

UNITED STATES OF AMERICA
DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

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IN RE: SAFETY AND HEALTH MANAGEMENT FOR MINES

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BEFORE: PATRICIA W. SILVEY, Chair

Michael Davis, Member

Neal Merrifield, Member

Reginald Richards, Member

HEARING: Thursday, November 10, 2011

1:00 p.m.

LOCATION: Renaissance Birmingham Ross Bridge Golf

Resort and Spa

4000 Grand Avenue

Hoover, AL 35226

WITNESSES: Jeff Golden, Ed Thierry, Matthew Howard,

Joseph Casper, Chris Thynne, Thomas Wilson

Reporter: Danielle S. Ohm

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CHAIR:

Good afternoon and thank you all for being here. My name is Patricia W. Silvey and I am the Deputy Assistant Secretary for Operations for the Mine Safety and Health Administration. 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 Main, I would like to welcome you all here.

Let me introduce the members of the panel. To my right is Michael Davis. And as you all know, Michael is the District Manager for Metal and Non-metal District in Birmingham. To my left is Neal Merrifield. Neal is the Administrator for Metal and Non-metal. And to his left is Reginald Richards, and Reginald is the Chief of Health of Metal and Non-metal.

This meeting is being held in conjunction as you all know with what's considered to be a very successful Sixth Annual Southeastern Mining Safety and Health Conference, which just concluded earlier today, and I'm sure many of you will share with me the ---

1 that we all came away with many benefits from this
2 conference. And I want the record to show that I
3 think the conference was very beneficial both in terms
4 of nonmembers and members of representatives here but
5 also in terms of the productivity of the meeting and
6 the benefits to compliance and the benefits to safety
7 and health for only part of the operators, the mines,
8 manufacturers who were here, contractors who were here
9 and MSHA's own personnel. So I think it was, indeed,
10 a very beneficial meeting and I was happy to be a part
11 of it.

12 MSHA is holding this public meeting, and
13 plans to hold additional public meetings on safety and
14 health management programs to gather more information
15 about effective safety and health management programs
16 to eliminate hazards and prevent injuries and
17 illnesses at mines.

18 This important initiative supports
19 Secretary of Labor Hilda Solis' vision of Good Jobs
20 for Everyone. The Secretary's vision for achieving
21 good jobs is through a strategy of creating workplaces
22 where employers plan, prevent, and protect the safety
23 and health of employees.

24 Plan, prevent, and protect is based on
25 the principle that employers must find and fix threats

1 to health and safety and assure compliance before an
2 inspector arrives at the workplace.

3 The plan, prevent, and protect strategy
4 begins with the premise that Congress directs mine
5 operators, and I know you've heard a lot about this at
6 our conference here, to achieve and sustain compliance
7 with the law, but it doesn't end there. It also
8 embodies a continuing attention to the recognition and
9 control or elimination of threats to safety and
10 health.

11 Year after year, and we know that many of
12 you heard about that at this conference, many mines
13 experience low injury and illness rates and low
14 violation rates. For these mine operators, preventing
15 harm to their miners is more than compliance with
16 safety and health requirements; it reflects an
17 embodiment of a culture of safety from the CEO to the
18 miner to the contractor. This culture of safety
19 derives from a commitment to a systematic, effective,
20 comprehensive management of safety and health at mines
21 with the full participation of the miners.

22 As many of you know, MSHA held three
23 public meetings in October 2010, gathering information
24 and comments from the safety and health community
25 about effective safety and health programs.

1 Presenters included representatives from academia,
2 safety and health professionals, industry and worker
3 organizations, including mining, including non-mining,
4 and government agencies that provided information on
5 best practices for safety and health programs. In
6 addition to the presentations made, MSHA also received
7 many comments, and these are available on our website.

8 The Agency extended invitations to
9 representatives from academia, safety and health
10 professionals, and others to share their perspectives
11 on how mining operations can create effective safety
12 and health management programs. And you will hear
13 from some of these representatives today.

14 MSHA believes that effective safety and
15 health management programs in mining will create a
16 sustained industry-wide effort to eliminate hazards
17 and will result in the prevention of injuries and
18 illnesses, and be able to believe that operators with
19 these types of programs will identify and correct
20 hazards in a quicker manner, resulting in better
21 safety.

22 In the past year, MSHA published two
23 proposed rules that are complementary to this
24 initiative. In December 2010, as many of you know,
25 MSHA published a proposed rule addressing examinations

1 of work areas in underground coal mines and we had a
2 public hearing on that proposal right here in
3 Birmingham. This proposed rule is a critical element
4 in the Secretary's Plan, Prevent, and Protect
5 strategy, and the Agency is currently working on
6 finalizing that proposal.

