SAFETY AND HEALTH MANAGEMENT PROGRAMS

FOR MINES MEETING

HELD AT

EMBASSY SUITES SACRAMENTO-RIVERFRONT PROMENADE

100 Capitol Mall

Sacramento, CA 95814

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9:05 a.m.

Reported by Jennifer F. Milne, CSR No. 10894

APPEARANCES:

PANEL MEMBERS:

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MS. SILVEY: Good morning. My name is Patricia W. Silvey, and I am the director of the Mine Safety and Health Administration Office of Standards.

I will be the moderator of this public meeting to gather information about safety and health management programs. On behalf of Assistant Secretary of Labor for Mine Safety and Health, Joseph A. Maine, I want to welcome all of you to this meeting today.

Let me introduce the members of the panel. To my right is Al Ducharme, and he's representing the Office of the Solicitor.

Next to me, Mario Distasio, is the Economist from my office.

Kevin Burns is with the Educational Policy Development Office.

Greg Fetty is with Coal Mine Safety and Health.

And Richard Feehan is with my office.

This is the second of three public meetings MSHA is holding to gather information. And since many of you know the first meeting was last Friday, 8 October, in

Rosslyn at our headquarters office. And the last meeting will be October 14th in Pittsburgh.

We are very excited about this meeting and the one that follows and view them as an important step to help focus on prevention in addition to compliance. This is our opportunity to find out what programs work, and what results have been achieved.

I hope in meeting and in submitting comments we also learn what has been tried and hasn't produced results. We expect to learn the experience of mining companies that have implemented effective program and also learn what has worked outside of the mining industry.

This is an opportunity to focus on prevention efforts to anticipate and recognize potential hazards and to control them before they cause injuries, illnesses and deaths.

Some companies have implemented programs to monitor the work environment, whether or not there are specific regulations. They compile information about employee injuries and near-misses and respond to the information they are gathering with a prevention focus.

As you know, MSHA published a notice in the Federal Register announcing the meetings and requesting the mining community to provide information, which the

agency could use to develop a proposed rule.

The agency has also invited representatives from academia, safety and health industry professionals, and worker organizations, and other government agencies to share their experiences and views on effective safety and health management programs.

This rulemaking supports Secretary of Labor Hilda Solis's vision of Good Jobs for Everyone. The secretary's vision for achieving good jobs is through a strategy of creating workplaces where employers plan, prevent, and protect the safety and health of employees.

Plan, prevent, and protect is based on the principle that employers must find and fix threats to health and safety and assure compliance with regulations before an inspector arrives at the workplace.

The plan, prevent, and protect strategy begins with the premise that Congress directs mine operators to achieve and sustain compliance with the law but it doesn't end there. It also embodies a continuing attention to the recognition and control or elimination of threats to safety and health.

Some mining companies experience low injury and illness rates and low violation rates year after year. For these companies, preventing harm to their workers is more than compliance with safety and health

requirements. It reflects the embodiment of a culture of safety from the CEO, to the worker, to the contractor. This culture of safety derives from a commitment to a systematic, effective, comprehensive safety and health management program implemented with the full participation of all workers.

Several consensus standards have been developed both here and abroad to address safety and health management systems. These include: The American National Standards Institute, ANSI; and the American Industrial Hygiene Association's, AIHA, Z10-2005, Occupational Health and Safety Management Systems; The International Standards Organization's, ISO, 9001:2008(E), Quality Management Systems Requirements; and the British Standards Institution, BSI, BS OHSAS 18001-2007, Occupational Health and Safety Assessment Series.

As many of you know, our sister agency in the Department of Labor, the Occupational Safety and Health Administration, or OSHA, earlier this year held stakeholder meetings as part of their rulemaking on Injury and Illness Prevention Programs which they refer to as I2P2. The I2P2 rulemaking is OSHA's version of safety and health management programs.

I can assure you that MSHA and OSHA will collaborate

during the development of these proposed rules and will learn from each other and from each others stakeholders.

Effective safety and health management programs generally include: management commitment, worker involvement, hazard identification, hazard prevention and control, safety and health training and program evaluation.

After all of the presentations, you will have an opportunity to ask questions or present further views.

At this time, we will hear from our first presenter. And if I could please ask you, please, when you do come to make your presentation, if you would speak clearly and spell your name so that the court reporter will have an accurate record. I should say we will have an accurate record. The court reporter is doing it for us.

Our first speaker is Matthew Howard, Safety Director of Rio Tinto. Matthew.

MR. HOWARD: Good morning, everyone. As you can see the Rio branding, you know it's Rio Tinto. I'll give you a little bit of an overview of what I'm going to talk about. These are some of the items: background on Rio Tinto, our performance, how we view incidents and risk. I really want to delve into a little bit of that. Some of the programs we have make a little bit more

sense when we get into some of the detail. Our approach and our vision and our values and then what we recommend and what we support. So that's an overview of what we're going to look at.

Rio Tinto, I'm sure many of you know, we're a global company. Operations all around the world. I'm representing Rio Tinto Mineral's a division of Rio Tinto. We have operations in the broader company around the world and representation in many countries. So a big company. We're a smaller division of that, the Minerals division. We're a leading supplier of borax and talc. We employ about 2,500 people. Again, we have global operations, about 40 facilities around the world, various countries again.

In terms of our borax, we supply about half of the world's demand for refined borax. I'm sure many of you are familiar with U.S. Borax 20 Mule Team. That's one of our operations, operating in Boron. That's actually the largest mine in California. We have some of our gentlemen from that mine here today.

In terms of talc, we supply about 25 percent of the world's talc supply. We've got various locations again in the U.S. and a larger operation in the south of France.

I wanted to put up a little bit of background in

our performance. This is 2010's first two quarters based on ANSI statistics, top 25 metal, non-metal produced by man hour. As you can see, I've blanked most of the names for the sites here. The only thing I left out is the Rio Tinto Group, which is, for those of you in the back that may not be able to see, it's the ones to the right. And then Rio Tinto Minerals, our division within Rio Tinto.

Now the numbers, that's actually our numbers for minerals are based on our internal numbers for that, so there's a little bit of variance. Essentially, we're right up there at the top of the curve in terms of our performance. This is not a one-up year performance. This is actually fairly consistent for the last couple of years if you look at these same graphs, these same numbers. In fact, in Minerals, we haven't had any "work days lost/injury" this year in any of our North American minerals operations.

So in terms of performance, we're -- we're very proud of our performance. There's a lot of hard work that goes into that. I'm going to get into some specifics about that work later in the presentation.

In terms of Rio Tinto's performance, this is going back a few more years. As you can see our trending across the group, this is where we come from, where

we're going. As you can see, again, you can see some good improvements. We measure in terms of our global operations on lost time injury/frequency rates, which is the lower line there and also all injury frequency rates, but slightly different metrics might be used from an MSHA perspective but still very similar in terms of the overall detail when we get there.

So, in terms of how we look at ourselves in our over performance the last ten years or so, we've made some good headway across the board at Rio Tinto Group. And again, we're pleased with our performance but not happy because we still have incidents. We still have injuries. And our objective is to get to incident-free.

I want to get into a little bit of a background about how we view incidents. One of the ways we look is we have an inherent amount of risk, certain hazards that appear in our operations. And the controls we have in place are represented by those spinning disks. And ultimately, we want to control our risk. We want to make sure we don't have any of these events. As you can see by the graphic there, there's a lot going on. It's kind of flashy.

Our controls that we have really prevent things from going into that event stage where we lose control

and something actually triggers from that point on. Once we get there, we're into the slot machine rolling the wheels to see what happened. We don't want to get into that stage. I'm sure no one wants to get into that stage. We want to understand what the mechanism for an incident is before we really get into the detail of the program.

So I'm sure you've heard of the terminology "all the stars aligning." It's something that people often talk about, "all the stars aligned." That's kind of what we're looking at here. We have an inherent risk. We have some kind of controls that prevent that risk and prevent the stars from aligning.

As you can see here, the mechanism of what would then turn into a controlled or unexpected event. We want to make sure that we're controlling our risk. We're probably never going to get into an area where we're risk-free. We understand that. We recognize that. It really comes down to making good risk judgment and good risk control. We have a lot of systems in play, and we have a lot of behavior that make sure we remain in that controlled state. We don't want to be safe by accident.

I'll expand upon that in a little bit. The terminology of risk. Basically the possibility of

meeting danger or suffering harm. So this is sort of what we're looking at when it comes to risk. We're looking at identification, judgment and control. Really it's a continuous loop on that process. In fact, we're doing this all the time, anyway. As human nature, we're actually judging, assessing the control in a continuous loop. The difference is, when we do it, we're often working on subconscious. We're often in auto-pilot mode.

What we want to do is have things in play like the Take Five program which make a more conscious, deliberate, risk judgment. And as you can see here, a gentleman by the name of Corrie Pitzer, from Safe Map Max International, who we've worked with in the past, suggests that most incidents occur because of risk being unidentified, underestimated, not understood or probably more crucial than any of those, ignored or accepted. That's risk versus reward. So the judgment peak wasn't quite there. So we have Take Five and MSHA has SLAM Risk, and I'm sure various other companies have other themes on some kind of risk assessment tool.

This is one that we give to our operators. We encourage them to use it, force them into that conscious risk judgment and having a group discussion around some of the things that can go wrong. Essentially what we're looking at, what can go wrong, how bad is it going to

be, what am I going to do to control it. I'm letting that discussion happen at the very front end.

I know there's been lots of comments about our task is to eliminate risk. So I won't ask for a show of hands, but is a zero-risk mine site possible? I know what probably the industry folks in here would say, and certainly from my perspective and our perspective, we don't feel that eliminating all risks in operation is something that's practical or feasible. Certainly when you ask how many of you live in a zero-risk home? There's probably no one in here that lives in a zero-risk home even though from a regulatory standpoint you might have conditions and everything is to code, but I can guarantee you, we're all very capable of injuring ourselves or killing ourselves in a home environment, but we can't eliminate all risk. So it really comes down to that judgment base. That's one of the things we try to encourage to use on the job, people, our operators and our supervisors. How do we make that decision-making process from the subconscious to the more conscious? And any tools we have in play, like the Take Five, are really key in driving that approach.

One of the comments mentioned earlier was about culture and where do we see our culture and what's a productive component of that culture? This is the way

we see it: We see a culture where we have shared responsibility and accountability with everyone in the operation. We're process or behavior focus. So we're looking at what people are doing rather than just the results that they actually achieve. How did they get there and understanding the mechanism? We want to be achievement-oriented and we want to focus on some of the positive behaviors. When we see things that people are doing well, we want to recognize that and encourage it rather than take the approach that we just beat them up when something goes wrong. We want to be fact-finding rather than fault-finding. We want to make sure that we, as a team, value safety. That's what -- one of the things for us to keep focused about, safety is a value to us. You can't switch it on and off. It doesn't filter up and down the priority list. It's something that's always there. It's part of our psyche.

This is what we see in terms of the more desirable culture. Of course, it's easy to say. The real issue is how do you get there? That's why we've got that large arrow at the base. That's what requires leadership. That's what requires everyone in our operation coming together from the top, and also through the operators who maintain it to drive that culture forward. We may not be perfect, but that's certainly an

area we're focusing in.

Our approach -- again, some of you may have seen this from a gentleman by the name of Scott Geller. He's written several books on people-based safety, behavior-based safety. Representing three portions of the triangle: environment, the behavior, and the person. Pretty easy for us to gravitate looking at the environmental issue, the conditional things, the things that aren't quite right. The guard that might not be there, the housekeeping issue that's on the floor. That's only one piece of the triangle. That's the key point there. We're only focusing on the environment or the conditions; ee're probably not going to get outstanding performance.

Our program, in terms -- to incorporate some of the more challenging things that we have in terms of why people choose to do certain things, why the behavior that people engage in are occurring in operation -- actions of individuals, whether it's conscious or subconscious, is really motivated to the consequences they perceive. If people are choosing to do things that don't seem right or safe, we need to understand what the motivators are. Why would someone try and choose to do that? There's probably a valid reason, at least in their mind.

And if you think behavior is hard enough to influence, really we get into the person's side and that's where it becomes very difficult. We're talking about risk judgment, risk acceptance. And people in our operation routinely choose to go above and beyond the call of duty to help a coworker out. That's where we see the utopia. That's where we see our target of incident-free occurring. When each and every one of our employees feels the power and authority to go and help every other person in the operation, contractors, visitors, you name it; we want to make sure that we have that level of understanding, a level of discretion in our employees.

We have a lot of structure as well. We're a big mining company, so obviously that comes with some resources and some requirements from a corporate standpoint. This -- and again, it's probably hard to see in the back. But this wheel, as you can see here, represents the Rio Tinto management system. It's something that's mandated for all Rio Tinto sites around the world. It's a consistent level of playing field for everyone to conform to. And for those of you who are familiar with the ISO standards, you'll see a lot of similarities in this process.

Again, some recurring theme. A foundation of

leadership commitment and resources. We recognize it. Without that, a lot of this probably won't be that effective. There are all kinds of things in there from contract to management, management to operational control where we have all of our performance standards which really look into some of the details around working heights, confined space, isolation. All of those requirements that each operation must fulfill in performing their task.

It's integrated in HSEQ. We see inconsistent things across the board. We recognize the leadership is really about leadership and good safety performance is a reflection of leadership. And that's why we don't separate between health, safety environment and quality. We want to provide clear expectations and consistent reinforcements for those behaviors. That's what we see is defective, when we're inconsistent around those behaviors, as you'll probably recognize from most behavioral safety programs or books or whatever else you might have read. Positive immediate and certain reinforcements behind the behavior are the most effective in driving that behavior.

We have some specific programs. And, again, this is -- this is more detail around what we do. Just picking up some points from both the management system

and an overall approach from Rio Tinto.

We expect all of our leaders to be skilled in terms of their leadership abilities, and we have something called "Safety Leadership Development." We try to engage our supervisors, our managers, and to an extent our employees in understanding what are some of the tools and techniques that drive good team performance? What are some of the good quality behaviors around engagement from a team perspective? What would we expect from our employees in that team? A lot of leadership development. We have programs around safety leadership which link back to our assessment process where we try and understand what behaviors people are performing from a leader standpoint to make sure that they are desirable.

We have a robust incident management system. We recognize that we have incidents. You know, we might not have as many serious incidents as other people, but we recognize we have incidents. We recognize we have incidents that have serious potential, even without people getting injured. We call them "near hits." We call them "serious potential incidents," and we want to do a diligent job of enforcing and investigating near hits.

Just as an indicator, our minerals group is

running about 7.1 near hits reported to incident. That's our ratio. And within incidents, we include property damage, first aid, medical treatment and lost time. And the vast majority are property damage incidents, where we report anything that really results in a paint-on-paint contact.

So when we talk about how many near hits we report, we're talking about a lot. We have 230 or so near hits reported in the month of September. And each one of those is assessed, well, really how bad could this have been? What's the maximum reasonable outcome of this event? And what do we need to do to understand how we actually make sure it doesn't happen again either here or one of our other operations. And within the broader range of Rio Tinto, we share those events so we can actually understand and learn from each other and don't have to have the same thing re-occur which may result in less desirable route.

We use a process known as Tap Root. Again, something I'm sure many people are familiar with. It's a systematic approach to incident analysis and record. And, again, you'll see the fact-finding versus fault-finding mantra. Something that's encouraged in the Tap Root process. Anyone who's looking for a rigorous and systematic approach to root cause should

very much look into Tap Root area for that.

We feel we've got a robust risk management process. We've actually leveled it out into three levels. Level one risk assessment process is really the Take Five. What are we doing on a day-to-day basis? What are the tasks that people are performing in our operation that could result in them getting hurt or having some serious issue going forward? We want to empower them with the knowledge of how to use and assess risk but also have the power to say, "Hey, this could get someone hurt. This is something that we're not comfortable with. We're going to stop, and we're going to do something different." All of our employees have that authority, and we encourage them to use it as they see fit.

We also encourage our contractors who will be on site to get involved with our risk management approach. We give them the tools -- the same tools and technique and education that we give to all our employees when it comes to assessing risk when it pertains to their everyday job.

We also expect our employees to flag areas which do have potential risk, serious potential risk. And then we can go into some more rigorous techniques and around how we look at them. I'll talk a little bit more

about quantitative risk assessment in the next slide.

We also have a robust contract management system. We have some sites which will pre-order contractors before they come on to any of our operation to establish what kind of behaviors do these people engage in when they're in another person's operation. We want to make sure they're following the same rules we have when we have ownership of their performance when they run our operation. So we don't treat contractors any different from any other employee on our site. They're part of our team, and we want to make sure that we treat them the same way.

Some of the systems we have that we feel are world class and helping drivers to our incident-free culture. Semi-quantitative risk assessment. Now, when we have issues that we feel are high-potential risk, we want to go into some more diligent assessment process in terms of understanding those mechanisms.

