell County, Kentucky
ID No. 15-19884

Accident Investigators

Silas Brock
Mine Safety and Health Inspector

Kevin Doan
Mine Safety and Health Specialist

Originating Office
Mine Safety and Health Administration
Central Region - Barbourville District
3837 S U.S. Hwy 25E
Barbourville, Kentucky 40906
Samuel Creasy, District Manager

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OVERVIEW

On January 11, 2022, at 2:45 p.m., Cecil Collett, a 32 year-old blaster with approximately ten years of mining experience, died when a tree fell from the highwall adjacent to the mine road and struck the cab of the pickup truck that he was driving.

The accident occurred because the mine operator did not: 1) follow their Ground Control Plan that required all trees be removed a safe distance from the top of the highwall, and 2) conduct adequate examinations of all roadways and highwalls.

GENERAL INFORMATION

Nally & Hamilton Enterprises Inc owns and operates the Colmar mine. Colmar is a surface coal mine located in Calvin, Bell County, Kentucky. Nally & Hamilton Enterprises Inc employs 20 miners and operates two ten-hour shifts, five days per week. The mine drills and blasts coal and rock in an open pit and transports the blasted material by haul truck to an off-site processing facility where the coal is prepared and shipped by railroad for sale.

The principal management official at the Colmar Mine at the time of the accident was:

Jody Brock

First Shift Mine Foreman

The Mine Safety and Health Administration (MSHA) completed the last regular safety and health inspection at this mine on April 20, 2021. A regular safety and health inspection was

ongoing at the time of the accident. The 2021 non-fatal days lost incident rate for Colmar was 6.73, compared to the national average of 0.63 for mines of this type.

DESCRIPTION OF THE ACCIDENT

On January 11, 2022, the day shift at Colmar began at 5:00 a.m. Jody Brock, First Shift Mine Foreman, began conducting the onshift examination by examining the mine property, including highwalls, haul roads, and dumpsite. Jody Brock traveled to the coal production pit to continue the examination while trucks began loading, and then returned to the equipment service area. The remaining day shift crew arrived at 7:00 a.m. to begin work.

Collett arrived and began working at the mine just after 1:00 p.m., having attended Surface Foreman Training at the Nally & Hamilton Enterprises Inc office in Balkan, KY earlier that day. Collett's regular duties included loading and detonating explosives. Joshua Pendleton, Heavy Equipment Operator, assisted Collett on the day of the accident. Collett was preparing to blast in the pit area, recognized that additional supplies were needed, drove a pickup truck, with Pendleton as a passenger, toward the explosives storage area (see Appendix A). Collett and Pendleton had traveled approximately one half of a mile from the pit when a tree approximately 80 feet tall fell from an adjacent highwall, striking the pickup truck. The tree broke upon impact. Investigators estimated the tree to weigh over 6,000 pounds (see Appendix B).

John Brown, Mechanic, was working on a bulldozer about 300 feet from the accident. Brown heard, but did not witness, the tree striking the pickup truck. Brown ran to the scene to provide aid. Brown radioed Elmer Wilder, Loader Operator, who was approximately 500 feet away at the coal stockpile. Wilder radioed Jody Brock, who was located at the parts trailer, one-half mile from the scene, and informed him of the accident. Jody Brock called the Middlesboro Fire Department at 3:16 p.m. and then called Jonathan Muncy, Safety Director. Muncy was at the Nally & Hamilton Enterprises Inc office in Balkan, Kentucky, and immediately proceeded to the accident scene. Muncy called Janis Brock, Company Secretary, and told her to contact MSHA and the Kentucky Division of Mine Safety.

Brown and Wilder used pry bars to attempt to open the pickup truck doors to remove Collett and Pendleton but were unsuccessful. Upon arrival, Jody Brock directed Brown and Wilder to use the front-end loader and a chain to move the tree and pull the pickup truck cab up. After Collett and Pendleton were freed, Pendleton was conscious and talking, while Collett was unresponsive and had no pulse. When emergency services arrived at 3:34 p.m., Collett's condition was unchanged. Collett and Pendleton were taken by separate ambulances to Middlesboro Appalachian Regional Hospital (ARH). At the hospital, Collett was pronounced dead by Donald Horton, Deputy Coroner for Bell County Coroner's Office at 5:00 p.m. Pendleton was transported from ARH by ambulance to the University of Kentucky Medical Center where he was treated for his injuries and discharged the following day.