7 Second, in February 2011, MSHA published
8 a proposed rule addressing pattern of violations. The
9 proposed rule would revise the Agency's existing
10 regulation for pattern of violations. One of the
11 things that I'd like to say at this point about the
12 pattern of violations proposed rule is that we got a
13 lot of comment on the record during the pattern of
14 violations rulemaking that because in the pattern of
15 violation rulemaking, we have a provision in there
16 where an operator could look on our website and
17 determine how close he or she might be to approaching
18 the criteria of giving rise to a pattern of violation
19 and they could submit to the agency a corrective
20 action program to address those types of patterns that
21 would be given rise to the pattern.

22 And we use corrective action for our
23 comprehensive corrective action program. I think it
24 says something like that, but some members of the mine
25 and public confuse that with the safety and health

1 management program rulemaking, but the two are totally
2 different. One doesn't have anything to do with the
3 other, and sometimes I think that people who gave us
4 comments like that sort of fully understood that the
5 two were not connected, that the corrective action
6 program and the pattern of violation rulemaking didn't
7 have --- was completely separate from the safety and
8 health management program rulemaking. But I do want
9 to clarify that so that anybody who may not be here
10 today but is, in fact, reading the transcript they
11 understand that. And if you, obviously, have any
12 questions about it as we get into the public meeting,
13 you can feel free to ask us.

14 Also, the Occupational Safety and Health
15 Administration has announced rulemaking on Injury and
16 Illness Prevention Programs, which they refer to as
17 I2P2, which is similar to this regulatory initiative.
18 And in 2010, OSHA held five stakeholder meetings on
19 I2P2 soliciting information about safety and health
20 management programs for the general industry.

21 In addition to the information MSHA
22 received from last year's meetings, MSHA is now
23 interested in receiving information about safety and
24 health programs developed and implemented during the
25 past five years, and particularly those that may have

1 been implemented during the last year, although,
2 obviously, you can provide us information on whatever
3 you choose. We are interested in statistical results,
4 lessons learned, best practices, which I've heard a
5 lot of things about best practices during this
6 conference, and new and innovative approaches from
7 different sectors of the mining industry, and we are
8 particularly interested in hearing from small mines.

9 To supplement the information that we
10 received already, we are interested in safety and
11 health programs that have shown results in reduced
12 injury and illnesses, increased safety and health
13 results, improved conditions in certain areas, for
14 example, haulage, roof and rib, combustible materials,
15 health hazards, or whatever areas that ---
16 particularly where you've had definitive results,
17 improved communication, increased productivity,
18 increased and improved worker and management
19 involvement and increased morale.

20 The agency is interested in statistical
21 results from companies and organizations that have
22 programs that are effective and measurable. We are
23 also interested in safety and health management
24 programs from industries other than mining, and safety
25 and health management programs from other countries.

1 This is the first public meeting that
2 MSHA is holding to gather additional information. At
3 this time the agency plans, however, to hold
4 additional public meetings, and to the extent
5 possible, we will integrate them in conjunction with
6 other safety and health events just like we held this
7 one in conjunction with the Southeast Conference. We
8 will announce those public meetings in the Federal
9 Register and post them on the agency's website.

10 We will hold the date for comments open
11 until the additional meetings are held, at which point
12 we will notify the public of the date on which the
13 comment period will close. After all of the
14 presentations, you will have an opportunity to ask
15 questions or present further views.

16 At this time, we will hear from our first
17 presenter. When you make your presentation, I ask you
18 to please spell your name so that the court reporter
19 can have an accurate record. Our first presenter
20 today will be Jeff Golden with National Cement of
21 Alabama.

22 MR. GOLDEN:

23 Jeff Golden, J-E-F-F, G-O-L-D-E-N. I'm
24 the second manager at National Cement Company. We're
25 located in Ragland, Alabama, approximately 45 minutes

1 from here, east. Manufacturer of Portland cement,
2 masonry cement. And approximately five years ago, I
3 became employed at National Cement Company as the
4 safety manager, which was kind of a unique situation
5 in that there had not been a full-time safety manager
6 previous to my employment. And so I got the
7 opportunity to start a program. And a lot of that
8 program was based on what I was allowed to do by upper
9 management. And the management at National Cement
10 allowed me to put this program in place, and so, as
11 with any large program, you don't want to do it all at
12 one time. You lose the opportunity --- lose the
13 support of management, lose the support of the
14 employees by doing something all at one time. So over
15 time, we built this program one step at a time,
16 putting in certain key elements progressively.

17 At the beginning of the program,
18 obviously, it requires upper management's commitment,
19 and the first commitment there was employing a full-
20 time safety manager in this company, providing money,
21 providing resources, providing labor, the opportunity
22 to start changing some of the things that needed to be
23 changed. Supervisors are extremely important. The
24 front line supervisors were the direct relation to the
25 employees that you're focusing on. And then the union

1 employees that we had had to be trained, had to be the
2 ones that notice their surroundings to provide for
3 their safety.