As we saw from the spinning disk-slide, that's very much a semi-quantitative risk approach. We'll break down individual steps in a scenario in trying to understand, how could this event occur? What would be some of the things that would make this event happen and what would be the steps that each of those -- safety in each of those steps.

We engage our operators and maintenance people to give us information about these scenarios, and we'll try to assign numerical probability to each of these scenarios. It's a complex and rigorous approach to risk management that may not be rooted in actual numerical data, but it is based on operators and maintenance people who do the work to, judge the exposure. It also provides a forum for them to get creative or have a solution that can help us improve. It also gives us a chance to prioritize our high risk, gives us a chance to look at where we see some unknown events that may or may not have occurred in the past that we can work without incident or harm.

And, finally, we feel, certainly in Minerals, that we have a robust behavioral safety approach. We perform interactions with our employees and our employees perform interactions on each other. And the whole process around behavioral observation is to go out, have a contact with our employees, make sure they understand what our expectations are in terms of behavior, reinforce them when they're actually doing safer behaviors. We see about 98 percent of our behaviors across the board, a safer behavior when we pass those information around. We're talking about huge numbers of behaviors, 11,000, 12,000 recorded behaviors a month in our division at Rio Tinto Minerals. So

that's a huge number of behaviors. We're seeing 2,000 recorded interactions where there's been 2,000 contacts formally documented around, what are people doing in their work areas? What do those behaviors look like? Nine out of ten times or 9.8 out of 10 times there's an opportunity to reinforce a behavior, a desired behavior, and we take those opportunities. We also talk about some of the less desirable behaviors. We want to understand the mechanism for those and understand why people might be choosing to engage in a less safe behavior in operations because there's always motivation. Unless we understand the motivation, we're not going to correct the behavior. This is straight out of the behavioral safety approach.

We also take the opportunity to look at their risk assessment, their approach to Take Five. What are some of the hazards they've identified on the risk assessment? how do they control it? Again, it's making that reinforcing connection and helping them understand that this is a conscious and deliberate process that we expect them to engage in.

This is a slide that comes straight out of one of our training approaches to our behavior and safety program.

MS. SILVEY: Excuse me, Matt. Did I gather that

you're coming toward the end?

MR. HOWARD: Yes, fairly close.

MS. SILVEY: Please. We have a few questions.

MR. HOWARD: This is our approach. We feel that we want a holistic and sustainable approach. Clearly we can get so far in regulation, but regulation is not going to take us where we want to be. In fact, if we look at the regulation -- that's where we were on that red graph earlier, where we see a lot of sites that aren't performing where we want to be. So we want to get down and include all things including behavior and sustainability. And we feel that this is an effective model when we can go all the way across and look at the sustainability approach where we have a holistic approach to our program.

Given the fact that I'm almost on the last slide -- sorry. We welcome any tool that helps drive conscious risk judgment, Take Five, SLAM-RISK, TRACK. We advocate rewarding high-performing operations. We want to recognize it's an upside to performing well. We want to make sure there's some positive reinforcement for active operators when they are performing well and allow MSHA to support poorer performing operations.

We don't believe the outstanding performance can be achieved by punishment and penalty. The old saying,

you can't punish a way to outstanding performance. We certainly believe in that. That's the approach we take with our employees.

We support the requirement for a written accident improvement plan, accident prevention plan. Very similar to the way in which Cal-OSHA has it now where it's required but not approved. It's something that we would submit as part of our ongoing program but wouldn't necessarily require MSHA to approve.

We recommend focusing on behaviors, understanding the motivators that I've already elaborated on. We feel influencing a person's risk judgment really requires leadership, unless, of course, they get hurt, which we try to avoid.

We recommend that MSHA review its risk assessment process to provide qualifiers for likelihood determination. We believe this will reduce citations. One of the issues we have is really around understanding that mechanism to determine the likelihood.

We welcome the engagement of mining industry just in a forum like this in improving mine safety and health. In fact, we're very committed to be a part of that. Anything that takes us in line with our aim to be incident-free, it's certainly something that we support and engage in.

We do coach, however, that this is not a one size fits all. Our program has been successful. But our program is different in each of our sites. This is not something we go, "Here's the magic box. Go and fix it." You really have to understand the culture of that level, understand the operation and understand what methods are used. However, anything that's rooted in science is more likely to have a better effect. We recommend using anything that's based in behavior science and some of the safety science. And we're happy to commit resources to help in any initiative that will help improve mine safety in the U.S.

That's all I have.

MS. SILVEY: Okay.

MR. HOWARD: Sorry. I overran.

MS. SILVEY: Yeah. I have a few comments. Maybe a couple questions.

MR. HOWARD: Sure.

MS. SILVEY: I will say at the outset that was an excellent presentation. And I guess one of the things I get from it, looking at it with the amount of principle and theory -- I would ask myself -- and with the number of plants and confidence that you have worldwide. When you look at that system, this approach, how are you assured that at any plant of yours that the

managers of that plant are and the workers are thoroughly involved in everything that you have presented to us here today? If I were to go there, hypothetically, and me being a person not knowing what's going on there -- and, obviously, you presented this, you know, wonderful program -- how could I be assured that everybody is engaged?

MR. HOWARD: Typically, we have orders and we have reviews internal within Rio Tinto, and a normal approach would be to actually ask the employees. That's a fairly consistent approach we have in our part of normal mechanism where we actually have that dialogue with our employees to understand what their concerns, issues or involvement is. And we also have culture surveys where we can ask some of those questions around some of the issues at a site-by-site level. Involvement ranges. Some sites have a very good involvement level and some less so.

MS. SILVEY: With the ones that have less so, what do you do then? What do you go about doing with those?

MR. HOWARD: What we'll do is initially set up any kind of a mechanism with a greater involvement. Certainly a lot depends on ongoing labor relations between management and the employees depending on how

involved they get. Much of our program is really based on discretion. We invite our employees to become part of the program. We can't mandate that they become part of the program or get involved in formally observing each other on behaviors. We encourage them to do that. And we provide a lot of energy and resources in educating them. So, you know, clearly, we don't have 100 percent involvement from our workforce on top of our programs. But we do what we can to encourage that discretion effort. When it comes to some of our requirements, then that's a little bit different. Obviously, we have standards that we expect them to adhere to.

MS. SILVEY: That's a good segue to a third question I wanted to ask you -- or a comment, I guess, I wanted to make and then maybe question.

Some people would say that a lot of your program, which -- and you highlighted based on behavior-based safety. And a lot -- to some people -- I'm just saying this: That is just another concept for blame the worker. And how would you respond to that?

MR. HOWARD: Well, I wouldn't disagree in some applications. Behavior-based safety has been used to hold people accountable, and punishment for that -- we need to recognize that punishment is actually an

appropriate consequence for a less desirable behavior. Our point is really around punishment alone is probably not going to drive the results we want. We want to have a culture where we provide different mechanism to reinforcement, positive reinforcement as well as punishment, as well as negative reinforcement depending on what behavior we see.

For us, the key is -- and I think for any effective behavior safety program is if you're seeing a less desirable behavior, probably the first one you want to know is, what are the motivators why someone would choose that? And then you might better change some of the motivators initially. However, if you're seeing consistent repeated behaviors which are less safe or less desirable, at some stage you're going to have to make the decision whether punishment is appropriate to stop the behavior. Now, we have punishments, as other people have punishments, but we also recognize and we try to balance that with other forms of motivation and recognition and also delve into the understanding of what might drive that behavior so...

MS. SILVEY: And with respect to -- and those clear -- the word graphic data and the trend, downward trend, do you see your -- do you find one has the improvement correlated with production in or

alternatively has it -- for lack of a better word, have you run into any rifts with production? I mean are there -- do you find that?

MR. HOWARD: I'll speak on behalf of the Rio Tinto Minerals numbers because I don't have the information --

MS. SILVEY: Right.

MR. HOWARD: We haven't seen really a correlation between outcome and safety performance. That's not something we've typically seen. But you also have to bear in mind that our numbers are relatively low. So you don't have a large data to deal with, you know. To give it some perspective, we try to look at more of the background information so -- property damage and first aid events so we can get a better data because we don't have a -- per se, a lot of injuries. Like I say, in our North America operations, we haven't had one day loss of injury so far this year. So, it's difficult for us to really provide that correlation.

MS. SILVEY: I just have one last thing. On one of your slides on employees, you talk about employees' involvement with authority. And you say employees have authority with respect to risk assessment and risk management.

MR. HOWARD: Yes.

MS. SILVEY: Could you give me an example, one example, of how that actually works, an employee who exercises that authority.

MR. HOWARD: Absolutely. As I mentioned we have Take Five, which we require our employees to do. We don't document them, per se. We actually just require they go through the process, and we encourage it to be a team-based approach.

When someone is assigned a task, they basically review that task and say, "What are some of the things that can go wrong with that particular task?" Now, if they judge that risk to be something that is high, it's actually documented on our process, our Take Five cards that we issue to employees. But, they actually must report that to the supervisor and discuss that risk with that supervisor with the idea that we can formulate a different plan to achieve that task. So it's essentially written to our procedures, and it's a requirement of an expectation of what people do in terms of their risk assessment.

And our approach is not really "That's unsafe. Don't do it." This doesn't seem like the safest way we can do it. Let's get together and work out a way which we can provide some output we're doing it the safe way.

So we encourage that dialogue to achieve that result.

MR. DISTASIO: I have one question. You mentioned that you have different programs at each site.

Last week, in Rosslyn, one of the companies in Roger's group said they try to maintain consistency across the sites. They feel that some of those, one site to another, they should be comfortable on how it really works and how to react. It seems like you're taking the exact opposite.

MR. HOWARD: I think we have a blend. What we have is some consistencies across the whole of Rio Tinto. For example, our management system is a Rio Tinto management system. So all Rio Tinto sites have that expectation. We have Rio Tinto standards around how we perform the requirement of certain tasks, confined space, isolation, various other standards around what are consistent expectations.

Now, at a site level, yes, you do have some discretion about some additional programs. Like our approach to, say, behavior-based safety may be subsequently different to another site in Rio Tinto in Australia, for example. We try and take into account local cultures. What's our existing state? What's our inherent involvement from our employees? Is there a good relationship between our employees or the

management team in that state? So you need to kind of understand where you're at before you can really develop a program to drive to where we see, outstanding performance in terms of employee involvement. And, routinely using that discretion or exercising the discretion for the benefit of others.

So it's kind of a balancing act. Absolutely we have consistency between many of our operations. And a lot of the things we talk about are consistent across the board but there are going to be some flexibility, which is why I said, you can't expect to just go, "Here's a magic box of tricks that's worked at Rio Tinto site X. This is now going to work for everyone else in the mining industry" because it really won't. It's probably not going to get the results that you expect.

MR. DISTASIO: Thank you.

MS. SILVEY: Does anybody have a question of Matthew? Anybody in the audience.

(No audible response.)

MS. SILVEY: Okay. Thank you, Matthew.

Our next presenter will be -- by the way, I may not have mentioned this in the opening statement, but I'll do it now. As they say, better late than never.

For all of you who agreed to make presentations here today, and particularly the people with whom either

I spoke or someone else spoke, we appreciate it very much. So I want you to know that because I don't even know who you are until you come up here.

Douglas Larch, Luminant.

MR. LARCH: Thank you for the opportunity to come and speak about our programs.

My name is Douglas Larch. I'm a member of the Luminant Mining Safety Management Team. We are a coal mining company from Texas. Not many people know that there are coal mines in Texas. We operate nine mines in Texas. We're the largest mining company in Texas. We employ approximately 800 employees and 300 contractors. We produce somewhere in the neighborhood of 33 million tons of coal a year. And to do that, we move 327 million cubic yards of overburden a year.

To date we've mined over 900 metric tons of coal and reclaimed over 66,000 acres and planted more than 29,000 trees at our site.

The slide behind me kind of shows where our operations are. We're mining primarily the upper part of the Wilcox Group seam in central east Texas.

A little bit about our history. We are one of the first coal mining companies in Texas. This shows you where we've been as a company. So we've been in Texas since 1971 as an operator of our own mines, in 1959 as a

contractor. So there is some historical data here to look at. My slide presentation kind of gets into a little bit of that.

Let's talk about our programs. About a year ago, we revamped our safety process. Our nine mines before a year ago were islands under themselves. They each ran their own safety business. They kind of got support from Dallas with regards to standards, procedures, and processes.

A year ago, we put together the safety leadership team where we bring all the mines under one umbrella. We brought all the safety reps, the safety technicians and the training group into support roles. So we don't work for the -- for the individual mines. We actually -- they're our customer. We provide them support. That was the desire of senior leadership team, our vice president, our EFH, the company that controls our branch of the company.

Our goal is total compliance. And to do that, we had to revamp what it was we were trying to do. We had to come up with a set of parameters that we were going to operate under. That included changing behaviors, looking at leading indicators in order to reduce the injury and accidents.

As I alluded to before, it was a really hands-on approach. Training and increased safety staffing.

In doing so, we've had the behavior-based safety process in place since about 2001. The very same process that Rio Tinto is using that Dr. Geller developed. We have taken that and made it our own. We have central safety committee meetings. We encourage employee involvement at those meetings. They have a forum to come to us. If there's something positive, they can bring that. If there's something negative, they can bring that.

But those behavior-based safety programs, it's no name, no blame. There is no -- we try to make sure everybody understands it.

Our behavior-based safety process. We actually have a technician that runs the process, that's a non-exempt employee, that has a set of metrics that they're processing. And we drive that that is no name, no blame. We look at the leading indicators. That information is communicated back to the management team at the mine, and we look at where the potential opportunities are for improvement. So we go out and we base our programs on that.

The logo that you see behind me, those are the actual logos of those individual mines. They're

behavior safety teams. Each mine has seven to ten employees that are on these steering teams that drive this process. The last bullet point you see is the inspection part of this. When we get that information, again, it's given to management. We're able to go out and do inspection; do, you know, corrective action; take corrective action to make sure that the recommendations of the steering teams are following through.

Next part of what we do, we've taken the MSHA SLAM program. We've made it our own. Every one of our sites has a banner, like you see at the bottom, hanging in the front of the mine. Before we do any job, we ask employees to SLAM that job. We ask them to SLAM a job in a pre-shift meeting. We'll pick somebody out of the crowd, "Hey, can you SLAM that job for me?" These are routine, everyday processes that they do. We ask them to use the SLAM process for that.

In green behind me, you see the pre-job briefing. What that is, any time we change a job or we do something that's out of the ordinary, we ask them to perform a pre-job briefing. What this is, that is very in depth, it's designed to get you to ask specific questions about that job. On the back of that, when they take that into the field, they're able to mark down any kind of problems they had with the job, any kind of

success they had with it, anything they need to change, and that goes back to our planning department so the next time we do that job we capture that data so we can get that in the job packets.

The safety leadership team, what we do is we have individuals that go out and we perform monthly firing inspections at our sites. We check our impoundments. There are some things in coal that you guys don't have in metal and non-metal that we have to comply with certification and some different things that I'll get into in just a minute.

The last bullet point, we stress five S's: sort, straighten, standardize, and sanitize and sustain. We have a pre-job briefing and our annual refresher. So everybody is very familiar with that five-S process. We try to use that in our shops and in our daily operation.

In coal mining, on-shift examination is a big part of what we do. We have certified on-shift examiners that go out and have to inspect the mine prior to commencing operations.

Part of what we do is we encourage our employees when they see something that's not quite right, to find and fix, to report it through recording and reporting process. We pretty often trouble pick a process that needs to be developed.

And then a big part of what we do -- I mentioned before we have 300 contractors that we employ on our sites. And they're coming in; they're doing drag line outages; they're doing different outages for us on our plants. And so we have five full-time contract coordinators. That's all they do. They deal with the contractors. They bring them on-site. They inspect their equipment. They oversee their job to try to make sure that we're complying with MSHA in Texas. I would say only 30 percent of the citations that we receive are due to contractors. So that was our answer to making sure that we can drive that injury rate down was to hire these contract coordinators and put them under the safety umbrella and make them report directly to the safety group. Again, that customer idea. So, those contract coordinators have really helped us drive down that injury rate.

As far as training, we take a bit of a different approach. We operate -- let's see if all these seminars -- we operate in an academy in Tyler, Texas. There are 12 full-time people that work at our cabin. The next slide I'll get to it.

They helped us develop task-training initiatives. They helped us develop our annual refresher. We standardized it throughout the company.

The impoundments -- refreshers that we have to do for who inspect impoundments. We standardize our surface certification retraining. We do it right there at the Academy. Five times a year there's an opportunity for a person to become an MSHA instructor, given our nine sites and really the numbers of people that we have to get through an annual refresher. We really push this idea of people being able to become an instructor so we teach them what it is that we want them -- the tools that we want them to have.