INVESTIGATION OF THE ACCIDENT

On January 11, 2022, at 3:32 p.m., Janis Brock called the Department of Labor National Contact Center (DOLNCC). The DOLNCC contacted Samuel Creasy, District Manager, who contacted Argus Brock, Supervisory Mine Safety and Health Inspector. A. Brock sent Silas Brock, Mine Safety and Health Inspector, to the mine and assigned him as the lead accident investigator. A. Brock also contacted Larry Boggs, Mine Safety and Health Inspector, and Kevin Doan, Mine Safety and Health Specialist, to assist in the accident investigation. There is no relation between S. Brock, A. Brock, and Janis and Jody Brock, who are employed by Nally & Hamilton Enterprises Inc.

S. Brock, A. Brock, and Boggs arrived at Colmar at 5:28 p.m. to conduct the investigation. At 5:36 p.m., S. Brock issued an order under the provisions of Section 103(k) of the Mine Act to assure the safety of the miners and preservation of evidence. The accident investigation team, along with representatives of Kentucky's Division of Mine Safety, conducted an examination of the accident scene, interviewed miners, and reviewed conditions and work procedures relevant to the accident. See Appendix C for a list of persons participating in the investigation.

DISCUSSION

Location of the Accident

The accident occurred along the mine road near Pond #32, which is located near the employee parking lot (see Appendix A).

Equipment Involved

The vehicle involved in the accident was a Ford F-250 pickup truck, owned by Nally & Hamilton Enterprises Inc. Investigators did not find any mechanical problems that contributed to the accident.

Ground Control

On June 30, 2020, MSHA acknowledged the mine operator's Ground Control Plan. On page three, General Precautions No. 6 states, "Unless a drop bench is provided, trees and other vegetation will need to be removed a safe distance from the top of the highwall." The mine operator did not provide a drop bench and four trees, in addition to the one involved in the accident, were not removed a safe distance from the top of the highwall at the accident location. Investigators determined that not following the Ground Control Plan contributed to the accident.

Weather

Beginning January 2, 2022, it rained over three inches near the accident, with temperatures ranging from 76 degrees Fahrenheit (°F) early in the week, to 20°F by the end of the week. On January 10, 2022, approximately eight inches of snow accumulated in the accident area. On January 11, 2022, the accident area had below freezing temperatures early in the day, and thawing temperatures of 39 °F in the afternoon. The substantial amount of precipitation, along with a freeze-thaw cycle resulted in wet, muddy conditions. During the accident investigation,

loose mud and rock material continued to fall from the highwall adjacent to the mine road. The weather conditions leading up to the accident were severe and likely contributed to the accident.

Examinations

Based on interview statements and a review of examination records, investigators found that on the day of the accident, Jody Brock conducted the onshift examination of the entire mine site at the start of his shift at 5:00 a.m. The examination records from January 1, 2022, through the day of the accident indicated that no hazards were found by any examiners. During interviews, Jody Brock stated that his examination was conducted prior to daylight, but continued throughout the shift and was completed after daylight. The tree became a hazard after the area was mined in August 2021. Investigators determined that the onshift examinations were inadequate and contributed to the accident.

Training and Experience

Collett had approximately ten years of mining experience, all with Nally & Hamilton Enterprises Inc. Collett began working at Colmar on August 26, 2021. Collett worked as an equipment operator for most of his employment and became a certified blaster six months prior to the accident. Collett received training in accordance with MSHA Part 48 training regulations.

ROOT CAUSE ANALYSIS

The accident investigation team conducted an analysis to identify the underlying causes of the accident. The team identified the following root causes, and the mine operator implemented the corresponding corrective actions to prevent a recurrence.

1. Root Cause: The mine operator did not follow their Ground Control Plan that required all trees be removed a safe distance from the top of the highwall.