4 Some of the things that we did by our
5 management commitment involvement was the --- our
6 safety taskforce, which was something that we put in
7 place that not only included our miners' reps --- too
8 often in the mining industry, we have a tendency to
9 focus just as far as on the hourly employees, just on
10 miners' reps, because they are individuals that happen
11 to accompany MSHA during the inspections. And so this
12 is something that we want to do not just including
13 miners reps but all employees to have an opportunity
14 to meet with management, to meet with the safety
15 committee to discuss certain issues, and we found that
16 this was something that was very important.

17 Plant presence of management as far as
18 being interactive in the safety process has been a
19 great practice. When the employees see our upper
20 management out in the plant conducting mock
21 inspections, actually pairing up with the hourly
22 employees and they're writing while the hourly
23 employee is taking pictures of hazards that we need to
24 mitigate, those things show the employees that
25 management is, indeed, concerned about their safety;

1 also, management's willingness to allot the resources
2 that we need to promote the safety and health of the
3 employees.

4 One of the things that I began when I
5 came to National Cement was to get some training. My
6 background was not in mining. My background was in
7 OSHA regulated industries. I was an OSHA trainer
8 prior to coming into the mining industry. And before
9 that I was actually an instructor in junior college,
10 high school. I taught biology at several different
11 levels. And so my background in training as well as
12 in industry was a passion of mine, and I wanted to
13 convey the safety aspects in a different type of way.

14 So often in the mining industry, because
15 of the regulatory eight hours' worth of refresher
16 training every year, so many people get --- take one
17 class eight hours, and the thing I heard from our
18 employees was an eight-hour class is too long. After
19 one hour, I don't remember anything anyway. So one of
20 the things that I emphasized was training, breaking it
21 up over the --- throughout the year, different topics,
22 different instructions and doing things differently to
23 try to get --- to convey the message that we were
24 getting across.

25 We wanted to use topics that were

1 applicable to the employees. There was no reason for
2 us to train our employees that were welders and
3 repairmen on how to safely operate a payload. It was
4 not the same training that they should be included in.
5 So I started to tailor the training by what the
6 employees do. And it became something that was very
7 informative. We had no reason for our haul truck
8 operators to be taking welding safety. So what I
9 started to do was making applicable topics for our
10 employees so that they could best gain the safety
11 knowledge that they needed for their job. Reminding
12 our employees daily of their training as they take the
13 classes that we offer that we would train them, then
14 apply it in their job, reminding the supervisors to
15 remind their employees of things that was brought out
16 in the safety classes and the training.

17 The next phase of our safety and health
18 management plan was the daily workplace exams, very
19 important, by allowing our employees to recognize the
20 hazards. The first part of that is for them to
21 actually look around. One thing that I feel very
22 strongly about in the workplace exams is if an
23 employee will notice their surroundings, they can
24 mitigate many hazards that might be there just from
25 the rain. If it rains the night before, if they don't

1 pay attention when they walk into an area, there's
2 water on the floor that they haven't noticed before,
3 just being observant.

4 And the daily workplace exams that we
5 have each and every one of our employees do. All of
6 our employees have the workplace exam pad. When they
7 go into the area, they fill it out. It's not just
8 about writing it down; it's about noticing what's in
9 the area and that has been a great addition to what we
10 do.

11 The monthly safety teams. We put
12 together teams of hourly, salary employees --- and
13 this is nothing new by any stretch in the industry,
14 doing mock inspections, doing safety inspections. But
15 we take an hourly employee and a company employee, put
16 them together. They go to a particular area ---
17 everyone in the plant --- every area in the plant is
18 inspected by a pair of these employees. They're given
19 a camera, a digital camera, which has been a great
20 addition because now they feel like inspectors. They
21 can look at things and take pictures of what they know
22 to be a hazard, and this has been a great addition.
23 The cameras come back to me. I download the pictures
24 and then we generate work orders or use the pictures
25 for training, which, again, goes back to the training

1 part that I'm so interested in. Just in this year,
2 which is the year 2011, we addressed over 600 safety
3 hazards, and this can be anything from spilled oil or
4 damaged guarding, but we have addressed a number of
5 safety hazards just through the safety inspections and
6 the workplace exams.

7 The last item, benefit to that, we do
8 repair those items quickly and people notice. They're
9 more likely to report more. If you continuously do
10 workplace exams and do not repair the items listed on
11 those exams, people stop reporting and they don't see
12 results. So it's very important to repair those
13 hazards.

14 Training. Like I said before, I'm
15 passionate about training. We use these pictures in
16 our training, the pictures that our employees take.
17 And when you notice things like a ladder leaning
18 against a conduit, okay, and these are things that our
19 employees are taking pictures of and, you know, then
20 they get to point out, hey, why would someone do that?
21 Underneath the raincoat is an electrical box. Why
22 would we hang a raincoat on an electrical box? So
23 these are things that our employees pointed out and
24 they can share with their fellow employees and say
25 this is not what we need to do.