We perform management safety seminars twice a year. Every manager comes to the academy, and we do an eight-hour day with that inspector or that -- excuse me -- that supervisor on what Luminant expects them to know and how to manage safety at their mine.

We do a four-hour annual -- this is away from an annual refresher. We do a four-hour employee seminar, where, again, bring the employees in away from production. And we reinforce what we expect of them as Luminant employees.

And finally, we've agreed with the International Mine Safety Professional Society to host the CMSP test every year at the Luminant Academy. So they're going to

come back year after year. Last year we put nine of our employees through the class and all nine passed.

The picture behind me is a picture of one of our simulators. There are five simulators, three like that and then two very large like you would see a driving simulator. We can simulate a drag line. We can simulate a haul truck. We can simulate a coal hauler.

And so when we hire a new miner, he goes to three weeks of training at that academy before he ever sets foot in the mine. What he's getting is a new miner training. He's getting -- on the bottom there, you see the hands-on training that he gets. And then he also gets this stimulator training, and then he goes through the mine and he goes through task training, all the regulatory things that he has to do.

It's really about a six-week process before he's ever turned loose to go to work. And maybe not even six weeks. It may take him longer based on our training. We develop these packets, these pamphlets that they have to follow.

As you can see, this is equipment simulation training. We offer computer training there for our employees that need that. Our behavior-based safety training is based out of there. We do a lot of -- we bring in these steering teams, and we'll do a lot of

behavior-based safety training with them just on an annual -- just kind of a refresher.

We also at the Academy have partnered with MSHA to conduct coal dust pamphlet certification, methane/oxygen training. We've done stakeholder meetings there and also refresher trainings for coal.

Again, none of this is possible -- again, this is a 30,000-foot view of what we do. None of this is possible without senior management support. The picture you see behind me is our senior vice president of mining with one of the mine managers and also our director for our behavior-based safety process. They're actually at a conference that we conduct every fall. We send all the steering team members and all our partnered companies that we have to a conference in Mt. Pleasant, Texas, so they can level up with other behavior-based safety programs so they can bring back ideas. And, again, we drive that as no name, no blame. Often we have a little bit of difficulty with it but ours is no name, no blame. It's all part of HPI or Human Performance Improvement. We've taken all these things. We've lumped them into that umbrella, and we've called it HPI. It's a set of about eight tools that we have. And that's the reason for the management seminars and the employee seminars so that we can level up with everybody

on HPI. That's really the umbrella of our process.

Any questions on how we -- I guess that was quicker than I had anticipated.

MS. SILVEY: That's good.

Well, I tell you a couple of observations and you know I might even have to -- it seems like Rio Tinto has such a good safety record, which is excellent. But I might even have to bring Matthew back later. I had one other comment for him. But I'm going to say something to you on that point because particularly in coal, I think MSHA has consistently for years seen disproportionate numbers for contractors at coal mines, both in terms of injury, illness, and fatalities as well as violations, you know, whether you correlate the two or not. Obviously, sometimes they do and some people will probably pretend that they don't. But nevertheless, I think you can say for contractors you probably have seen an increase with contractors on both of those fronts.

And I am looking at what you said. You all saw that and decide -- and wanted to do something about it and, in fact, did something about it. I mean, that -- that's sort of like, I guess, positive data. You have data to show that and that's kind of good. So the other -- and we are obviously always glad to see that.

Now, you sort of anticipated my comment on behavior-based safety. I guess, that's going to be a refrain. I'm going to hear that from a lot of people, it seems like.

MR. LARCH: Ours is truly no name, no blame.

MS. SILVEY: But you said -- I'm coming back to you. You said "no name, no blame." And I was going to ask you, do employees really take it as that?

MR. LARCH: The safety leadership team and the site safety reps and the safety tech that runs the program, we do. We have to push that, and we have to reassure them that this is no name, no blame. We're not out -- we don't want your name. We just want to correct the behavior. That's why that safety tech is non-exempt so they're kind of like on the same level.

MS. SILVEY: Right.

MR. LARCH: They give us the leadership team, the information that we can build programs accordingly.

MS. SILVEY: Now, I might have missed it. Did you -- have you all got -- have you -- do you all have concrete data that you -- you talk about -- you've seen the results in your contract.

MR. LARCH: Yes. What we have is a dashboard that rolls up; and the safety techs, they put in data for BBS; and those safety coordinators, they put in data

on numbers of inspections that they've done for contractors. They put in the data on accident and injury, hours on the mine. That's all in that dashboard.

MS. SILVEY: I guess what I was going to ask you, if you have concrete data, and you said you do, on the contractors that show where you've had improvements in the metric and either for contractors are regular employees, if you have that type of data, we would be interested in getting that before the comment period closes, which I think is December 17.

MR. LARCH: The one that's most glaringly obvious right now is the numbers of violations that Luminant and the contractors received prior to full implementation of all five coordinators and where we're at now. That's the biggest so far. This is a relatively young program.

MS. SILVEY: Okay. All right. I think -- just for everybody, I think, the comment period closes December the 17th. If I'm wrong there, I'll correct it before the end of the meeting.

Does anybody have a question?

MR. DISTASIO: I just want to follow up on the challenges of the contractors reference. It seems like you do a lot of training and a lot of preparation for

your own employees. But what could those safety coordinators do? What could the coordinators do with the contractors?

MR. LARCH: The coordinators, they -- before the contractors come to the mine, we actually -- if the contractor requests, we will send our coordinators to their site, wherever that may be. A couple of months ago, we sent two of our coordinators all the way to Lubbock, Texas, which is about 500 miles from where the mine was, to look at equipment, to look over records, to help them in preparing to come to the Luminant site to do their job. We see value in that. Again, it's a young program so I don't have any accident or injury data to show as of yet. But definitely from a citation standpoint so far, it's worked fabulously.

MS. SILVEY: Okay. Thank you very much.

Can I have Jerry Glynn, safety manager for TXI.

MR. GLYNN: Good morning, everybody. And I want to thank the panel for allowing all of us to be here today. Jerry Glynn, G-l-y-n-n, with Texas Industries.

Before I get started, I just want to say that, you know, whether or not we all agree or disagree or agree to disagree, one of the great things is that we have the opportunity to be here and to be heard. You're not going to find this type of forum in Russia or China

or North Korea. So this is a great thing to have in our country, is something that should never ever be taken for granted.

So with that, I'm Jerry Glynn. I'm the western regional financial and safety manager for expansion shale and clay business unit. I'm out of Boulder, Colorado. Texas Industries is headquartered in Dallas, Texas. This presentation was put together by myself and our safety management team.

Texas Industries was founded in 1951 by Ralph B. Rogers. TXI is a leading supplier of cement, aggregate and consumer products. Our safety and health program is the best in the world. That's a big statement. But if you don't believe it, then you can't achieve it. It's not the perfect system, but you have to have confidence in your programs. And that's what we do.

We have 20 MSHA-regulated plants. They're all metal, non-metal. In Texas, Louisiana, Oklahoma, Arkansas, Colorado, California with a very diversified workforce in differing MSHA districts of south central, Rocky Mountain and the western districts.

The culture and the people in Texas, totally different than those in Colorado and totally different than those in California. Same way with the MSHA districts, different district managers with different

philosophies, different cultures, different inspectors and we deal with all of those -- at least I do. I'm the only safety manager that deals with all three districts.

Our safety and health programs are designed to be flexible enough to meet the needs of the employees in each business unit as established by the business unit manager and our employees. What does that mean? It means that we have certain safety programs, policies that overlap with any business unit. But each business unit and those employees' managers are empowered to design programs that fit their needs.

Our commitment -- every person is entitled to work in a safe and healthy work environment where that environment has a core value shared between the employers and employees at all levels of the organization. Our philosophy is oriented toward affirmative control and minimization of risk to the greatest extent possible. If that means we achieve zero incidents and accidents and fatalities, that's great. But it's no guarantee.

We are 1900 united individuals led by our president and CEO, vice presidents, administrative personnel, safety managers, coordinators, plant managers, supervisors, lead persons and all our plant personnel who are truly the heart and soul of our

company.

Our employees allow us to be true innovators. They help us utilize new technologies, develop new products, and maintain cost efficiencies. And all of this in an environment of safe production. It is our vision to continue to improve our leadership in developing, implementing and maintaining exemplary health and safety processes and practices for our employees, customers, and the public.

This can only be accomplished by the leadership of empowered employees with empowered management providing freedom, direction and support. That's why in the various business units that we have, I'm going to expanded shale and clay. We have an aggregate business unit. We have a cement business unit. Those safety managers do things. We all do things differently to achieve the same goal.

In aggregates, our safety manager is a lot more hands on. She is very -- out in the plant a lot, doing inspections, training. Our cement division is probably kind of that way but more centered around safety committees and the employees.

In expanded shale and clay, our philosophy is my role is to be a safety consultant. I don't go out and do a lot of inspections. I don't go out and do a lot of

training. I'm a resource of what they need. Our philosophy at expansion clay is that safety starts at the plant at all levels. So we all do things differently. But we all achieve the same goal.

Employees are integrated into every aspect of safety within our organization. From the design, the implementation, the evaluation and the continued program -- the continued improvement of our programs.

It is our policy that an employee-led safety and health be established at each facility. Employees are actively and continuously involved in annual refresher training, job safety analysis, task training, conducting daily, weekly and monthly safety meetings in MSHA inspections.

Our hazard identification and control. We have effective workplace examinations with supervisor follow-up, and sign off is a key control. We believe that through proper training, employees go out; they do the workplace examinations. They are not pencil whipped, but they are being taken seriously and that's where we catch the majority of items that need to be fixed.

Engineering controls implemented to eliminate safety hazards. In a lot of our facilities right now we are redesigning our plants to eliminate the need for any

fault protection. We've also -- in our cement plants, we've finalized our arc flash analysis and implementation our arc flash program. That analysis is being conducted in both aggregates and expansion shale and clay at this time.

We have a Focus Zero Program which our employees enjoy because they get to go out and act as inspectors and perform MSHA mock inspections and cite every potential hazard with corrective action to be taken. They go out with basically the same type of pads and do the same type of inspections that MSHA inspectors do.

We have extensive reporting of incidents and near misses to determine root cause and corrective action. Our training and retraining. We've spent a lot of time on the Rules to Live By.

And monthly mass safety meetings are led by employees, annual refresher training led by our employees, task training and job safety analysis, use of only qualified contractors that meet TXI safety training and insurance requirements.

Our in-house developed ALIAS training, which is A Lesson In Aggregate Safety. It's conducted by our safety managers, employees, and outside speakers, such as H.L. Boling, MSHA representatives, and other notable safety experts.

Our program evaluation, trend analysis of injuries, MSHA citations and cost, Workers' Comp claim count and cost, frequency and severity rates, random safety and workplace examination audits. Safety committee members are regularly rotated. VPs are provided monthly summary safety statistics. We have a continuous means of safety improvement by employees and management. And we have our annual president's safety award luncheon to recognize excellence in plant safety.

This is one of the highlights of our year. All the plants look forward to it. And there's great competition among all of the plants and business units to win this award.

Culture: Our safety culture does not define our people but our people define our culture of safety. We are committed to our vision and our people. We honor work and live by the rules without compromising our core values. We have the courage to accept our responsibility and be accountable for our action. Failure is not an option.

Worker comp claim count over the last five years have seen -- since 2007 a steady decrease in the worker comp claim count. A lot of this has to do with, in 2007, we initiated a new hire screening policy. It's a phone survey that new applicants have to take, and we

probably eliminate about 40 percent of all applicants which means that over the last several years we've had better quality people working in our facilities. So we have the right people for the right job.

Also, over the last couple of years, like many, our workforce is down due to the economy. People that we have we feel are the right people doing the right jobs.

This is our total cost of money amount per work hour. It may not mean a lot to most of you, the numbers, but for Texas Industries, we have a stated goal of 20 cents cost per work hour. And over the last several years, you can see that we have steadily decreased that cost per work hour. This year, in 2010, two of the divisions, this one right here, is the lowest, which I'm very proud of.

But our cement division has come down greatly, so has our aggregate division. Sometimes you have some ups and sometimes you have some downs. But on the whole, we have trended very nicely downward.

Our frequency, severity and incident rates since 2007, frequency and severity have gone down well below the numbers in the industry. Our incidents, it's stayed about the same. But our frequency and the severity of those injuries have gone down drastically.

As mentioned in the federal document, model programs should be designed to prevent injuries and illnesses. And MSHA has reviewed a number of guidelines for safety, health and management programs including the OSHA Voluntary Protection Program, ANSI, the International Standards Organization, ISO; British Standards Organization, Industry Safety, Health and Management Systems. But no one Safety, Health and Management System will prevent keep from happening or existing injuries or illnesses.

It's quoted in Effective Occupational Safety and Health Systems Integration of OSHA Standards, "The safety and health program model from Oregon State, Oregon OSHA does not advocate absolute safety but aims to control and continually improve the level of risk." Another quote is "The choice of which system to adopt depends solely on the need of individual organizations."

What we know for sure is there is no one size that fits all safety, health and management program. Those closest to the source typically know what works best and that's the industry. That's you and I working together.

In concluding, industry and MSHA must seek the same goal by developing win-win situations. We must be -- it must be in the spirit of cooperation and

partnership. Safety first must replace enforcement first. We must make available any and all of the safety, health and management systems review as a set of guidelines only, and not a rule to help establish or improve existing safety, health management system programs. We believe in targeting the offenders. Those who do not have effective safety and health management systems should be targeted. They should be penalized because it's our common goal to protect the miners. Those who fail should be penalized. But those who do a good job, those who have effective safety and health management should be rewarded.

I would like to see establishment of a safety certification process to reward those safe operators. Maybe similar to the ISO 9,000 or 14,000.

And lastly, I believe that safety is an art, it is not a science and thus its interpretation lies in the eye of the beholder.

Thank you.

MS. SILVEY: Thank you. I have a few comments.

First of all, thank you for your presentation. There were a number of principles in your presentation that I think all of us in the room would ascribe to. But you mentioned that -- you have two things you mentioned. You mentioned employee-led safety and health

committees at each facility. And you also mentioned that you all do random audits, and I know you represent one division so I -- and I understand your comments might be just totally related to that one division. But with respect to both of those, to those initiatives, the audits and the employee-led safety and health committee, how often do you all do those, let's say, at a particular plant?

MR. GLYNN: First of all, the safety committees are at every division.

MS. SILVEY: Okay.

MR. GLYNN: Every plant, every facility has to have an employee-led safety committee.

MS. SILVEY: And who's on that committee?

MR. GLYNN: 99 percent workers and one person from management. That's it. So they are led by the employees.

MS. SILVEY: I hate to ask you one more. How big would a typical -- I'm sure it would depend on the size of the plant.

MR. GLYNN: It depends on the plant. Anywhere from three to five --

MS. SILVEY: Okay.

MR. GLYNN: -- to maybe 10 --

MS. SILVEY: Okay.

MR. GLYNN: -- to 12. It just depends. The cement division is our largest division. They're going to have more. Typically on expansion clay it depends on the plant size, but I would say on average five people.

Now with regard to how often the random inspections are done, they're random, but I would say throughout what we try to do is maybe no less than once a quarter at all of the facilities and sometimes twice in a quarter. It just depends on the size of the organization -- of the business unit.

Cement does a lot more regular than we do. They have the larger plants. So there's workplace examination. I might say that one of the keys is our follow-up on our daily workplace applications. That's been one of the bigger turnarounds over the last couple of years. We had a couple of the incidents when people were kind of pencil whipping them, and they were terminated. So we established a follow-up program and it's gotten a lot better in terms of identifying our hazards.

MR. DISTASIO: I would like to ask the same question I asked Matthew before.

You both talked about how you try to tell the differences to each business group yet I can see you have a lot of common metrics. You have the common

inspection philosophies, the common safety committee philosophy. Can you talk a little bit about, you know, what it is exactly that you try to tailor for each group? And then how that -- you obviously seem to feel the value of that. It seems to be a little competition between your different groups here, as you're proud to point out, that your group was the best.

MR. GLYNN: There are definitely similarities among the three different divisions with regard to safety in the program. But, again, each business unit is empowered to do what they feel is needed at their particular plant. So at the cement plants, just for example, they were the first ones to lead the charge. They felt that that was something that they needed, and that's what they did. We saw the benefit of that in their division and we're doing it in our division.

Again, I think what Matt was saying and what I'm trying to say is each facility, because of its size, its nature, what it does, has to have a program that fits that need for that plant. Certain minimum standards have to be met. But after that, they can pretty much do what they want to do.

MS. SILVEY: Do you find any pressure with respect to production versus you implementing all these initiatives focused on safety?