Corrective Action: The mine operator removed all trees near the highwall edge. On January 19, 2022, the mine operator revised their Ground Control Plan to address the removal of trees to a safe distance from the highwall edge by specifying a minimum distance of 20 feet.

2. Root Cause: The mine operator did not conduct adequate examinations of all roadways and highwalls.

Corrective Action: The mine operator retrained all miners and foremen regarding examinations of highwalls, including the revised Ground Control Plan, on January 27, 2022. This training was monitored by MSHA personnel.

CONCLUSION

On January 11, 2022, at 2:45 p.m., Cecil Collett, a 32 year-old blaster with approximately ten years of mining experience, died when a tree fell from the highwall adjacent to the mine road and struck the cab of the pickup truck that he was driving.

The accident occurred because the mine operator did not: 1) follow their Ground Control Plan that required all trees be removed a safe distance from the top of the highwall, and 2) conduct adequate examinations of all roadways and highwalls.

Approved By:

Samuel Creasy
District Manager

Date

ENFORCEMENT ACTIONS

1. A 103(k) order was issued to Nally & Hamilton Enterprises Inc.

An accident occurred at this operation on January 11, 2022, at approximately 2:45 p.m. This order is being issued under the authority of the Federal Mine Safety and Health Act of 1977, under Section 103(k) to insure the safety of all persons at the mine, and requires the operator to obtain the approval of an authorized representative of MSHA of any plan to recover any person in the mine or to recover the mine or affected area. This order prohibits any activity in the affected area. The operator is reminded of the obligation to preserve all evidence that would aid in investigating the cause or causes of the accident in accordance with 30 CFR 50.12.

2. A 104(d)(1) citation was issued to Nally & Hamilton Enterprises Inc for a violation of 30 CFR § 77.1000.

The mine operator did not follow the Ground Control Plan acknowledged on June 30, 2020, that required all trees be removed a safe distance from the top of the highwall and did not provide a drop bench. On page three, General Precaution No. 6 of the Ground Control Plan states, "Unless a drop bench is provided, trees and other vegetation will need to be removed a safe distance from the top of the highwall." The tree was present on the highwall since the area was mined in August 2021. Two weeks prior to the accident, from January 2, 2022, to January 11, 2022, over three inches of rain and approximately eight inches of snow, coupled with a freeze-thaw cycle, resulted in wet, muddy conditions that loosened support of the trees. On January 11, 2022, two miners were traveling in a pickup truck on the mine haul road when a tree, with a calculated weight of 6,241 pounds, fell from the top of the highwall and struck the pickup truck cab. The pickup truck driver died, and the passenger sustained serious injuries.

The mine operator engaged in aggravated conduct constituting more than ordinary negligence by not complying with their Ground Control Plan. This violation is an unwarrantable failure to comply with a mandatory standard.