1 Our results didn't get to put specific
2 numbers, but one thing I want to show is general
3 results in year 2008 and 2009. We went over 18
4 consecutive months without a lost time accident, which
5 was a great thing, not because of the numbers, but
6 because that was 18 months that our employees came to
7 work and worked without an injury, and that was a
8 very --- that's our biggest goal at National Cement.
9 In 2011, over 300 days without a lost time accident.
10 2009 and 2011, just from a standpoint of our MSHA
11 inspections, our citation levels were significantly
12 lower than the national average cement plants, very
13 highly ranked in the southeastern district as far as
14 the lowest number of citations.

15 The year 2010 we had somewhat of an
16 anomaly between the two good years. Why is that? I'm
17 still trying to determine that. Not just from an
18 injury standpoint. We had a number of minor injuries,
19 things that caused maybe a shoulder surgery here or a
20 knee injury there. And then we also had a significant
21 increase in citations in 2010. The plan, the safety
22 program did not change from 2008, 2009, 2010 even into
23 2011. We did start focusing in 2011 on more things
24 citation related. But it's very important and
25 something that I feel strongly about is that this

1 safety management plan is the tool. It's a tool that
2 I think everyone should use, but it's not something
3 that I feel is to be strongly regulated. I think it's
4 to be encouraged. I think this is something that
5 industries and regulators can work together and should
6 work together on.

7 When we look at the statistics, look at
8 the numbers and I have numbers to show three
9 consecutive years, and two years are great and one
10 year in between is not, but the plan continues to show
11 the same result, it's not something that from a
12 regulatory standpoint --- I'm not sure how you
13 regulate that. And final comment is we think we have
14 a great plan at National Cement and we enjoy this
15 opportunity to present it.

16 CHAIR:

17 Thank you. I have a few comments, and
18 you actually --- as I was writing down a few
19 questions, you seemed to answer them in your next
20 comment. Because the first one I was going to ask you
21 was, do you have a safety committee? And you said you
22 do have a safety taskforce. And you are a union
23 company. And what union is it?

24 MR. GOLDEN:

25 Steelworkers, United Steelworkers.

1 CHAIR:

2 Okay. United Steelworkers. And many of
3 the --- just by you making your presentation, you
4 emphasized many of the principles involved in the
5 safety and health management program. I was curious.
6 Did you say you started it five years ago about?

7 MR. GOLDEN:

8 Yes. When I came to National Cement it
9 was in early 2007.

10 CHAIR:

11 Right. And so you can see from --- I see
12 from --- I was going to ask you also, did you have
13 measurable results? But seeing from some of the
14 things you said, as you pointed out, except for that
15 anomaly year of 2010 that you're still trying to
16 figure out, you did show positive results in '09 and
17 this year. Let's see what I have. I think you
18 answered most all of the questions as I was going on.
19 I don't think I have any other comments or any
20 questions except to say that we probably will be just
21 taking comments from people, you know, for a while, as
22 I said, through next year. So for those of you who do
23 have this type of program, just to help us before the
24 record closes, is if you would --- because I know
25 you're going to do it for yourself anyway, if you

1 would continue to keep information on your programs
2 and then just let us know, you know, we would
3 appreciate that. Do you have any ---? I think Neal
4 has a question.

5 MR. MERRIFIELD:

6 Mr. Golden, thank you for your
7 presentation. If you had to pick one element in your
8 program that you think you would attribute your
9 successfulness in the program, what element do you
10 think you got the most benefit from?

11 MR. GOLDEN:

12 Training. I feel strongly that training
13 has been one of the primary elements just from the
14 standpoint that employees are more likely to notice
15 hazards by using the materials that are used in the
16 pictures from our facility, things that they would
17 walk by every day because they've been there for so
18 many years. Now they start noticing those things. So
19 I think the training has been a pretty good element.

20 CHAIR:

21 Well, thank you very much, Jeff. And we
22 do appreciate you making a presentation. And as I
23 said, any information, you know, from your company
24 would be most appreciated to us before the record
25 closes. Our next speaker will be Ed Thierry with

1 Mosaic.

2 MR. THIERRY:

3 My name is Ed Thierry and I'm a mining
4 safety manager for Mosaic. I've been with Mosaic for
5 11 months now. Prior to coming to work for Mosaic, I
6 was in the cement industry for 27 years, so I worked
7 with MSHA for almost 28 years now. Anyway, what I'm
8 going to talk about today is, you know, how do we
9 achieve zero injuries in our workforce? I need some
10 kind of training here, I think. There we go. Anyway,
11 it's a journey to zero. And what are the key drivers
12 of safety? You know, how do we --- it's easy to say
13 that we want to achieve zero injuries in the
14 workforce, but how do we achieve that? You know, we
15 live in an unsafe world and there's a lot of things
16 out there, you know, the road conditions. Each of us
17 drive vehicles and you're five foot away from death at
18 any given time. There's an 18-wheeler in the other
19 lane. If he decides to take your lane, then what
20 choice do you have? But there's controls in place.
21 So there's risks everywhere. How you perceive these
22 risks determines the outcome and whether there's an
23 injury or not.