MR. GLYNN: As far as, you know, the more safety we do, does it impact production? Is that the question?

MS. SILVEY: Yes, that's my question.

MR. GLYNN: No. None whatsoever.

MS. SILVEY: Okay. I liked your phrase "safe production." I thought you were going to ask about that.

MR. GLYNN: Texas Industry has been around a long time. And this is not a culture that's been developed over the last couple of years. This is a 50-year process. And Texas Industry is very proud of their culture and their heritage and the people. We have people that are celebrating their 48th or 49th or 50th anniversary there. Their sons and daughters work there. So it's a culture that we've had for a long time.

We've always -- I can't say always. But as time has developed, that concept of safety and production remains with us every day. And the safer that we make things, the more efficient we can be. And actually it's better production that we get.

MS. SILVEY: Does anybody have any comments or questions?

MR. STARK: I have a question.

My name is Mylon, M-y-l-o-n, Stark, S-t-a-r-k,

Associated General Contractors of South Dakota. It's not specific to the program but one of the things that I heard was eliminating a need for fall protection as an initiative. I just want to clarify that. Is that elimination of work at heights or are we talking about eliminating the use of personal fall protection?

MR. GLYNN: Eliminating the need to use a personal fall protection --

MR. STARK: Thank you.

MR. GLYNN: -- by putting in a platform or railing and things like that so we don't have to have people in fall protection.

MR. STARK: Thank you.

MS. SILVEY: I appreciate that. Okay. Thank you so much, sir.

Our next speaker will be, Len Welsh. And he is with the Cal-OSHA or, as some of you say, OSHA.

MR. WELSH: Hi, folks. I apologize for getting --

MS. SILVEY: They would never know if you didn't --

MR. WELSH: They would know.

MS. SILVEY: Well, they would know because some people got the sheet. But if you hadn't -- anyway.

MR. WELSH: I just wanted to say a few words before I do go. And thank you very much for inviting me, Patricia.

I was at the meeting that Fed-OSHA held a few weeks ago to talk about -- I do, first of all, hope that whatever MSHA and OSHA adopt will be harmonious and hopefully the same. I heard some, I guess, warning from, I think, maybe even the first speaker this morning about not making a one-size-fits-all approach to this. And I guess it's a matter of semantics. But, in fact, whatever is one size fits all? And the question is going to be is that regulation going to be flexible enough and strike the right balance between generality and specificity so that people can adopt it to their own special needs yet the standard will still be effective? That's always the trick in adopting regulations to get the right mix of specificity in a performance-oriented approach.

I want do want to make a pitch for California. Our injury and prevention program has been in place for about two decades. It's worked very well. It's really very simple. You can almost recite generally what the principles are in one sentence.

You have to have a program with somebody who has authority, true authority, for safety and health at the

work site. There has to be enforcement of whatever the rules of the safety programs are. There has to be effective communication, kind of a two-way street; employees have to be able to communicate hazards upstream and management has to be able to communicate hazards downstream. There has to be a system for identifying hazards, a system for correcting hazards, a system for accident and illness investigation, and procedures for training. Add to that documentation requirements hopefully not too copious and that makes your injury and illness prevention program in a nutshell.

These concepts, the idea of communication, hazard recognition, hazard correction, investigating things that go wrong, training, these are all core. And I loved hearing the presentation that came this morning. It's clear to me that the companies that have really thought about safety have refined these concepts way beyond just what a government would put down on a piece of paper have actually gotten into, "How do we make it happen? How do we get through to the employees on the ground who have to comply with these safety procedures? And how do we have a system of accountability that will hold not only the line on employee accountability but management and everybody else accountable hopefully all

the way to the CEO?

So basically, I'm making a pitch for the Federal Government not creating any new requirements for California. With its rulemaking, I think the California approach can serve the nation well. You know, they're -- I did hear some suggestions at the Fed-OSHA meeting, for example, like having periodic review of the program and see if it's really working well, to see if it needs improvement, a continuous improvement philosophy. I think that's not bad. That would not be a bad addition. Minor additions like that might be helpful. And certainly, as I look at the actual language in California, you find it in two places in the California Labor Code. It's Section 6401.7. And you'll find it in Title 8, the body of regulation Cal-OSHA enforces at Section 3203. And it's not an easy read.

Those concepts that I recited are what you will read if you take the time to read what's written in both of those sections. But, the language itself could be made a little bit more accessible in my own opinion. I hope that whatever MSHA decides to write in terms of the standard here and OSHA, whatever they choose to write, they will spend some time putting it in language that is accessible to everybody, doesn't have long, you know, run-on sentences, that kind of thing, lots of commas to

figure out what phrases are being separated from what other phrases. Keep it simple. These things can be stated very simply. And there is actually quite an art to writing things down in a simple fashion so that people can understand what's being said. I hope some time will be spent on that. I also want to second what I thought I heard from some of the presenters, which was that you can only get so far with enforcement. You have to -- you definitely have to set a floor with regulations. There's no doubt about it; especially in an industry as hazardous as mining. There just has to be certain bottomline, no doubt about it, requirement that people are held to if they don't meet them.

By the same token, you can only go so far with that. And if we really want the system to work, if we really want to have a federally run system in place that we can say is truly making workplaces more safe, there has to be an element of cooperative programs working on a partnership basis with the industry so that we can make the time on a cooperative basis that we heard in some of the presentations this morning.

Some of those things cannot be legislative. They can be incentivized. When somebody comes up with a good approach to something, they can be held up for everybody to see, to set an example. There's a lot of

positive to make these things happen. We try to make them a matter of a requirement for which punishment will be issued if they're not met, then we really do run into trouble, I think, if we go too far.

So I hope as this rulemaking proceeds, it will be kept in mind that there's a whole other dimension that needs to be grafted on top and that's going to be the educational and the cooperative consultative approach that must go with it in order to make it work.

I -- that's all I really have to say. I'm sorry I had to jump in front of the line here. I did want to introduce Steve Hart, principal engineer for Cal-OSHA. He runs Cal-OSHA's mining and tunneling unit. And I think he is a master. He's managed several very high-profile investigations on the enforcement front. He's also been very good with putting together cooperative programs and moving industry forward in California.

I'd like for Steve to come up here and say a few words.

MS. SILVEY: Before he does --

MR. WELSH: Any questions? Sure.

MS. SILVEY: I probably should know this but is Cal-OSHA's program requires a written program?

MR. WELSH: Yes, it does.

MS. SILVEY: It is a written program?

MR. WELSH: Yes.

MS. SILVEY: And just finally known to -- what Len said, I find myself saying something that I said over 30 years ago. And that is, when you are doing rulemaking, and there's probably been a lot of people who have been seeing MSHA's rulemaking who comment one way or another about it, but there are two things. You know, you talk about performance oriented. For a rule like this, obviously, it clearly has to be -- has to have some performance-oriented nature to it because as we've heard, for no other reason, but as for the diverse mining work places. But on the other hand, you will find people -- I heard people tell me this over 30 years ago. You will find the one set of people who will say "Just tell me that I have to bake a chocolate cake, I will make it; simple." And then you'll find another group of people who will say, "You've got to tell me exactly how much flour to put in it, what kind of cocoa to use. You have to tell me everything." So it's that risk that you catch yourself when you regulate. What it is, is it is truly striking the proper balance. And part of what our goal is today is to hear from people who have programs that indeed do work and to find out

from you what has worked and what has not worked and to help us go forward if, in fact -- if we proceed with rulemaking to strike that proper balance.

But, yeah, I don't disagree with you.

MR. WELSH: I couldn't agree more with what you just said. If we're getting too performance oriented, the question is, "Give us more bright lines."

MS. SILVEY: So anyway --

MR. WELSH: We give bright lines, "Geez, could you give a little more flexibility." That's just part of the give and take of rulemaking. It's in the delivery of enforcement work where it really counts. If the enforcement is done effectively and there's the proper amount of dialogue between the enforcer and the person being enforced again and there's a proper amount of investigation to work on a partnership basis, people feel like they're being heard. People feel like the enforcement is credible. The delivery of enforcement that really makes all that come to life and makes people see why it is we sort of have to find that balance.

Anyway, can I have Steve come up?

MS. SILVEY: Yes, please.

MR. HART: Thank you very much.

My name is Steve Hart. I'm the principal engineer of the Cal-OSHA mining and tunneling program in

California.

And mining is on hard times in California right now. When I started in 1994, there were 1100 mines. Today there's 550. And the number is going south very quickly.

Many of you in this room come to me and asks, "Why do we need two sets of regulations?"

I say, "I really don't know." There are times that we disagree with MSHA. And we feel that another rule is a better way to manage safety in California. But most of the time we work very hard to follow the MSHA guidelines.

And so mining being in the straits that it is, even with gold at $1600 an ounce -- can you believe that? I wish I had 100 ounces from a couple of years ago. But, anyway, what I see in the field with our injury and illness program, the prevention program, that California came up with late '80s, early '90s, somewhere in there, is that we have the large companies, the ones that are represented here today, you guys do a fine job. You're way above our minimum standards for an injury and illness prevention program. But there's a lot of small mines in California. And with these small mines we need to know who's in charge of safety at this plant. Do they communicate and train their employees? Will you

hire this guy over here, and he doesn't speak English? Do you train in his language? We find that Hispanic workers have a much higher incidence of death in California's mines than English-speaking people. So we encourage our mines to make sure that their training programs cover everything. If you hire a person that speaks a different language, you're obligated to train them.

And so we always, when we come in -- and many of you have been there when I walked in or somebody like me walks in -- we'll say, "Let me see your IIPP," your Injury and Illness Prevention Program. Who's in charge? How do you communicate? What do you do when there's an accident? Do you just send three guys up there and hope they come back with the results that you're looking for?"

And so I see an Injury and Illness Prevention Program as presenting a basic safety program that all companies should have. Rio Tinto and Luminant, some of you bigger companies have taken that way, way higher. Nancy at Teichert; Bill Jackson, you've done a wonderful job. But like I say, we all want to have the basics of this program. It's only about seven elements. And that way when I come in, I'll say, "Have you been trained in fork truck safety?" You say "Yeah." I turn to the

manager of the plant, "Could I see that record that she was trained." And today, I'm happy to say that they can show me, yeah, she was trained on the 24th and Joe was her trainer.

Those are the kinds of things that make a complete safety program. It's management's commitment to safety. And so this person's commitment is going to be different than that person's commitment. It's not the same program for everybody. Everybody is going to do it a little bit differently, but they'll have the same elements.

And so that's my plea for the panel here is that mining is on hard times in California and we don't need another rule that's vastly different from the California rule that preexisted. So we ask you to take a look at that and find out if our rule would be sufficient for MSHA because if it would be, it would be a gift to every person in the room today.

Thank you very much.

MS. SILVEY: Okay. Thank you.

Our next presenter, then, will be Kevin Davis, Miles Sand and Gravel.

MR. DAVIS: Good morning. My name is Kevin Davis, Miles Sand and Gravel safety coordinator. I've -- it's founded in 1946, established, family owned,

operated and oriented. Oriented is very important for us. It works very well. The family takes great pride in all the employees and the safety of all the employees. It's very important to us.

We operate eight active mine sites right now, sand and gravel construction supply. My job is safety coordinator. We discussed that a little bit when I took over. I started with the company in '94 driving a truck. And in late 2004, we were basically without anybody doing the job. We were kind of in between safety people. We had some environmental people, kind of crossing over doing a little bit, weren't really very proactive. I raised my hand, "Hey, I want to take this on," and we discussed it a little bit. They awarded me with my wishes. I've been doing it ever since.

In defining what I was going to be doing, safety or freedom-from-danger coordinator, somebody responsible for organizing diverse parts of the group, making it all work, making everything work together, not to dictate, not to beat safety into anybody I wanted to coordinate it, work with everybody. I do that. I work with the Miles family and management. I work for all the employees and with the whole group.

The secret of our success is making sure that safety is not a secret. When I started out, safety was

something you did if you had time. Safety was not top of the list. So we got in there and made sure that it wasn't safety versus production. Safety -- if you're not busy producing, you can do a little bit of safety. We made it safe production at all times. Everything we did was safe.

Safety culture. That's what we've developed. It hasn't been an easy road. I started late 2004. About the middle of 2005, I had about given up. I was the safety guy, 275 employees. I'm in charge of them. I worry about them. I try to do everything I can for them. I counsel them, but I wasn't -- I wasn't getting what I wanted. So -- you know, with all the policies that are required and procedures that a person has, people aren't following and using them. You aren't getting anything. I had about given up, and I woke up one morning and realized that truthfully, as a safety coordinator, I was running the biggest division or part of the company there was. And it's taken off from there. We've done quite well.

Employee requirements at Miles Sand and Gravel are pretty simple. Put in a good honest day's work and go home healthy each and every day. That's what I asked the family: "What do you want me to do? What is my job?" They said, "Make sure people don't get hurt,

Kevin."

The success was reached with the development and continued improvement of our safety culture and measured by the reduction of injuries and incidents and their severity.

To reduce the risk, reduce the exposure, all very important. Reported injuries for us, we don't have many. That's a good thing. Any is too many. In 2004, we had four up to five, peaked in 2007 with six too many. Last couple of years down to two a year for all of our mine sites. Two too many but we're getting towards that zero that everybody wants.

Five machinery; six slip-and-fall of person; four powered haulage; four hands/tools non-powered; six handling material; one stepping or kneeling. All of them are very minor injuries. Everybody's still got their fingers and their eyes and their toes and their ears. Still too many.

Twelve no days away from work no restrictive action. So we've been pretty successful there. Seven days away from work and restrictive activity. Four days restrictive activity only; two days away from work only; and one occupational illness.

What does work for Miles Sand and Gravel? Owner/management commitment to the workforce, and we're

fortunate enough to have that. I don't know how you put that on paper with the policy or anything. It's something that you have to develop.

Open-door policy, they use. Any employee can go to the boss and say, "Hey, I have a problem. Kevin is being mean to me. He's making me fix things or making me go do too much training."

Part of the family atmosphere at Miles works great. Everybody is part of the family. They treat us like family. And the owners/management lead by example. When they don't, I go talk to them. We had one worker come to me, and say, "Hey, Kevin. Why is it I have to wear my hard hat all the time and mess up my hair when the owner doesn't have to wear his hard hat?"

"What do you mean?"

"Well, there was Mr. Miles without his hard hat." So I went to Mr. Miles: "Why are you not wearing your hard hat when that's a requirement? We require everybody to do it. You're not exempt." And he hasn't been seen without it since.

Likewise, workforce commitment to the company and fellow workers. Again, in some five years we continue to change and nurture it and make it grow and improve on it. Safety is the highest priority one. A five-gallon bucket of material is not worth any injury.

And I repeat that over and over along with seat belts and SLAM and some of the other things.

Teamwork is very important. We stress the teamwork. How do you put that in a policy? I'm not sure. That's why I'm here. It worries me a little bit that -- again, a policy one -- one policy guideline is not going to fit everybody and there has to be some wiggle room in there. Teamwork is very important.

Tools we use Regular scheduled safety meetings I do safety meetings every two weeks for all of our miners. I go to the different facilities. I do most of the training. I get some vendors and different people to help us out with that. 30 minutes to an hour we'll have, every two weeks, kind of a basics. We go by -- last round was fatal grounds, 1 to 15 too many. We go over those. We go over what happened, what contributed to the fatalities, how they could have been prevented and SLAM. A lot of SLAM, SLAM, SLAM. I didn't know what it meant when I started and nobody else did, and we use SLAM each and every day, each and every task. It's very important.

Information on safety related to what we're doing, right and wrong within the company and industry, within the specific facilities, what had they seen, try to get them to interact, you know. What are you guys

seeing out there? Where can we improve? What do we need? Pre-task meetings on everything, SLAM, SLAM, SLAM, SLAM, SLAM, SLAM. They hear that a lot.

Accident investigation and sharing results. That's your near hits and paint on paint. Everything -- you know, what did we do wrong? How do we improve? And making it a group effort. Everybody works together to come to an agreement on what we can do to make that problem go away. Explaining what is right and what is wrong. You know, you can't act as a safety dictator I couldn't go around and just yell at them and beat them with a board. Explaining to them what they're doing right, "Hey, good job." Explain to them what they're doing. "That's probably not the best way to do that. There's better ways. Let's discuss it."

Positive reinforcement, always. Things we try to get away from and something that was prominent when I first started this. This was the finger pointing. "I didn't do it. Oh, it's his fault." Well, ownership in the safety program and then the safety of each and every employee is very important. If one team member fails, what happens? The whole team fails.

Holding people accountable. Not everybody's favorite thing to do, but we try very hard. It's very important. If somebody makes an error, if somebody

makes a bad judgment call, we need to hold them accountable for that and we do.