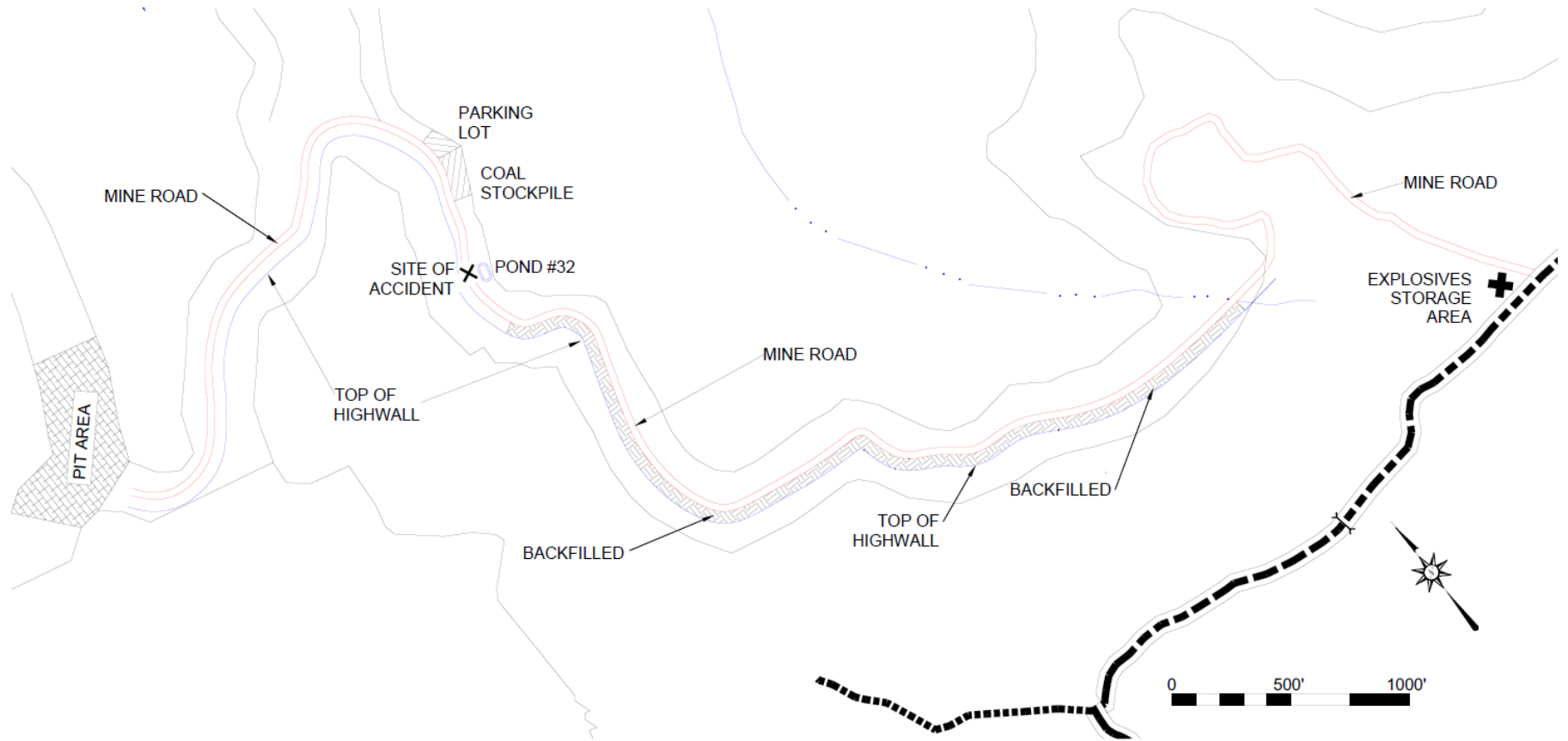
3. A 104(d)(1) order was issued to Nally & Hamilton Enterprises Inc for a violation of 30 CFR § 77.1713(a).

During onshift examinations since at least as early as January 1, 2022, the mine operator did not identify, report, and correct the trees that created hazardous highwall conditions. The mine operator did not follow the Ground Control Plan that required all trees be removed a safe distance from the top of the highwall. Two weeks prior to the accident, from January 2, 2022, to January 11, 2022, over three inches of rain and approximately eight inches of snow, coupled with a freeze-thaw cycle, resulted in wet, muddy conditions that loosened support of the trees. During the accident investigation, loose mud and rock material continued to fall from the highwall adjacent to the mine road. During inclement weather, it is incumbent for the mine operator to diligently examine and carefully focus on changing highwall conditions along the mine haul road where miners travel daily. On January 11, 2022, two miners were