24 The key drivers for safety, we have our
25 management system already in place. We have our lock

1 out/tag out, confined space. We have our safety
2 committees. We have many management systems out there
3 to direct our workforces. We're investing in our
4 sites. We are investing in our people. We are
5 investing in equipment. We talked earlier in our
6 conference about guarding. You know, we're doing
7 better at our guarding. And we are regulated for
8 compliance.

9 But, you know, why are we still having
10 injuries? With all these controls put in place, we're
11 still having injuries. What are we missing? And as
12 early as 1931, there's a safety engineer, Hendricks,
13 who's come up with a model and it was based on
14 behavioral safety. And this model that he had talked
15 about as industry, we focus on the lagging indicators.
16 It's very important that we look at the injuries that
17 we have and put controls in place and keep from having
18 like injuries, but if we're ever going to achieve that
19 goal of zero, we need to be looking at the leading
20 indicators. We need to look at behavioral and what
21 are our employees out there --- you know, what is
22 their culture? What's the mindset? How many injuries
23 do we have that are related to an unsafe guard? Or
24 maybe it's that piece of equipment that's unsafe.

25 You know, where we need to focus is on

1 the behavioral side, our employees. We need to put
2 some effort in our employees, get them engaged in our
3 program. Because as a safety person at a site, I
4 can't be there all the time with that employee. So we
5 need to engage our employees where they are thinking
6 safety 24/7 and they're involved in it.

7 Ninety (90) percent of injuries are due
8 to personal choice, people taking chances. It's not
9 that guard that's not in place. It's people taking
10 chances.

11 Most companies have a slogan, and I
12 believe with Mosaic, it's the relentless pursuit of
13 an injury free workplace. That's good, but you got to
14 put some things in place to achieve these goals. It's
15 nice to say it, but what do you have there that will
16 help you to achieve these goals? And what we're going
17 to talk about today is behavioral safety, observation
18 programs and also employee engaging and getting
19 involved.

20 You know, I've been on the site and doing
21 observations and asking, you know, why are you doing
22 it this way? And most of the time the answer is,
23 well, this is the way that I've always done it. This
24 is the way that I was trained to do it. But with
25 observation, we're out there looking at these people

1 and we're questioning why are you doing it this way,
2 and we get some feedback and we also --- maybe there's
3 a better way. There's newer equipment out there.
4 There's newer PPE. There's a lot of new technology
5 out there.

6 You know, I've done this job 1,000 times
7 before. It comes naturally to me. I know what I'm
8 doing. You know, I've trained to do this job my whole
9 life and, you know, what could possibly happen? And
10 that's the mindset. That's the things that we got to
11 focus on. And then when people get complacent, that's
12 when we have some type of injury.

13 Observation programs. Many companies
14 have observation programs. And the key to a good
15 observation program is this: peer observation. You
16 have to have management support that's run by hourly
17 employees. There can't be any kind of disciplinary
18 action from it. And what it does is it requires our
19 employees to get out peer-to-peer observation. And
20 we're looking at what are the good things we're doing
21 and what are the things that we can improve on?

22 With Mosaic, our program we have hourly
23 employees, at least one on each site, that is their
24 full-time job, is to manage the observation program.
25 Their tasks are to go out in the field, do

1 observations themselves and recruit observers. It's
2 all volunteer. They take this information --- they
3 have a check sheet. They take this information and
4 they put it in a database. And then without anybody's
5 names on it, we take that information and we share it
6 back with the employees. And it's actually a --- it's
7 a key performance indicator. Where are we lacking?
8 Is it people putting themselves in the line of fire?
9 People's eye is not on the task? Is it frustration?
10 These are the things that we are looking for. And out
11 of this as management, we can determine, do we need to
12 do some more training? Do we need to do some PPE?
13 What are the things that we need to do to help bring
14 our program together?

15 The key to the program is out in the
16 field. It's that one-on-one conversation between the
17 two workers. That's where you get the benefit of this
18 program because they're stopping and they're talking
19 about their jobs. What are they doing? What it does
20 is it motivates our employees to do the right thing.
21 Here's a perfect example. If you look at this worker
22 here, at first --- first thought is he's doing a good
23 job, everything is in order. But our observers are
24 trained to look at every aspect of a task. And you'll
25 see this worker here, he's got his face protection on

1 which is a face shield, eye safety glasses, hearing
2 protection. He's got gloves on. He's got a guard on
3 his grinder. But if you'll look real close, how close
4 he is to a combustible? If you see he's using a
5 forklift as a work table. What if, when he's cutting,
6 he cuts into the forklift? If you'll see, he's
7 grinding. He's grinding towards the boom of the
8 forklift. These sparks could damage the hoses that
9 are on that boom. If you'll look, he's got a safety
10 harness on. You know, should he have a harness on
11 while he's driving? These are the things that the
12 observers are trained to talk to their peers about.
13 Look at your job. Look at what if.