We use the safety incentive program with awards quarterly, and they get their name on them you know, a little list. And we run that with our safety committees for each division and list them, you know, have ownership in that also.

A lot of good with safety incentive programs and a lot of bad you hear. My boss came to me and said, "I'm hearing a lot of flack about this safety incentive program. Look around to see what other people are doing. Maybe we can change to make it better." It was really easy. Nobody was doing anything. This was a couple of years ago.

Hazard recognition and elimination are very important. Emphasize training on hazard recognition for all employees. If they don't know it's a hazard, then you've got problems. Fixing or correcting the hazards. Communicating the hazards and securing them. What to do if it is not corrected. It's very important. If my people see a hazard, they're to fix it immediately if they can or use signs or barricades, and report it to their supervisor. If it's a matter of replacing a bolt or whatever, they're supposed to fix it. If it's within their abilities, get it reported, get it written down. Get it

repaired. If it's not repaired, I'm always available. And we get pretty fast results if we need them.

Job one, reports of elimination of the hazard.

Grading ourselves. We use self audits. We don't rely on MSHA to come in and tell us if we're doing good or doing bad. Anybody who does that probably won't get the same results we do. Our citations, our violations are down per inspection. Maybe one or two, too many. Shame on us. We do our own. We do them fairly regular. We don't have a set time or date. I do them when I'm there. I do them after safety meetings. I do them after when we're doing a new installation. We change things around. We involve personnel in it so they understand what to look for, how to do it. We have a post-audit meeting, discuss it, plan of correction if it hasn't been done already and correct those discrepancies.

Training materials, we do training every two weeks. Bulletins, fatal grams is a great tool. It's a tragic one but a great tool. Videos, when and where we can get them. Washington State has a pretty good supply. We get a lot from them. Examples of safe/unsafe actions, procedures or conditions. And SLAM, again. That's the greatest thing MSHA has ever done in my book, giving us that tool.

What does not work? Long, drawn out and complicated procedures and policies. They have those spiders, JSA's that you can cover a whole wall with to change a screen on a screen deck. My guys -- it must be good for soaking up oil if they have some. They wouldn't know what to do with them.

Good hands on -- you know, SLAM, short, to the point, basic, works very well. Long meetings, they never work. People will retain about 15 minutes and the rest of the eight hours is a ring in their ears. What does not work? Get 'er done. I had to throw that in there. "Get 'er done. Get 'er done." I learned to hate that. Get 'er done gets you in trouble. Gets people hurt.

Again, hard-to-manage restrictive policies and threats certainly do not work. Threatening the workforce -- human beings don't react very well to threats so we try not to do that.

MSHA's help. Small Mines Office, I think is about done, which is horrifying to me. Small Mines I think is important. They helped us out immensely. Helped me to develop our program. Educational Field Services, up there in -- out of the Kent field office. They do a great job in helping us.

What we can all do better and MSHA could do to

help us is communicate better. Some new training materials would be wonderful. Operate as part of the team and recognize team players, which they do in some ways. They do for us. It's very important when they come out to inspect. The inspectors always have great things to say about our team. They tell our operators that. They suggest other operators contact our people to share our philosophies and they've been doing that and hopefully it's working in our little region, up in the northwest.

Of course, our disclaimer, "Our management philosophy and approach to safety fits us and may not be appropriate for others." Pretty basic. We're pretty small. I've seen great presentations today and a lot of great material, but everybody has got to have their own approach.

MS. SILVEY: You anticipated -- thank you. You anticipated my first question.

I was going to ask you -- unless I missed it. How big are you?

MR. DAVIS: We have eight active mine sites at this time.

MS. SILVEY: Total employments?

MR. DAVIS: 275.

MS. SILVEY: All right. I would like to

comment, though, on -- and maybe it is the sentiment of you and others in the crowd. You referenced the Small Mines Office that you said we don't like that it's going away. But if I'm -- I believe I'm correct in stating this, that the goal, whatever happens -- and I don't know what is going to really end up happening. But the plan is that MSHA would not, in fact, do away with assistance to Small Mines.

And I think now, as you bow your head, yes, you're right -- but that would be -- that it would be -- the assistance would be realigned, and I think MSHA understands the importance of assistance to small employer. So I think that was the goal. So I do want to say that for everybody who may, you know, sometimes -- you just told me that sometimes there's -- there are more than one -- there are a lot of ways -- there are a lot of ways to do something. So I think that was the goal to realign.

I don't think I have any questions, though, any other comments.

Does anybody?

MR. DISTASIO: I just have one. You mentioned one should hold people accountable and threats don't work. Can you sort of --

MR. DAVIS: No. No threats. "If you don't do

it this way, you're done." You have to hold people accountable. We have policy in place to hold people accountable if we need to use it. If people do something, make a poor decision, I go in and counsel them. I work with them, explain to them, you know, what they've done wrong, why they cannot do that and how we can improve and move past that versus, you know, threatening people with their jobs or their livelihood.

MS. SILVEY: It seems like what I'm hearing from a lot of people -- our consistent theme is that when you talk about accountability, you sort of -- you talk about positive reinforcement. That's what --

MR. DAVIS: Always.

MS. SILVEY: -- I seem to hear a lot of you saying.

Any more?

(No audible response.)

MS. SILVEY: Okay. Thank you so much.

Next we have Nancy Moorhouse with Teichert -- by the way, earlier I mentioned when the comment period was closed for this information gathering session, and it is indeed December the 17th. I had written that to make -- come back and reiterate to you. It is December the 17th.

MS. MOORHOUSE: Good morning, everyone. There are

some familiar faces in the audience. My name is Nancy Moorhouse. I'm Vice President and Director of Safety and some other things at Teichert. I've been in the safety department -- I started in Teichert in 1984 and I've been in safety since 1990. And I see a few familiar faces. But what I wanted to spend a few minutes this morning talking about is kind of what Teichert's evolution has been with regard to their zero-injury culture.

Cool company. Founded in 1887 in California. We primarily do operations in California. It's privately held in 5th generation, looking for the 6th generation to come. We're vertically integrated. So not only do we do sand and gravel mining. We also do precast, ready mix and heavy --

THE REPORTER: I'm sorry. "Heavy" --

MS. MOORHOUSE: -- highway infrastructure construction.

THE REPORTER: Thank you. Can I just ask you to slow down just a little bit.

MS. MOORHOUSE: Sure.

Teichert has 2,000 people currently. In our heyday back in about 2005 when the economy was blowing and going, had upwards of 4,000 people. We're heavily union-oriented. So we have a lot of collective bargaining agreements,

which kind of sometimes adds a different variable in working with our folks.

Other than a multi-generation people working in our company It's a very cool place. We currently have eight active MSHA regulated sites. Some of the plants were closed just because of the economy but normally we have about 13 sites here in California.

So today, our zero-injury culture overview, a little bit of history about how we got to where we have. I'll show you a couple of charts with our safety stats, our current practices and end with some closing thoughts and comments. May be a little bit controversial but you've got to get them out of me. That's all I can say.

We established a zero-injury culture in 1998. Now, it happened this way: I was sitting across from our CEO, our President and Vice-President of Human Resources. I got called into a small conference room in Corporate Office. We've all been called to those small conference rooms. It either means one of two things: You're either getting promoted or your ass is getting kicked out of there.

I sit across and they said to me, "Our safety program is not as good as it should be." And I'm like "Wow. That's kind of cool." They said. "Fix it."

And as a safety person, we can go one of two

ways. We can go and do the compliance checklist and make sure everything works or you can take the path that's less traveled and that's what I decided to do.

We wanted to develop a culture. One of the things about Teichert is it's about our values and who we are. So I took the path least traveled and went out and decided, "Geez, there's got to be technology out there that can make a difference." So we adopted a zero-injury culture based on Construction Industry Institute. And I'll show you some components of what that is. It essentially says that "Injuries are preventable."

And this next one is neat, "Citation-free inspections are doable" because we demonstrated that early on. We had two of our aggregate plants. One went nine MSHA-free citation inspections and one went ten MSHA-free citation inspections. You're looking four and a half, five years, no citations. Talk about the number one booster for our miners on the ground is when MSHA comes and we get no citations. Now that means a lot.

And those of us in the safety profession know that you can play the numbers game or do it right. And our miners know that that makes a difference.

Folks, we've all said it. You've heard it from bigger companies bigger than mine that says we're in the

people business because without those miners on the ground making that rock every day, I wouldn't be up here being able to present what our program is about. And it really is driven from the top down, from our CEO and our Presidents.

When I talk about zero-injury culture, I really want to be clear on what that definition means. It's not a goal. And I have many managers in my company saying, "Zero is our goal." Time out. It's really a commitment. It starts intellectually saying "We shouldn't have anybody get injured" because we are in a dangerous business. And if we are, what are we doing to prevent that? So you internalize that "I don't want anybody hurt" to "Man, I feel it in my heart because every day I look at those guys in the eyes, and I want them to go home to their family and kids." It's a commitment that starts here in my heart.

As an organization, anybody getting hurt or any incident, that's not acceptable. And we're going to do whatever it takes to prevent that next injury from occurring. Those are very, very strong, powerful words. And if you go to our website and you can see this demonstrated in our website. It's a shared success that we can prevent these things from happening. And then how do we do that? We want to demonstrate safe

production at Teichert.

One of the things that made a difference for us is combining safety and production in saying, "Let's create safe production." And why is that important? Because when I walk up to the miner on the grade and I say, "Are you doing safe production today?" They know what that means because that's who they are. I can put all these words to it, but when I talk to my miners, they understand safe production because it's about them.

How we started -- cool company. In 1957, Henry Teichert said, "We need a safety program, and we need a safety director." That's pretty significant because OSHA didn't come about until about 1970. MSHA and MESA before that.

But way back when, we were ahead of the curve and that's a cool place to work when you know that management wants to do something for its people.

Went through a phase of, wow, government regulations ranked OSHA's here, MSHA, who we have programs; we have regulations. Kind of shifted a little bit with our risk management safe where we had hazard identification risk analysis.

Now we're trying to getting back to the basics of we're in the people business. It's about our folks. So let's create a culture and let's get back to our

values and let's transform through that.

A couple of statistics. This is for our whole organization. I have two lines total injury -- total injuries for the company, total lost time. Those two lines at the bottom, there's a yellow and a green line and it says "CII." Those are the benchmark to the Construction Industry Institute. Best of the best contractors. Some of them are also mining companies, but it says that injuries are preventable.

We've got a long way to go on our transformation but the best benchmark that we have is against ourselves and are we improving each year against ourself, as the graph shows and we are. Over 100 percent improvement since we started back in '98.

This next slide is for our aggregates. We have some glitch. Why? Because we're not working as many people. And every time -- this is just a little side bar -- every time we have a management change in our company, my safety statistics feel that.

Every time I have a collective bargaining agreement as far as negotiation, my safety statistics feel that. You can look at your safety statistics as an organization and benchmark the morale of your company. What are those best management -- one of those best practices with the Construction Industry Institute. And

these are what Teichert adopted: Demonstrated top management commitment. The number one thing, and you've heard that from the other presenters here, as well.

Staffing for safety. You have -- you have to have what we call "boots on the ground" to make a difference to those miners and safety professionals, bring that objectivity to that relationship. You have to plan for safety through pre-task, workplace exams, etcetera. You have to train and educate people. You have to get the miners involved, participation, involvement whether that's safety committees, some rewards, recognition. You have to manage your progress.

A big component of our best practices is also that subcontractor management. Because even though we're kind of a one-house-who-does-all, we do have subcontractors that come on. We want to make sure that they're following MSHA regulation and Cal-OSHA. We're big in accident/incident reporting and investigation and drug and alcohol testing as well.

I put some pictures in this slide because I always say "A picture is worth a thousand words." So some basic components of that umbrella that drives our program. Upper left-hand corner of the slide illustrates our written "Injury Prevention and Safety Program." We are California-based as Steve Hart and Len

Welsh talked about. That's the umbrella for our program for all of our operation. When stuff happens, we have crisis management.

Myself, my staff, we created the "In Case Of" manual because we wanted to teach our miners what to do “In Case Of” something going on in the mine site. I don't have an update for people for one-on-one involvement with my miners who will give them the tools, some draft handbooks and some other training documents.

The next slide illustrates those injury prevention components that make up the Construction Industry Institute best practices for Teichert. One of the things, as I'm sure we all do in California, pre-employment, post-accident drug and alcohol testing. We made a shift with our employment applications, which I think was a really big plus. We took time in our employment application to ask about safety history and their philosophy on safe production.

We put that in there because we have several people that hire. It doesn't all come through corporate, and I want that mine supervisor or that construction person to actually interview the person they're hiring to get out of that warm body theory when you need a person on the mine site-so that creates a dialogue.

We do 24-hour orientation with our employees. We instituted a hard hat striping program. For those that are brand new to our company, they get a green stripe. They wear that for six months or until they demonstrate that they're safe on the mine site. And the hard hat stripe comes off.

If you're an apprentice, you get a red stripe so that you know you're the newbie on the mine site. It's been a very productive program for us, the hard hat striping.

Personal protective equipment, annual refresher and new training for our miners. We did do some health monitoring, noise and dust studies, audiograms in compliance with the hearing conservation program. Pre-task planning, pre-job planning, tailgate topics. We have safety committees that we do at each at our mines. We do performance evaluations for each miner to see how they're doing, not only for their job but also asking one or two questions specific to our safety program.

We have follow-up by our safety staff with their boots on the ground, and we also have auditing programs at least yearly as well.

Some more pictures as illustrated in the next slide. We can't do this just with Teichert people. We have to use

other people to make this culture happen. We go out on the mine site and talk. We've got our mascot Safe-T. We hand out things with our mascot so that we can take safety home above and beyond the workplace so we can get to the families and their children.

The bright green book, that's the bible of MSHA Part 56 and 57 regulations. We give hard hat stickers out for attending various trainings, annual refresher and such, on-line Material Safety Data Management Sheets program; MSDS, as they're called, for working with chemicals. And then we work with trade associations. Teichert is very active with the National Stone, Sand and Gravel Association.

California Construction Industry Materials Association known as Cal-CIMA. Very active, both at the executive level and on the safety committee.

We brought an outside vendor, such as Charlie Morecraft, "Back at Work," so that we have some ergonomic issues addressed. Savvy Fitness for total functional restoration. Sometimes we hire people and we haven't conditioned them in working in a mine site. An outside speaker, such as Chad Hymas, and other consultants.

I can't stress enough that when you're a safety professional, if you're in management, if you're an

administrative person, we all have to demonstrate what that safe production feels like. I can tell you we're not perfect because we're still transforming. Each one of us really has to understand it's about the person that's making us some money. That's the guy that's out on the grade.

Regulatory compliance is a given. We understand that, but we want to go above and beyond. And the attitude and the behavior that we demonstrate working with our people is instantly recognized by those folks. They know if you're full of crap or if you're really sincere. It's really what we value because we care about our folks. Even our cheerfully painted green pickup trucks that say "safety" on it. We let them know we're about that.

So what's next at Teichert?

We're going to continue to develop a zero-injury culture.

Have we gotten there?

No.

Will we get there?

Yes. Because I've been in this business 20 years plus. But every time I've got a new hire, we get to start over and re-educate that person on our program. Just when you think you arrived, you're not quite there and you get to start over.

We continue to execute safe production practices that our employees can use. What does that mean? Geez, I now have an OSHA or MSHA regulation that I get to translate into English to Spanish so the guy on the ground understands the expectation. That's what I mean by safe production practices.

And through this culture that we've developed with respect and accountability, we do get that safe production and the business enhancement that comes with it. Although it is a little bit more difficult in California because of economic conditions but we're holding out.

Some closing thoughts: We're in the people business. And change takes time. Any new regulation introduced to our environment takes time to get that absorbed as to who we are.

Here's my editorial: One size doesn't fit all because we are in California. Lovely California.

We've got four Federal OSHA, as Len Welsh had talked about. So this proposed Injury Illness Prevention Program; I have Cal-OSHA since 1996 on the Injury Illness Prevention Program. And then my friend John Langley and Steve Hart with the Cal-OSHA Mining and Tunneling Units. They've put one of MSHA here in California. And now you folks are thinking about what kind of system do we want to implement.

Please take into consideration that in California we've got a lot of regulatory controls and then you throw in some local agencies with their opinions and such. It gets kinda of fun. Kinda.

MSHA, two-regulated inspections per year. We have strict liability for not following the regulations. As you all know, we have mine sites that are dynamic and changing every day.

So when you think about this stuff, we really do want to create a “culture”, yet MSHA does need to be part of the solution.

This next bullet point could be controversial: Is more rulemaking necessary? I'm not throwing that in anybody's face. But there's other systems that we as industry embrace, such as guidance, documents, principles and programs like the Small Mines Office. They did really good for us in California.