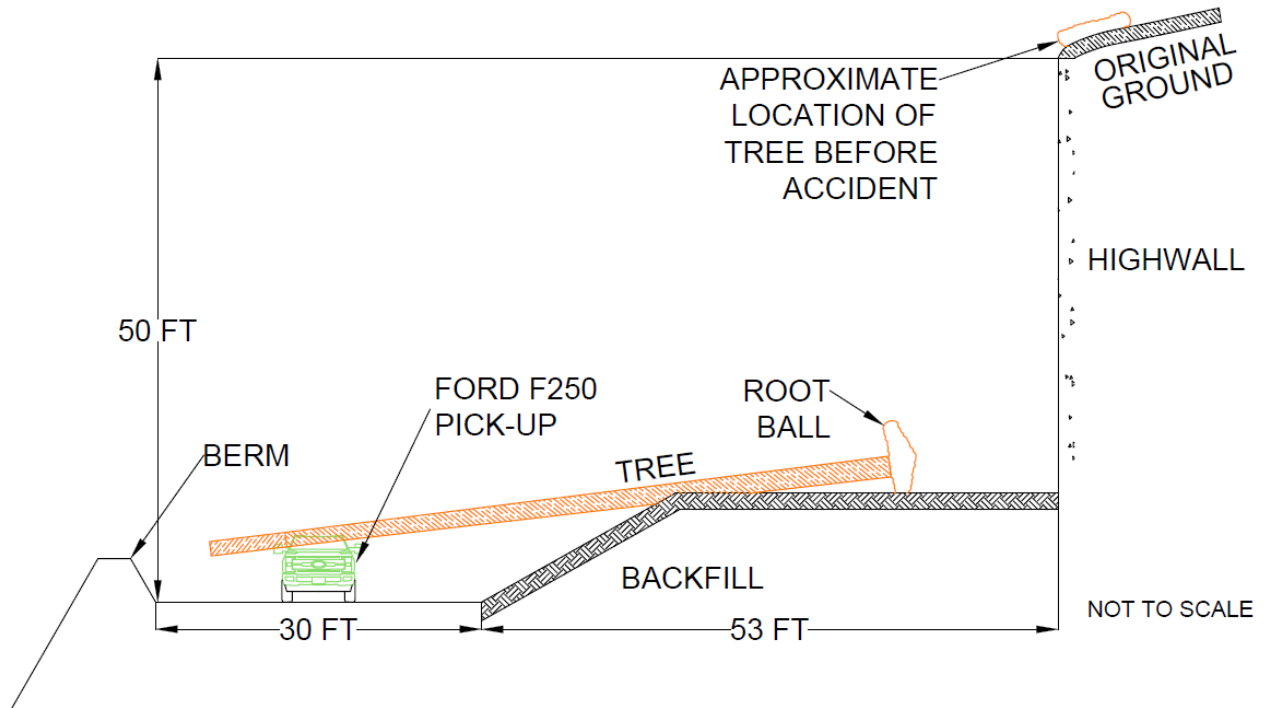
traveling in a pickup truck on the mine haul road when a tree, with a calculated weight of 6,241 pounds, fell from the top of the highwall striking the pickup truck cab. The pickup truck driver died, and the passenger sustained serious injuries.

The mine operator engaged in aggravated conduct constituting more than ordinary negligence by not identifying, reporting, and correcting hazardous ground conditions and permitting work in the affected area. This violation is an unwarrantable failure to comply with a mandatory standard.

APPENDIX A – Sketch of Mine Site



APPENDIX B – Profile Sketch of Accident Scene



APPENDIX C – Persons Participating in the Investigation

Nally & Hamilton Enterprises Inc

Jonathan Muncy	Safety Director
Jody Brock	First Shift Mine Foreman
Edmond Gross, Sr.	Second Shift Mine Foreman
Joshua Pendleton	Heavy Equipment Operator
John Brown	Mechanic
Elmer Wilder	Loader Operator
Billy Joe Lee	Loader Operator
George Gabbard	Rock Truck Driver
Gene Green	Rock Truck Driver
Bralyn Kindle	Rock Truck Driver
Michael Jackson	Bulldozer Operator
Austin Craig	Bulldozer Operator
Joseph Nash	Bulldozer Operator
Timothy Griffin	Grease Truck Operator
Aaron Hillman	Drill Operator
Jimmy Whitaker	Coal Cleaner
Janis Brock	Company Secretary

Kentucky Division of Mine Safety

Bert Gibbons	Assistant Division Director
Jeffrey Brock	Mine Rescue Coordinator
Matthew Alred	Mine Safety Specialist
Ronald Pat Turner	Mine Safety Specialist

Bell County Coroner's Office

Donald Horton	Deputy Coroner
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Mine Safety and Health Administration

Craig Plumley	Assistant District Manager
Dennis Cotton	Assistant District Manager
Argus Brock	Supervisory Mine Safety and Health Inspector
Silas Brock	Mine Safety and Health Inspector
Larry Boggs	Mine Safety and Health Inspector
Kevin Doan	Mine Safety and Health Specialist