14 These are some of our statistics and if
15 you'll look, our --- if you see, our observations have
16 really grown in the last couple months. And what
17 we've done is --- and it's a new program with us.
18 It's about a year old. What we've done is the key to
19 this is is you got to have your employees where they
20 buy into this and they believe in it. When you first
21 roll this out, they think of it as --- they're picking
22 on each other and they'll take this information and
23 use it against them. So you got to get them to buy
24 into it. And that's all part of the communication
25 process and letting them know the information you get

1 and feed it back to them and it's all for them, to
2 benefit them.

3 And what we did about a month ago, we
4 started having our safety observers go out with a
5 person that has been trained and doing observations
6 with them, and they share this observation and see how
7 they're doing. They compare observations. And
8 another thing they do on a daily basis is they get a
9 person that's not trained to be an observer and go
10 through an observation with them. That way they see
11 the benefit of the program, and it takes away that
12 fear of somebody using it against them. And it's
13 really paid off. So you can see a major increase.

14 If you see our injuries at this site
15 right here, we have 550 employees and up to 400
16 contractors in any given day. And we do observations
17 on contractors also. One of the things with our
18 observation program is when you go do an observation
19 on an employee, they ask for permission first before
20 they do an observation. So it's all intended to
21 be ---.

22 Okay. On the other side of this,
23 employee engagement, getting our employees involved,
24 getting them to buy into our safety programs. It was
25 triggered by --- our site --- as you see the incident

1 we had --- in the two months of January and February,
2 we had three reported injuries and it's kind of
3 like --- our management group got together, what are
4 we doing? We have all these things in place. What
5 can we do better for our employees to engage them to
6 let them know that, hey, they could be hurt? They
7 could work without getting injured.

8 So we came up with a Believe in Zero
9 program. We started putting signs up on our roadway
10 coming into our site where anybody coming into our
11 site could see them. We had a blitz that all the
12 management group and our safety observers, we went to
13 all of the breakout meetings in the morning and
14 started talking to our employees and we shared the two
15 injuries that we had. And they were behavioral, in
16 other words, people choosing to take chances. And,
17 you know, we urge people to stop, think about what
18 you're doing. You know, don't rush. Don't talk about
19 the job that you're doing. If you have any kind of
20 concern, get somebody involved. And we'll talk about
21 90 percent of incidents are due to behavior issues.
22 And we also told them that behavior is not just hourly
23 people while they're working. Behavior is also
24 management. What if management had seen that we had
25 three reportable injuries in a short period of time

1 and we done nothing? So we let them know it's not
2 just hourly employees; it's management, too, also
3 trying to do the right things.

4 And so we went around to the different
5 meetings and gave out Zero candy bars and we talked
6 about safety and about the three recent incidents that
7 we had. And then each day we would go out and talk to
8 our employees at these meetings. We put banners up
9 throughout our plant to let people know that we can
10 work without injuries. There's still workers out
11 there that think that, you know, if you work long
12 enough, you're going to have some kind of injury. And
13 we seen during this conference we had this week that
14 we had several 40-year miners. They worked 40 years
15 without getting injured. So we got to get that
16 mindset out there to our workers that we can work
17 without getting injured.

18 So there's a lot of enthusiasm in this
19 Believe in Zero campaign that's still going on.
20 Somebody will come up and say, what about Coke Zero?
21 So we'd go out and buy Coke Zeros. And when we have
22 our breakout meetings, we take Coke Zeros to them. We
23 made a commitment that we would do it for 30 days. We
24 would have --- send out a toolbox meeting every day.
25 Well, after the 30 days was up, the supervisors of the

1 employees, say look, this is great. Can we continue
2 this? So since February of this year every day we
3 send out a toolbox meeting to our employees, although
4 several of them were on behavioral, but it's all
5 different topics. And supervisors call us and ask us
6 for a toolbox subject, and we make sure that it gets
7 sent out the next day.

8 So we're trying to teach our employees
9 that whenever they come up with an idea, to use that
10 idea. We have things like these wristbands. You
11 know, we have meetings with our people and we talk to
12 them and we give them these wristbands that say
13 Believe in Zero. It's Mosaic Four Corners on it. One
14 of our employees came back to me and said, Ed, I was
15 at home last weekend. I was on top of my ladder
16 standing there and I was working on one of my outside
17 lights and I reached up to get that light bulb and I
18 seen the red Believe in Zero. He said, I stopped what
19 I was doing, got off that ladder and went and got a
20 longer ladder.