Prevention approaches, partnering with MSHA. One of the cool things, National Stones got an alliance with MSHA that I think just got signed last week. Those are good things that are happening for the industry.

But all in all, we're just asking be mindful of additional rulemaking and keep it simple. Trust me, there needs to be simplicity within complexity. Perhaps reducing penalties to those mine operations that have good

health and safety programs.

As you develop these safety and health systems, don't penalize the mine operator for an inadequate system. And let's not use that rulemaking as a catchall because you can't find something else to write a citation against, if that makes sense.

Boy, I can tell you since the -- I'm being unpolitical here but since the change in regime with MSHA, our miners don't look forward to MSHA showing up on the mine site. I'm just putting it out there only because it's a new MSHA. Right or wrong; it is what it is. But if MSHA can acknowledge those miners, it makes for a better life. And quite frankly, the MSHA inspectors are part of the solution because they're the agent representing you folks out in Washington D.C. and how they show up in our mine site does make a difference, good, bad or indifferent.

As Mark Twain said over 100 years ago -- I had to throw a couple of quotes in here -- "Don't let formal education get in the way of learning." Or another one I found, "We start school as question marks and graduate as periods. And that, as in life, is why the answer is not in the back of the book," and I threw in "or in a regulation."

So with that, my safety mascot and I thank you

for your time. If I can answer any questions.

MS. SILVEY: Yes, I do have a few.

I'd like you to just -- and not long, if you could do it in a couple of sentences. You said that there is a new MSHA and something about the inspectors coming. And if the inspectors could acknowledge the miners, could you explain to me -- because I really didn't understand what you mean.

MS. MOORHOUSE: Thank you. We've gone through a phase. Again, for whatever reason -- the old -- under the Lauriski years when there was alliance and partnering. It was an opportunity for the inspectors to comment on operations, not solve it for the mine operator but to offer good insightful frame of references or historical context from being on different mine sites and how to correct the correction.

We're in a phase right now for whatever reason that the inspector does his job. It's black and white and limits the communication with our miners more so in an opportunity to see what they don't know so that maybe they can find more fault for the operator for not doing an adequate job. I speak specifically to issues in the Western Region because our operations in California so it's on the western side.

MSHA has come out with different interpretations.

We've got those kind of settled now on return rollers and berm scale guarding. And that's caused quite an upset with the industry so much so that our trade associations have taken a far more active involvement. And that kind of ripples across the United States.

MS. SILVEY: Okay.

MS. MOORHOUSE: That's the difference.

MS. SILVEY: You're talking communication, you think. That's what it seems like.

MS. MOORHOUSE: I'm sorry. I don't want to turn this into an MSHA battle. I'm saying it's different. Where I'm coming from, it's really different for our miners' representative and our miners.

When I have a miner coming up to me saying, "I don't even want to talk to MSHA because I'm afraid I'm going to get in trouble," that's not what it's about. I don't know what's causing that but hopefully that can be turned around.

MS. SILVEY: I'd like to -- you mentioned poignantly that the safety statistics were impacted by -- I put in kind of a category of morale or something. And you mentioned like the staff has changed in management or a change in -- do you find that production is impacted at that time or have you all done -- have you done any metrics on that? And an

add-on to that, do you find that -- I'm going to ask you a question that I asked some other people -- that that was in relationship between improvement in safety and an improvement in production?

MS. MOORHOUSE: We haven't done any specific stats on the production impact, I mean because we're looking at it in a bigger picture. But, yeah, there is a difference. When we can provide that healthy safe workplace and promote that, people do a good job and production does increase because they're getting recognized and acknowledged as such. So there is a direct correlation.

MS. SILVEY: I'm going to ask and I'm going to say this -- and I know some of you all have given us very good data -- and I'm going to say everybody, even people who may be here in attendance and not necessarily provided comments. But if you have an opportunity to do so before December the 17th, if you have data to support your comments, that you send it in to us, any kind at all. That would be very useful in helping us move forward. And believe you me, we are quite mindful of the fact that at this stage of the process, we are collecting information. And at the end of this collecting information phase, we have arrived to steps we can take. So your information then becomes very

important, the information that you give us, the type of information it is, so we encourage everybody here to do that.

I had one more -- two more things. You mentioned in staff health and safety. And I thank you. You mentioned that you do have to have staff for safety.

So I assume that you have -- you know, you've already said you never ask yes or no questions. But I'm going to do it. I assume that, as you all have increased staff safety, you've seen some improvement?

MS. MOORHOUSE: Uh-huh. There is.

MS. SILVEY: Finally, you mentioned the subcontractors?

MS. MOORHOUSE: Uh-huh.

MS. SILVEY: Do you keep separate data on subcontractors?

MS. MOORHOUSE: Yeah, we do.

MS. SILVEY: How have you seen -- as you've seen your safety management system improve, have you seen your contract -- how has your contractor data with respect to health and safety statistics? What's happened there?

MS. MOORHOUSE: It's gotten better. And I can get you some of those stats, too.

MS. SILVEY: That would be very helpful.

MS. MOORHOUSE: Okay.

MS. SILVEY: Any data. Like I said, we reiterate that if anybody has any, that would be very useful to us.

Anything else?

MS. MOORHOUSE: Thank you very much.

MS. SILVEY: Okay. I'm told that -- mind you, I said I'm told that -- we have to take a break here, which means that I -- off the record.

(Brief recess at 11:28 a.m.)

MS. SILVEY: Okay. Let's get started.

If we can reconvene the Mine Safety and Health Administration public meeting on safety and health management program.

Our next speaker will be Dick Zampa with the International Association for Ironworkers -- I was going to say all the -- Bridge, Structural, Ornamental and Reinforcing Ironworkers.

MR. ZAMPA: Thank you. Thank you for the opportunity.

I have a brief PowerPoint presentation here this morning. Again, my name is Dick Zampa, Z-a-m-p-a.

I'm fortunate to be a third-generation union ironworker who came through the apprenticeship program, went on to become journeyman, ran work in the

field, started to work with the apprentice department and now I'm the director for our three-state area for apprenticeship and training.

Our international put this PowerPoint presentation together to let everybody know what we do as far as MSHA training.

One thing they wanted everybody to know, that our general secretary Walter Wise came from the mining industry. So, you know, it's an extension of what we do. We do -- that's Walter Wise there back in the day. He's now our general secretary.

The International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers. It encompasses a lot of different work. Formed in 1896. A little history on it. Started off with six unions. Safety was the number one issue.

In 1911, our organization was losing one percent of its membership a year to job-site fatalities. Safety has always been an issue. Right now there's 174 local unions and over 95,000 active ironworkers union members. Safety is still the number one concern that we have.

2009, we had 12 fatalities. It's unacceptable. Employed by thousands of contractors throughout the United States and Canada. We erect structural steel. Here's an example. You folks know what we do out there.

The bridges you cross, we erect. A lot of reinforcing steel, a lot of rebar. You know a lot of our work is covered up with concrete. It's beautiful work that the ironworkers do, placing that steel, tying that steel, gets covered up. It's almost a shame.

We do a lot of heavy machinery moving. That's part of our trade. Metal siding, glass, curtainwall work, the finish on buildings, that's part of our trade. A wide variety of things, a metal building erection.

Ironworkers Management Progressive Action Cooperative Trust, IMPACT, is involved in our national training. And our training materials are developed, for the most part, nationally handed down to the districts and into the individual training centers.

One of the things that we've -- for several years now, IMPACT has also been involved with ten-panel drug testing for all our ironworkers. We have pre-hire, random for cause, accelerated random. There's several ways in a year that you could be tested. And you've got to be clean. There's no two ways about it. We're not going to have somebody on the job that's impaired by drugs or alcohol. It's unacceptable whether you're on MSHA site or any other job.

You have three regional training centers, one which I help administer. They call it Oakland. We're

down in the Bay Area. We have a fabulous training facility in Benicia, California. We operate a training center here in Sacramento. We have them all over.

One of the things that we do is we have annual instructors training and that's a group of folks there at one of the annual instructor trainings. They've had it for the past 26 years and also have training throughout the year.

Our apprenticeship program is a three and sometimes -- in some cases, in many cases, a four-year program. Within the three-state area that I'm involved with, California, Nevada, and Arizona, it's a four-year program. The apprentices come off the job, into the training centers for formal training, and that's combined with their on-the-job learning out in the field.

So every six months, they may be eligible for a pay increase. Working their way up to journey status. Over the four-year program, learning a little at a time, at the school. And also out on the job sites. So it works very well.

Some of the courses that we have -- all the safety courses, everything that involves our trade, we want to instruct our apprentices. We're getting a lot of journeymen coming back, getting upgrade training.

You know, these are true professionals. They do this work for a living, and they want to be at the top of their game.

One of the things that we initiated in our district council was the OSHA-30. We no longer give the 10. On occasion, a contractor will need an OSHA-10 right away for some of the journeyman-level folks. We put them -- one on for them.

These courses are no cost to the member. And we constantly encourage the folks to come in and get these courses.

They're plugging in Local 5's training center here back in D.C. It happened to be our training director's brother. He's the coordinator back there so he's got some photos. That training center shows different aspects that they train, tie-in and rebar, climbing a column, journeyman ironworkers, professional attitude and skills.

Our international association and local unions dedicate nearly 50 million dollars a year to membership training. And where does this money come through? It comes from the contractors. Contractors agreed through collective bargaining that a percentage or a very small piece of the pie goes towards training.

In our district council out here, 72 cents per

hour, for every hour that the ironworker works in the job, goes into the training fund to train the apprentices and the journeymen. That's how it works.

Examples of some of the work that goes on out there that's work associated. Again, the work on the MSHA sites is an extension of what we do anywhere else. You know, there's a big overlap. Conveyors, shaft and cable change out, maintenance, installation, a little bit of everything.

We have an approved training plan. We have 83 local unions that have approved training plans where this training is conducted, 290 ironworkers instructors that have been through it. We pass this on to the members as needed. Over 7,000 ironworkers have completed miner training. They get a card with that.

Since 2000 union ironworkers have worked over three and a half million man hours on mine sites. We have suffered one fatality.

Again, nobody wants to get hurt out there. Nobody gets up in the morning and says, "Hey, I want to go get hurt. I want to go on Workers' Comp." Unfortunately in construction, it can be hazardous at times. We want to minimize any injuries, minimize chances for accidents out there.

That's pretty graphic. I'm not sure why I put

that on there. That's actually some type of a tube. Coupler scaffolding fell and it went right through him. There's a spud wrench that somebody dropped down and caught a man in the arm. It's pretty graphic. It was right before lunch.

Unfortunately, you know -- unfortunately on occasion, there can be fatalities on a job site. We don't accept that. We want everybody going home at the end of the day to their family. So we're constantly working with our folks. The day they step into that apprenticeship and training as a new apprentice, they get safety training.

All the way through, as journey level, safety and productivity. That's what we're all about in the training department.

There's a difference -- a lot of talk today about modifying human behavior, you know, find out what's going on, train, how it works.

Worker attitude. You know, just in my time, as an ironworker, I started my apprenticeship in 1973. Things were different. Tie-off really was -- I won't say it was frowned upon, but it wasn't pushed like it is today.

Now, six-foot tie-off rule. Many jobs are 100 percent tie-offs. Things have definitely evolved. This

was an alliance that MSHA folks signed with the ironworkers, and we've got a great partnership all the way through.

Here's some of the folks that do the training. They have to be qualified. We want to make sure that everybody makes it home at the end of the day. We're constantly striving to improve our training. As far as I'm concerned, we're never done. We have a thirst for information, and we want to send it out to the members.

That's an overview of what we do. Questions for me?

MS. SILVEY: No, I don't have any. I would just like to reiterate MSHA commitment to -- our goal, obviously, is to improve and to make sure that every miner goes home safe and healthy to his or his family at night. And to do this, we recognize that this has to be a commitment between management and us and we have somebody -- and when other entities involved, those other entities -- and what I mean by that -- what I'm talking about, really in California, the state of California. But it's got to be that commitment, communication, and that goal between all the parties involved. So I think we do understand -- I know we understand that.

But thank you. I don't have any questions.

Does anybody have any comments?

(No audible response.)

MS. SILVEY: Thank you. The next presenters will be from Newmont, and we have a panel of presenters. Dave Schummer, Wes Leavitt. Dave Schummer, I should say, vice president of operations; Wes Leavitt, a North American operation safety director; and Dave Newman, who is a miner-haul truck driver. So they will present next.

MR. LEAVITT: Good morning, everyone. I think we still have 30 seconds left in the morning.

My name is Wes Leavitt. I'm the regional director of health and safety for Newmont Mining Corporation based out of the Elko office.

As a company, we're a global company. We do business in Peru, Indonesia, Australia, North America, and we have approximately 30,000 employees worldwide. So some of what I'm going to talk to is similar to what Rio Tinto had with a broad approach to the global system. And we'll have a little bit more detail about some specific initiatives within our company. I'll review some of our standards. Our internal management system, we talk a bit about safety culture, and grab some popcorn if you've got it. We have a little bit of a video. So it's a little bit different. And then I'll

turn the time over to my colleague, Dave Schummer. He's the vice president of North American operations. He's going to address the topic of leadership and what visible felt leadership means to him personally. Then Dave Newman, a truck driver from our Carlin operation, will talk about involvement or engagement. And he'll provide an overview of an initiative that they asked for the opportunity -- emphasize "asked for" -- the opportunity to come to develop and manage with his coworkers an initiative that they use to identify and correct hazards in their workplace.

So this little pamphlet here, it's not on the slide. But it's -- inside here is a list of our management standards. So we recognize that we have accomplished a significant reduction in our injury rate by implementation of those standards. It's right on the center page here. There's actually 31 of those -- 31 of those standards. Address things that are known hazards within the mining industry. Things like fall from heights, isolation, small vehicles. The standards address known hazards within our industry. These are our minimum requirements globally.

As I've stated, we have seen a significant reduction in our injury rates over the course of time since those have been implemented. You can use the same

graph of the fatalities in this country. And when standards were put into place, significant reduction in fatalities.

The issue, however, is that we've sort of plateaued, and we're having difficulty getting that next step change in performance. So what we're proposing is that the next step change in performance will come from a balance of systems and behaviors. And so if you put that graphically, behaviors on the Y axis, systems on the X. If you focus -- and there are point of case studies to support this -- but focus exclusively on behaviors, you can get some good results in reduction of your injuries. But we still have eliminated the fatalities of serious injuries in our company or as an industry. Same concept applying exclusively to systems. You'll get some results. But, again, we're still having fatalities in this industry.

So what we'd like to do is suggest -- it's a bit of a balance between the behaviors and the systems. And one of the key components of integration is involvement. So balance -- the balancing act there comes from involvement of all the areas of workforce, from the board of directors to the CEO, the middle management, to site management and to the front-line workforce. Everybody has to have some skin in the game and be

involved in that process.

Another analogy to the systems versus behaviors. How many of you, by show of hands, have walked across the sidewalk?

Crosswalk?

You never walked --

MR. MYLON: True.

MR. LEAVITT: Okay. We've all probably been in this scenario. You walk up to the crosswalk, maybe texting on your phone, talking, chatting up with your buddy. And the light to cross turns green. Head down, everybody marching to cross, still texting, right? You may or may not be paying attention to the guy who didn't see the light change or is also texting on his phone. Didn't see the pot hole on the road. So we're relying exclusively on the system to protect us. We're not thinking. We're not engaged.

Conversely, you take a jaywalker. He totally ignored the system. But he's pretty well aware of the hazards. He's dodging in and out of the cars, like leap frog, if you can remember that. So he's totally ignored the system. He may get there safely, and he's relying exclusively on his behavior component.

Again, our proposal is -- and the direction we're going as a company is it's a balance. We need to

have systems. We know there are hazards. And we -- how do we get people to use it? How do we get people to see the benefit in following a system that is proven to eliminate injuries?

I'll just show you -- it's about an eight-minute clip. It provides an overview of a safety culture. For us, we term that a safety journey.

(Video shown.)

MR. LEAVITT: So that's just a model. It's similar themes to some of the other presentations today. A couple of the take-home points, I guess, this is a little bit non-traditional when you talk about data and leading data versus lagging data. We believe we need to spend more time focusing on the leading data and focusing on where we want to go as opposed to where we've been in the past.

We believe that the systems and standards have gotten us a lot of reduction. We had some good performance results, but they're not going to get us the next step change. We believe the next step change will likely come from a combination of behaviors, reinforcing positive behaviors and the systems that already have a proven track record.

And some of the key cornerstones of this process are trust, respect, and collaboration. No one level of

any organization can do this alone.

I'd like to turn a few minutes over then to Dave Schummer, again our vice president of operations for North America.

MR. SCHUMMER: Thanks, Wes, and thanks, panel, for this opportunity to speak with you today and to bring the industry together. It's a true demonstration of collaboration. I think -- I'm quite confident we're going to have positive results.