21 So things like this work, and we try to
22 get employees to take safety home. We gave them
23 Frisbees that says, take safety home with you.
24 Hardhat stickers, bumper stickers, these things were
25 given out. You know, every week we're giving

1 something out, ball caps. We have T-shirts that
2 had --- we wanted it to be around a team concept, so
3 the T-shirt says Believe in Zero and in backside it
4 says Four Corners with a big zero on it. And every
5 Friday still to this day, is when everyone wears their
6 Believe in Zero T-shirt that day to work and everybody
7 working together to prevent injuries and get zero
8 injuries and that's our team spirit.

9 We still do the candy bars, you know. We
10 sent out a letter to all of our employees' families
11 and it was signed by management that we've committed
12 to zero injuries to our employees, and we need their
13 help to encourage their loved ones when they come to
14 work, work safely and when they're at home, to work
15 safely. The site manager made a commitment to every
16 employee, this is 450 employees, that he would sit
17 down and give them face-to-face time and listen to any
18 concerns they have, and he's still doing it. He's not
19 finished. It takes some time to get through 450
20 employees. And the whole purpose is to let people
21 know that the zero campaign is about their safety.

22 Another thing with zero is we want zero
23 harm and we want zero MSHA citations also because
24 that's an indicator. So when we have MSHA blitzes or
25 MSHA mock inspections, we do training for our

1 employees first. It's a simple thing like a light
2 panel needs to be labeled on a breaker plan. Well,
3 the employees when they go to the lighting panel, they
4 see a label there so they think it's good. But you
5 got to tell them you go to breaker number one see
6 where that feeds, breaker number two. If there's a
7 spare in there, we need to make sure it gets labeled
8 and get an electrician to change it. Make sure you
9 actually get it labeled and it is inspected.

10 So we have started a pre-job folder with
11 our employees. The attachments --- it's all printed
12 on a nice folder and it's a pre-task list. It's the
13 things that we're looking around in our safety
14 observation program. It's are you in the line of
15 fire? Is there any short of energy? You know, is
16 there any frustration in this job? This folder then
17 goes through all the tools that they need, any type of
18 permits they need. All this is planned before the
19 task ever starts. And at the end of it, employees
20 sign off that they have reviewed this and there
21 isn't --- there is a workplace exam included in this
22 too. So at any point --- and it says on this form,
23 you can stop this job at any point if there's
24 something --- any type of conditions, so it's getting
25 employees involved. We take these forms and we look

1 at them and then we do review them to make sure that
2 if there's a risk that's been identified, we make sure
3 that we correct this risk or any type of hazard.
4 That's really worked out well.

5 And part of our employees' creativity is
6 we have --- in our motor control centers, we have
7 painted on the floor this Believe in Zero logo. It's
8 on several of walls in our plant. We actually have a
9 label maker and we made a lot of labels. In fact, my
10 laptop, on the top of it I got a sticker that says
11 Believe in Zero. And you got to have some fun with
12 the safety, too. So for years the field office and
13 the maintenance crew, they had fun days. And they
14 came to the safety group and they said, look, we'd
15 like our fun day to be around zero, zero harm to
16 people. So we had a fun day. One day if you see a
17 dunking booth, we have our employees in the dunking
18 booth. The safety department took turns in there.
19 The one that we had presently --- that's one of our
20 mine managers right there. We had banners. We had
21 lunch. It was a fun day and it's employees getting
22 together. And these are the shirts that we had. One
23 of the employees had brought up crash test dummies.
24 You know, that would be pretty neat to have some crash
25 test dummies, you know. So what we did is we got some

1 suits. We got two employees walk around talking about
2 safety with their crash test dummy uniforms on.

3 One of those sites picked up on this
4 Believe in Zero and they wanted a little twist, to be
5 a little different, so they had a Believe in Zero
6 family day. All the families came to the site. We
7 had the booth. We fed everyone. The children, we did
8 face painting and all kind of games for them. It was
9 like a carnival. It was really nice. It's safety.
10 That's what it's about, going home at the end of the
11 day and taking care of your family and being there for
12 them. Anyway, this is some of the painted faces, so
13 it just shows you that they can be small reasons to
14 work safely and to Believe in Zero.

15 You know, these things you can't just
16 stop there. Our next move --- of course, the first of
17 the year we had another little campaign. It's going
18 to be called --- and this is the back of the
19 T-shirt --- it's Don't Walk By. You know, if you see
20 something --- and this is on the behavioral side and
21 the physical side. If you see some type of risk out
22 on your site or if you see an unsafe act or condition,
23 we need to do something about it, do the right thing.
24 Another thing that we're doing is we have --- at two
25 of our sites, we got ball games. One's football.

1 One's baseball. And around safety, there's
2 competition there, and that's really working well.
3 It's getting employees involved, engaged and where
4 they're thinking of safety on a daily basis.

5 So, you know, our journey --- you know,
6 the relentless pursuit of an injury-free workplace,
7 it's a journey and it's something that, you know, you
8 never get there. You got to continuously work on it
9 every day and come up with different things. And it
10 starts with leadership and you got your resources.
11 You got to continue to invest money and time. Your
12 safety management systems are very important. They're
13 part of your safety programs. You need to continue
14 reviewing them, improving them. And the key to it is,
15 you know, you have to have that passion for safety.