Jennifer, I promise to speak reasonable.

Off the record.

(Discussion off the record.)

MR. SCHUMMER: Wes spoke about how improving our safety performances is truly a journey. I'm going to speak specifically about visible felt leadership and the role that plays in progressing us in that journey. And essentially it comes down to three things: It comes down to personal involvement, prioritization of your safety message -- of a consistent safety message and execution.

So we just begin with personal involvement and what that means to me personally. It's really getting out in the field in a visible manner and engaging with the workforce, and the approach we've taken in North America is to allocate four or five hours every Monday

where the general managers that report through to me along with the rest of our team go out to a different business unit every Monday and just engage with our people.

When we're out there engaging with our people, we're asking them questions like, "Are you comfortable that the risks in your environment have been assessed? Do you have adequate resources? Do you have adequate training? Is there anything that we can do as a leadership team to provide a safer environment? Is there anything that you would like to suggest that could make your work environment safer?"

We've had some outstanding results. Just as recent as a couple of months ago when we're engaging at our carbon operation in the maintenance facility, we ran into a young man, a mechanic named Colt Stader (phonetic). When we got to the part of the discussion where we were asking Colt if there was anything he felt we could do to improve safety, he said, "Yes." He said, "I have an idea, a concept in my mind, to improve the efficiency and the safety of large hydraulic cylinder change out and maintenance." We said "Okay." We sketched it out. We brought it to our engineers. We had it engineered appropriately through Dave Newman's program. I won't -- I won't steal any of his thunder,

but it's through the Talking Safety program. The stand was designed and -- David, it's nearly ready, right?

MR. NEWMAN: It's ready this week.

MR. SCHUMMER: It's designed to load a 20 X safety factor.

MR. NEWMAN: It's actually a device used to change the cylinders on 5500 --

MR. SCHUMMER: The point here is not that that one example will change the world. The point here is that type of behavior from leadership will be impactful. And if we can make that type of behavior prevalent throughout the organization -- what we're really trying to do is build trust with our employees to the ownership and the integration pace of the safety journey when you build that trust. That's when people open up to you and they give you -- they give you the unknown. They give you the risk that they see that they're not really comfortable bringing up to you because they're not sure what's going to happen when they bring it up.

Which brings me to just emphasizing the point about visual leadership. If we all worked in the same organization -- and let's just imagine for a moment that I was the leader of that organization and I asked you to go out on my behalf and demonstrate to the workforce that I was concerned about their work environment and

about how they felt and that they went home safely. Would you be able to do that on my behalf? Probably not. You could do that on your behalf. But it's pretty hard to delegate this visible leadership. In fact, in my opinion, you can't delegate visible leadership. You have to go out there as leaders of the organization. You have to start somewhere. I feel it starts with me.

And the general managers had taken that up, and they've scheduled their own engagement with employees, and it's starting to reach a tipping point, in my opinion, where we're starting to build that trust with the organization. So in terms of prioritization, what does that mean to me? That means sending a clear, consistent message across the organization for what the safe work expectations are. And it's about articulating the vision. In our case it's zero fatalities and zero injuries and every worker has a right to go home safely to their families.

An example of how we do that as leaders. It's in the strategy that we set. It's in the goals that we set to support that strategy. It's in how we compensate our people. It's in how we reward them, how we manage their performance. That all sets a pretty clear picture about safety prioritization.

Another way to do it is to, again, demonstrate

it visibly. As recent as a few weeks ago, Wes and I went to one of our underground operations where we had some processing issues in the plant that we wanted to look into. We sat down with a team. They knew exactly why we were there. They were very well prepared as usual. And we sat down and talked to the team for an hour straight about how they understood their current safety environment, if there's anything we could do as leaders to improve that environment, and if there's any suggestions they have. An hour straight before we got to the production issues. That sent a powerful message to them about what was really important to us and what was really on our minds. And feedback from that session went throughout the region that we continue to do the same thing at our other sites. It's sending a very clear message about what our true priorities are.

Which bring me to execution. Execution to me is simply doing what you say you're going to do. It's the purest definition of integrity. Once you set clear expectations to the workforce, you have to demonstrate that you're not unwilling to exhibit those same behaviors. So throughout the organization, from the operators to the CEO and COO of our organization, we have appropriate involvement in investigations. We have

appropriate involvement in inspections. We have appropriate involvement in training. We try to get ourselves into the training to set an example. I'm not asking people to do anything that you're not willing to do as a leader.

There's a lot of eyes on us as leaders. As the old adage goes, what's important to us often fascinates those that work with us and for us. We have to exhibit the same behaviors we're asking other people to do. And, again, our CEO and COO are involved in the investigations, and I think that's not usual in the organization. They do that at the appropriate level.

So where does that bring us? As Wes said, we have a lot of success, and we don't always celebrate enough. We've a lot of success with the application of standards, the application of regulations around those processes. But if you look at the trend of our lagging indicators across the industry or across most of our organization, you see a nice trend line of declining profile. In my opinion, it's plateaued out. I don't see increased focus in those areas; although we have to maintain what we have and perhaps augment a bit. I don't see increased focus bringing us to that step change in the achievement of our vision of zero

fatalities. I believe it lies in continuing what we're doing and innovative application of the behavioral sciences, which many people have talked about today. And it's about that demonstration of visible felt leadership so we can really connect with our people and create that trust and draw a greater level of commonalities between how people act at home and what I would consider a relatively uncontrolled safety environment and how they act in the workplace, which is a very controlled environment. If we can draw a greater consistency between those and get greater consistency in behaviors, I believe that's part of the solution.

So with that in mind, our CEO and COO have formed a global safety task force that I have the honor and privilege of participating on. And with that view in mind, we are focusing on what we can do to develop that step change and we are exploring the behavioral sciences, we are exploring risk management systems processes. We're looking at the whole thing. And we are something said earlier, a gentleman from Rio Tinto looking at more of a bottom up approach which is different in the industry.

So I'm not able to report on our success because we're not yet at the report stage, but I would like to in the future and I would like to report that to all of

you. If you get a breakthrough in this industry in a safety realm, we need to share it as soon as we can. We'll absolutely commit to doing that.

So at this point, I'd like to introduce Dave Newman. This is really an interesting story. Dave Newman has been with us for many, many, many years as a haul truck operator. And he's always been passionate about safety. And about four years ago, when we weren't doing so well, and we really weren't feeling very well about how we're performing, about the culture, about what was going on in the organization from a safety standpoint, we asked our leaders to reach out to some of the people in the workforce and asked if they had any ideas, which we do a lot more today. We started doing that in the past.

Well, when Dave was asked by his general foreman, "Yeah, I have an idea. I have an idea where we can solicit ideas from the workforce and implement those ideas and put some structure around the implementation of those ideas." And probably the most important part of what normally breaks down in these types of program that goes to the feedback loop. So getting the information to people, whether their idea was a good idea or an idea that probably wasn't applicable, either way that information has to get back to the employees.

And once you do that, you can perpetuate the continual submission of ideas. That's exactly what's happened.

So with that, Dave, I'd like you to come in and talk to us a bit about the Talking Safety program. You can feel the passion from Dave. He's an outstanding employee, and he's been an outstanding asset. His program has really -- it's a great example if you're looking for examples of employee-led programs that are successful. I promise you when he gets done speaking, you're going to know that this is a concept that I think could be spread out throughout the industry. So with that, Dave.

MR. NEWMAN: Thank you very much. First of all, I'd like you to know that I don't wear this out of disrespect. I keep my bald head warm with it, and I think a lot better when I feel comfortable up here.

Before I talk and give you some insight into Talking Safety, I've heard a lot of discussion about leadership, culture, behavior, systems. And I've heard it for 21 years at Newmont. I've heard those over and over and over. And I know that all of that is very, very, very important. It has a place.

We talk about safety culture. I just want to throw an idea out to many of you that before you can

transform a safety culture that starts with -- that's really efficient. We may have to transform the management culture first. Just think about that.

I don't think it's coincidental that in 2006, when I proposed to submit this suggestion on a safety initiative, that Richard O'Brian, the president and the CEO of Newmont, took over almost exactly the same time. And one of the very first things that I read from him was that safety -- safety is our number one priority. And I said, "Wow. God. If that is true, if that only proves to be true, how fantastic. How great that will be."

The hat I've got on has "Newmont" on it. I'm proud of my company, very proud. But for most of the time I was there, you would never see me wearing anything with Newmont on it. Now you do and there's a very good reason. And I'm going to get into that here in just a second.

Dave Schummer and Wes Leavitt are two representatives of our leadership, that team that are out ensuring that the priority that Mr. O'Brian has set for our company is, in fact, put in place. It does happen. And they are doing that. And it is real. Thank God.

Wes showed you behavior systems, and we know

that we needed to be involved. I proposed that here's how we need to look at where we were. Our company is really a home. In fact, without our companies, most of us probably wouldn't have a home, a real home where we live, where our families are raised. It is due to this home that we have that home. You can't take one away from the other. They're inclusive. And in this home -- take this hotel, if you will. This hotel is Newmont Mining. And in this hotel today are many representatives of safety. MSHA is here. We had an OSHA speaker. We're all here. The work -- the workforce is here. Management is here. Everybody is here. We all have a room in this house. The goal of this house is mutual respect, understanding. Safety is our primary factor because at the end of the day, that's what we all want, to go to our real home safe.

I would add one thing about a house, if you want to put into some real true perspective, from my point of view, is that we know that the management structure -- I was 42 when I came to Newmont. I had many years of military service. I did three tours in Vietnam. And we had a lot of safety concerns there. But one of the factors that was most important is when you take the commanding officer and the executive and the department head and you get down to where I was, I was down in the

crews' rooms swabbing the decks. I was a swabbie. But you take that structure at least for safety and you lay it flat. You lay it flat. Because in safety, that structure is one. It involves every single one of us equally. That is of utter importance to understand.

So Jack Hindres (phonetic) -- I work at tar and surface operations in Northern Nevada. Jack Hindres is my mine manager. His quote before I left was, "When we involve our total workforce in safety, we win." Now we do win. And I'm going to show how we win in just a moment.

Involvement in the Talking Safety initiative. I want to clarify one other thing real quick. Initiatives are aspects of the programs that you have laid out. Initiatives are absolutely necessary to support your program. Initiatives initiate. It's real clear. That means action. That's what we do for safety is the action. Without action, words mean nothing. The program means nothing unless we are there and we are acting. We're doing what we need to do to make it safe.

So the safety initiative -- the Talking Safety initiative is so simple. I heard someone over here say, "Keep it simple." It is simple. In fact, they don't get any simpler. And the simplest thing in the world. Guess what; I drive a truck. I sit 16 feet off the

ground. My truck is 45 feet long, and it's 25 feet wide. I drove that truck for 18 years, and I never had one accident. My question is, do you think that I didn't have an accident because management told me not to because they told me how -- the training, all that? Of course, it has a part. But what about me? What about the workforce? What about them? Can't they be safe. Can't we be safety leaders too? Of course, we can. You have to deal with that. You have to understand that, and you have to make that a part of everything you do. Don't just train me and then say, "Do what I tell you to do." Ask me, and I'll show you why that's important.

Thirty months ago, we initiated Talking Safety. In the last 30 months, we have received 764 safety suggestions. Every one of those suggestions is documented and discussed. And let me say the documentation comes in a form, Talking Safety Suggestion Form, where anybody -- anybody in the entire workforce identifies a safety concern, they write it up. And if they have an idea on how to improve it or how to make it better or whatever. It can be a system. It can be a policy. It can be a procedure. It can be anything. But it's something they perceive we can do better. We can make it safer so they write it up and they submit

it. We take that safety suggestion. We put it on the list. It's called a Safety Suggestion Feedback Form. Once every week we meet and we discuss all the items that are on that. And the nice thing about that, out of 764 that we have taken in, 565 have been approved. But that's not what's important. What's important is 531 now have been implemented. Can you imagine what effect that has on your safety, on your record, on everything that we do if you've eliminated 531 things that were a safety concern? It's enormous.

So out of the 600-member workforce that I worked for that are Talking Safety coverage right now -- we're expanding it for a good reason. Out of our 600-man workforce, man -- oh, I leave women out every time, and I pay for it, believe me.

The truth is, 350 have submitted -- individuals, separate individuals have submitted safety suggestions. What does that tell us? What does that tell us? Over half of our workforce have jumped up and said, this, this, this. In fact, I would love to take every one of you on a tour where I live and show you because we couldn't go over 10 feet without saying that was a Talking Safety suggestion. That was a Talking Safety suggestion. That's Talking Safety. That's Talking Safety. They're everywhere. 530 of them. Are you

kidding me? They're everywhere.

I would like to share with you just a few of these things. This is a flag. It's a buggy whip. It's a seven-foot stick on the back of pickup. When that pickup rides and goes into the pit, of course I'm in my haul truck. I'm sitting 16 feet off the ground.

Now, one of the requirements is that the berms in our pit be half as high as along -- the largest height. Well, my tire is almost 13 feet. So this buggy whip -- guess what; if it's on the other side of that berm, what are you going to see? Just the flag. And one of the operators said, "Dave, I'm submitting a suggestion about that flag because I had a close call. I couldn't see the top of that flag at night." He says, "I suggest you put a reflective cross on that so I can see it in my headlights at night."

We did that two years ago. Today, if you want to drive in our pit, guess what; your buggy whip is going to have that flag. It's now mandatory. We have not had one single close call using that flag.

Here's another example. I heard someone talk about tying off, about using a fall protection. Well, that's what our operators had to do here for years and years and years. And so this guy suggests that a standing platform be installed on a 992G wheel loader so

he can get out and safely clean that front window winter, spring, summer and fall so he can tie-off without having to put that harness, without having to get out there and having to hook up and then swing out and clean it. We get it. Here's the thing, that both of these loaders, these three loaders I mean, have been there 25 years. "We've talked about that before." We talked about it. Well, now, they have them. In fact, every loader, every piece of equipment we come on, our engineers look at and many of these pieces of equipment now have platforms.

Here's another one. It's so simple. Here's the operator. And this lady Jackie Wiscon (phonetic) says, "I observed" -- "I noted that if I have a fire" -- here's the engine. It's probably going to be in the engine compartment and the flames are probably going to be coming up here. And if I need that fire extinguisher, I may have to walk through the fire. And she says, "Can we do something with it?" You can see where we put it. Now the operator comes out of the cab -- we do have truck fires. They come out of the cab. They've got that fire extinguisher. They can use it to escape or they can use it to extinguish, whatever their safety mind tells them to do. And they do the safest thing.

The last one I'm going to share with you -- this

was pretty incredible. The operator suggested that we ensure that the water cannons work. Oh, well, you know, that's a good idea. But what was happening was during the winter, you can see right here. Here's the tank that's filled with water here. The water is -- if they spray it, it doesn't drain back out because there's water here. So what was happening during winter, it was freezing up. So you can see the new cannon -- our maintenance engineer designed -- we have got one water truck left to outfit with that new cannon.

Now, when you call a water truck to the site just for safety purpose, just to actually use it to put out a fire, how nice is it knowing the water can is going to work in the wintertime. It's great.

You might be thinking, "Well, how do you reward these people?" This is the entire workforce. The reward is in pride, the self-esteem, the high morale, the courage. How many times I've heard it brought up, if the operators aren't -- they're intimidated, by whatever reason, whatever reason, and they're afraid to say anything, they let -- they'll let somebody else do it. They just want to operate and be left alone. The truth is, being proactive means being involved. You can't have one without the other. The only thing that any of these operators have received is a

letter from the superintendent that shows their suggestion, shows the status of that suggestion, and thanks them for participating. That's it. And some of those people frame that letter. They really do. I've had people come up and shake my hand and say this is -- it's like a little bit of recognition can go an awful long way. But you know what? The biggest thing of all is respect.

Let me ask you something. How many of you in this room would respect somebody if you felt they didn't respect you? Probably not very many. That's where I'm coming from. That's why it's so important to involve everybody.

The actual results, you have an involved safety culture. It's engaged in all these words that we use, personal safety, pride. They're all there. They're all there. Ownership, Talking Safety, personal, being committed, trust, respect, sustainability. They're all there, and it works.

The last thing I have to share with you today is -- this is a quote. I also put out a quarterly newsletter, 14 pages. In fact, this is a page from one of them. Why safety is important. This has a double page feature on every one of them. I'll just give you one at the top right there, Marshall York, on the top

right there. He says, "I have six reasons for wanting to be safe, my wife and five children." And most of these people relate to their coworkers, to the workforce to their families. It's almost consistent to every one of them.

Here is what Jack Hindres, my manager of where I work, stated in the last citation of the Talking Safety Quarterly: "We will achieve a level of safety competence that ensures sustainability through personal ownership. It will be a safety culture in which working safely, the right way, the safe way every day is just the way we do business." So, please, involve your workers.

Thank you very much.

MS. SILVEY: Thank you.

MR. LEAVITT: I told you he was pretty passionate. These guys are all key leaders in our organization, different levels of leadership, different roles but still passionate leadership.

We want to leave you with: The whole idea of the culture model, the journey is that everyone in this room would be in a different place, at a different spot from that journey. Everyone has different things we can work on. There is no one-size-fits-all prescriptive approach that will address this component. The key

cornerstones lie in trust, respect and collaboration.

Thanks.

MS. SILVEY: Thank you. I would say this, you know -- first I say, well, how do I follow Mr. Newman? And second, that's kind of something for me to say. But second I would say, somebody earlier today, and I forgot who, mentioned that a picture is worth a thousand words. And I think that -- I can make the analogy and you all bear with me with my inartful analogy that we indeed saw a picture of both management commitment and worker involvement. And so -- I think which was a very excellent picture and probably one that even I can say here from members that we would like to see at every mine workplace in the United States and the world for that matter.

I really don't think I have any comments of these gentlemen. I would say, though, you mentioned -- I forgot who did -- that you clearly have seen improvements at this level. And you think now you've reached a plateau. And I think I probably speak for everybody in here in saying that we look forward to -- as you implement the next phase of your program, to any kind of metrics or data that you have on further improvements because I'm sure with as passionate as you

are about it, you are bound to see some kind of additional improvements.

MR. SCHUMMER: I look forward to that day as well. And I promise we'll relay that information to you.

MS. SILVEY: Thank you. Obviously and any other comments that you would like to give to us if you think of anything before December 17th.

Anybody in the audience has any questions or comments?

MR. DISTASIO: Just one question. We've been asking a lot about what doesn't work. I think from your presentation it's not that what doesn't work. It's sort of getting to a spot and being satisfied is more what you're describing. The participation level, I guess is what you call it, you have all these metrics and everything is down. So it looks real good, but you have to know that's not where you want to be. I mean how did you know that?

MR. LEAVITT: I think everybody would have a different answer but CEO, for example, basically said, "Fatalities and serious injuries are not going to happen here. How do we get there?" The very last phase of the journey talks about everybody lives in a state of chronic unease. So you don't get comfortable. You're

the jaywalker. Not the jaywalker using the system preferably. So you're looking out -- not only following the system but looking out for those hazards. You're not blindly following the system.

MR. NEWMAN: Can I add one other comment. We talked about empowerment. The president and CEO, Richard O'Brian, has empowered Dave Newman, a haul truck driver, to stop operations if I deem it unsafe. Now how is that? Can any of you say that you would be okay with somebody, an operator, a member of your workforce, a mechanic stopping the whole operation because he deemed there was a safe purpose for doing so? That is -- that is involvement. That is acceptance. That is proactive. That is everything we need to make us safe every day.

MR. SCHUMMER: That is something that I would reward personally. I saw a lot of the heads nodding because the industry is changing, isn't it? There's a lot more empowerment to stop operations, and I applaud that. That's something personally I would reward.

MS. SILVEY: But what I think I heard you say is -- and that's what I was trying to -- that despite the very good message you've seen, you think you may have leveled off. So you've come up with this new initiative and you think you can even go further. And I think I heard that from Ms. Nancy Moorhouse that that

further down, driving downward is to -- actually, a lot of people may not -- you know, that's probably a little bit of tension there. Downward toward the real zero fatalities, zero injuries and illnesses. That is achievable and I think most likely -- I mean maybe while there probably is a tension between the zero injuries and illness and maybe the theory of fault that you may tidal wave down some risk that you tolerate. Okay. You do that in your daily life. However, if we probably -- and I'll say this for everybody, including us -- if you don't buy into the theory and have the confidence that they are -- that the zero injuries and illnesses and fatalities, that that is achievable; that's what you're striving for.

MR. SCHUMMER: I agree wholeheartedly.

MS. SILVEY: That's what I understood. Thank you.

MR. SCHUMMER: Thank you. Thanks for the opportunity again.

MS. SILVEY: Next on our -- we have Robert Stegall.

MR. STEGALL: I don't mean any disrespect for having my back to most of you. But most of my presentation is going to be addressed to the panel.

The reason I'm doing that is -- my name is

Robert Stegall. I'm a PSP. I retired one month ago from one of the major companies that has presented here today. I have a strong passion for safety. Forty-two years environmental health and safety and emergency response.

I'm very pleased that you're opening the floor to get input from people on what it would take to have injury-free work sites. And thank you for that, and I thank those who presented so many success stories.

And many of the success stories, if we had those operations, you probably wouldn't have a need to be here today. But the fact is: in the U.S. that hasn't been the success story with many operations. We have fatalities. We lost public confidence, both the mining industry and the regulators have lost public confidence. Can we really manage our business? And as you work to put together a rule, I would just like to share a few thoughts with you.

And the first thing is, I was so pleased to see you identified four of the really main things in my 42 years I had found really drives strong safety performance: the management leadership and employee involvement, the work site analysis, the hazard prevention and control, the safety and health training. Key components. And almost all industries view as

safety. But I heard the question asked a couple of times. Maybe I just sort of anticipated that question.

If that's the case, what kind of things aren't working? As you struggle with deciding how do you write a rule that addresses large multi-national companies, small privately owned sites, sites with 2,000 people and outstanding safety department, sites with very few people and no safety resources, sites that have many contractors performing work, sites that never see a contractor, how do you write that? What are some of the things to consider?

Now earlier we saw a slide that had a triangle, and we've heard several references to environmental conditions, the person's behavior. And what I found over the last many years, there are things you can look at in each of those categories that will tell you that these things are happening, you're having a problem here. This is what is contributing to some of the injuries. Obviously in my mind, a site that is a pig pen is a pretty strong indicator that there's not a lot of leadership, there's not a lot of pride, there's not a lot of commitment. So I think the rules you try to have on housekeeping, really kind of address that issue. The unsafe equipment and inadequate mine facilities, rules, procedures and things that are cumbersome. We've heard

really outstanding testimony today.

Some of those things really do not drive the behavior that we're all expected to produce. But we've also kind of entered into the other realm that MSHA has not delved in very much in the past and that is more of the people-based safety, the person and the behaviors. I wanted to leave some thoughts for you. I just felt people would be so proud of what they've done with their workers, and we've heard that emotion and their pride. And so what are some of the things that happen that prevent that good behavior? Well, number one, right off, if you can't agree on what the practice is, there's confusion. That certainly affects how that person is approaching the job. Lack of self-worth, lack of relationship, lack of communication and interaction skills, lack of coachability. I haven't heard it mentioned in here. But one of the things I'm struck by in this industry is we have a lot of macho people. And many times that interferes with the ability to be coachable. "It can't happen to me. I can get this done."

Those are things that are barriers to the performance you're looking for. And under the behavior, I've heard some questions from you about consequence management. But actually I would like to suggest to you

that the problem is, we have few consequences for less safe behavior, but we also don't have many consequences for safety behavior or safer behavior. We just don't seem to have any consequences. And I think consequence management is a very important part and goes back to my core back in the late '60s. Antecedent behavior consequence management that's still been going on now for 40 years is understanding how do you write something that addresses consequence management? And then the other one is emphasizing outcomes over the process where we've become so focused on production or so focused on getting something done or we've become so focused on chasing metrics that we lose sight of what's going on. Management systems that become so overly complex and unreliable. And then measurement and recognition systems that reward undesirable behaviors. It would be very easy to refer to what's happened in the news over the last years for which we've looked at all industries that's had explosions. We can just go through there, and I won't do that.

We've also had a discussion about culture and where we would like to see culture. Now DuPont, I think, put up a great slide, and it's pushed us for a number of years. It's called the Bradley Curve. It divides cultures work sites into three areas. It's

the natural instinct, the survival. They refer to it as the dependent where it's very, very strong supervision. Very, very strong work rules, very strong consequences for not following those work rules. And we found in the industry, not only in the mining industry, but in the general industry that you can get a level of behavior. And we've also seen some movement forth to where we start having people have self-worth and they start looking out and taking care of themselves and that improves it. Then we've heard other about interdependent team.

So what I'd like to do is take -- I only have a couple of minutes left, but I'm going to talk. I want to just mention to you as you're looking -- trying to decide what to do, there is already a successful program. This is the Voluntary Protection Program. You mentioned it in your invitation to talk and present information. It's an outstanding program that reaches from contractors to small sites across many kinds of industries. It's worked within the government. It's worked at NASA. So across the board there is such a program. And then it lists right out of their guidelines six principles that are required. They just mirror what you've talked about.

So what I want to do is ask you to take off

blinders. There is legislative underpinning in the Department of Labor for a program that will work with the folks like in here who haven't got outstanding programs that can be used as pilot programs, as cutting edge locations to do testing and define things. So when you're writing one rule, consider the fact that your sister agency, OSHA, already has something that addresses the cutting edge, people who want to be on the very forefront and want to share that passion with you. It's there. I've heard the comments back, "Well, we're a different standard. We're a strict liability," all these reasons why we can't do things, but I believe that the worker deserves the very best that we can give him. And within the Department of Labor, it is already that motto. And it forces the employee involvement. We're all about people. At the end of the day, it's that worker at the site of the work that we're trying to keep from getting hurt. So anything you write that involves employee, I believe will be an improvement.

So the last slide I have -- I promise you I'll make this short. As you finish writing and deciding what you're going to do, some traits that I would ask you to consider and ask yourself, will this rule do this? Will it encourage safer behaviors, identify critical behaviors of examples of active caring or

desired behaviors? Does it help improve communication of trends and issues to people? Does it help develop awareness and skills in people and coaching? And does it involve the workers in removing barriers to those desired critical behaviors? I would just ask you to consider those.

MS. SILVEY: Thank you.

Our next speaker is Mylon Stark.

Does he still -- is he here?

MR. STARK: I have more of a statement more than anything else.

First of all, thank you for the opportunity. I think this is a great gathering. My name is Mylon Stark, as I said earlier. And I'm the director of safety and training for Associated General Contractors of South Dakota. We have approximately 300 member firms that are a part of our group, and we have a separate group within the group that we call the MSHA Alliance. And all that means is that it's an allied group of surface miners in the aggregate industry.

I'm speaking on behalf of that alliance and also our organization. The concept of a standard for written safety management programming is noble, and it's needed. I think this is something that's been long overdue.

It's essential for MSHA to embrace a

partnership. I know that's been referenced today, and I think it needs to continue to be referenced. We can't let up on that. There needs to be a solid partnership between the agency and with the stakeholders, including the employers and their people. I'm a former regulator myself with the Department of Labor, and I can speak to that, that the most effective insights had as a regulator was when I was aligned with and partnering with the stakeholders of the agency.

The standard, whatever form it's going to take, needs to establish roles and responsibilities at all levels of manager and non-manager positions. That's been very clearly stated today by several speakers. And the standard I think that is -- or the aspect that's really critical, and why I think where MSHA really needs to go with how they're doing -- with what they're doing is ensuring that we focus on the intent of the law and not on the letter of the law and that we're genuinely focusing on how do we protect miners, not how we do something because the I's are dotted or the T's are crossed.

I am pleased to see reference to both the regulatory and consensus standards versus starting at square one because there's a lot of stuff out there. The last speaker, I think, nailed it as it relates to

VPP. I think that that's an absolute rock solid foundation from which the standards can be built.

A concern that our organization has that relates to this standard that will be developed is interface of the program requirements within enforcement actions of MSHA. So that the program is not a default failure. A concern that we have is with the rules seemingly changing if we go forward with yet another standard that, in fact, people will build a program or refine a program but during the course of what they're trying to accomplish, the rules will change. Not formally but informally. And that adds frustration and challenge to the mine owners, operators and to their employees.

And a comment very simply -- as an affirming comment -- AGC of South Dakota, even though we're part of a national organization, our organization in South Dakota, because we are so acutely and severely touched by MSHA's activity, we're actually working with our South Dakota congressional delegations as it relates to mining in our state. All senators, one representative because we're not a very popular state.

We're willing to actively participate in the creation and implementation of a fair and effective Safety and Health Management Program Standard. We will do whatever we can with the resources we have to help

make this thing happen in a fair and equitable and effective way.

MS. SILVEY: Thank you. Our last speaker we have, hopefully, is --

MR. LEAHY: John Leahy, L-e-a-h-y. I presently work for Cal-OSHA, but that's not been the majority of my career. I'm going to talk a little bit about Cal-OSHA.

I agree that that VPP is probably a good basis, but I suspect the IIPP of California Cal-OSHA, most of our regulations are slightly rehashed or copied from Federals because they have to be equal to or greater than. So the Cal-OSHA IIPP may be a good basis. I've given a copy to the chairman. Of course, I think it could be modified, but I would like to be the only one who can modify it. But it's a pretty good core basis.

The rest of this is on my experience as a mining management person. I've been everything from a surveyor to president and chief operating officer. I've worked with a manager of mine that have 12 or up to 3,300 people.

Safety can't come ahead of production. These are just my views, not OSHA's views. Safety can't come ahead of production because the safest thing to do is

not produce. And I liked Nancy's phrase. I used to say they had to equal, but I'll steal Nancy's phrase, with permission, I hope. Safe production is what's important.

You were asking does safety have an effect on production? This stuff has been around a long time except the group doesn't talk about it. I, at one time, was running 170-ton haul trucks -- a little smaller than what we just heard -- downhill loaded and on 11, 12 percent grade. And we're having so many problems. I put down a speed limit of 15 miles an hour per downhill loading trucks.

To the normal mine management, to almost all mine management, a speed limit on haul trucks is just the wrong way to go. It's crazy. I don't have the numbers exactly in my head anymore, but I'll be within 5 percent. I just have to tell you memory is not the first thing that goes.

But truck availability went from around 58 up to 66. Tons had about a 12 percent increase. The cost per ton dropped from 91 or 92 to 84. All based just on decreasing speed limit.

Nancy was talking about morale in safety and production. I say all three go together. If your production is down, your morale and your safety are

down. I have graphed those. After I found out about the change, I went back to a five-year period and graphed incident rate, cost per ton and total tons moved. They weren't exact but amazingly parallel.

Another comment I have is -- you'll think I don't like corporate safety people. And that's probably right by in large. But if you don't get safety and production together, when they're separate and production people have no safety responsibility, you will not have a safety program.

I went to a mine specifically for the safety purposes. They had not gone a quarter without a loss by an accident for like six years. We turned it around in six months by making the managers responsible for safety and each worker responsible for himself and his partner. Stop program said to stop, look, and listen for you and I say stop, look and listen for you and your partner. But we have -- I went up in weekly safely meetings. People raised their hands, show me. What are you looking for? Cuts and Band-Aids.

Before the supervisor went home, any injury, smashed fingers had to have a written report on my desk. The guy got disciplined for not giving that that day.

Merit raises, who knows what those are anymore. The average is supposed to be eight percent. The guys

who had the most number of miner injuries, they got five. The guys who got clean records, they got ten.

I'm saying the general manager is a lot better safety person than a person who doesn't know how the job goes. But he needs direction. He needs help from the safety personnel. But the employees, they're not going to listen to somebody that doesn't know how to drive a truck. They'll listen, but -- they'll be polite, but when you go out and do your site visit, jump up the truck and show me how to drive this sucker or do you want me to drive a couple of trips? The conversation you get there is just amazing.

That's all I have.

MS. SILVEY: All right. Thank you.

Does anybody else here right now wish to make a presentation?

(No audible response.)

MS. SILVEY: If nobody else wishes to make a presentation, then, I want to say on behalf of the Mine Safety and Health Administration that, again, we appreciate your participation in this meeting. And I want to reiterate that the comments on this rulemaking initiative are due to MSHA by midnight December 17.

And, again, for those of you who may have attended today and did not make presentation and you

heard the nature of the discussion, if you would like to inform this rulemaking process, feel free to do so. Again, we ask you for any data that you might have to support your rationale. If you make suggestions to us, data and rationale to support your suggestion.

When you know that the -- final meeting that we have scheduled is in Pittsburgh on Thursday, October 14th. And at this point, this public meeting on safety and Health and Safety Management Program is concluded. Thank you very much.

(Hearing concluded at 1:06 p.m.)

CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

I, JENNIFER F. MILNE, a Certified Shorthand Reporter, licensed by the State of California, being empowered to administer oaths and affirmations pursuant to section 2093(b) of the Code of Civil procedure, do hereby certify:

That the foregoing transcript constitutes a full, true, and correct report of the proceedings which then and there took place;

That I am a disinterested person to the said action;

In witness whereof, I have hereunto subscribed my signature on this 21st day of October, 2010.

_____

JENNIFER F. MILNE
Certified Shorthand Reporter
California License #10894