16 Accountability. You know, reward our
17 employees that don't know --- in the end, you've got
18 to have consequences out there also. Do audits.
19 Anything that's going to be sustainable you got to be
20 able to make. So we do audits, and part of the audit
21 is our safety observations. You have to be consistent
22 with your message, with your communications, looking
23 at your key performance indicators, standardizing your
24 procedures. It's continued improvement and it's all
25 about people and passion and Believe in Zero.

1 All of these things make up your culture,
2 your DNA of your people and, you know, in the past ---
3 we kind of have that ugly past. You know, a lot of
4 sites and --- you know, these are the things that are
5 going to take to make a program sustainable. That's
6 it. Thank you.

7 CHAIR:

8 Thank you. And I should have said this
9 at the beginning. Thank you for the role you played
10 in helping to organize and sponsor the Southeastern
11 Conference. And so I know on behalf of Mike and on
12 behalf of MSHA, we thank you for that. A couple
13 things that I wanted just to note, and I don't know
14 whether you all have had any measurable results or not
15 or any statistical results. Have we seen any of that
16 yet? I don't know whether it's been in place long
17 enough to see that.

18 *****

19 MR. THIERRY:

20 Our injury rate is down. But it's been
21 less than a year.

22 CHAIR:

23 Okay.

24 MR. THIERRY:

25 I can tell you right now the energy ---

1 and you talk about productivity when you have workers
2 that are more productive. You don't have an injury.
3 We're very fortunate. Did you see our numbers? The
4 highest injury we had in a month is not zero. There's
5 two, and that was early on. This last month we had
6 zero. Last month we had one. The month before that
7 zero. So our goal is zero, and the key to it is
8 people understanding we can work without getting
9 injured if you just stop and think about what you're
10 doing.

11 CHAIR:

12 Well, you know, during the conference, I
13 was listening to your representative of your company
14 talk about your incentive program and all the positive
15 benefits from that. But I'm going to ask you this,
16 and I didn't at that time because I have --- there are
17 some who would say that an incentive program --- I'm
18 sure you may have heard criticisms of incentive
19 programs and say that an incentive program might ---
20 another way to look at it is that it might discourage
21 because of --- the incentive, quote, unquote, it might
22 discourage workers from, in fact, reporting what may
23 be unsafe conditions and hazards. And what are your
24 thoughts on that since you all have such a program?

25 MR. THIERRY:

1 My thoughts are, you know, yes, it could
2 drive something down if an employee, you know, was
3 afraid to report something. And what I look at is
4 what is the positive side of that? It's helping a
5 lot. And we encourage employees to report --- near
6 misses is the biggest thing right now, we're looking
7 at right now --- that's part of that being at the
8 bottom of that pyramid. We're looking at near misses.
9 We want them to report them. So we encourage our
10 employees to report any injuries, and on the other
11 side, accountability. If an employee --- if there's
12 an injury and they don't report it, everyone is
13 trained, you know, there's some type of disciplinary
14 action. So you have to measure the --- there was a
15 question about --- you know, we have these incentives
16 around, like ball game ---

17 CHAIR:

18 Right. Right.

19 MR. THIERRY:

20 --- with MSHA inspections and things like
21 that and the MSHA inspector come in and he writes us
22 up a citation for an area. An employee might say,
23 well, you just hurt me with my chance of getting a
24 prize here, but what is the benefit? How many risks
25 has been identified and we corrected because of that

1 employee trying to achieve that reward?

2 MR. DAVIS:

3 You probably know my peers that was on
4 your property about three weeks ago, so I had a fairly
5 good tour at that time. So it seems some of your
6 information --- and just a question in your data
7 collection. I know it's a little early in the
8 procedure, but do you intend to take a look at that
9 relative to accidents and injuries that you're having?
10 Would that consider age and experience and in the data
11 that you have right now where you see any kind of
12 significance relative to types of accidents you're
13 having, age groups, experience level?

14 MR. THIERRY:

15 Yeah. And we do --- for like a lot of
16 industries, we do have --- our employees --- we have a
17 lot of employees that are 20 to 40-year employees, so
18 we do have an aging workforce. But there is not a
19 correlation between injuries and age at this point.
20 We're very fortunate we have a low number of injuries.
21 It's kind of across the board.

22 MR. DAVIS:

23 And just as a last question, you wanted
24 to drive for zero citations. The training for your
25 inspection team, does that include any kind of

1 training in mandatory compliance?

2 MR. THIERRY:

3 Yes. What we do is actually do some
4 hazard training with our employees that has to do with
5 our, you know, regulatory requirements, too, and
6 what's required by MSHA. We do a lot of training
7 there. Any time that we have an MSHA inspection, we
8 share with all of our employees pictures of what was
9 cited and we give those out. In other words, if I got
10 an MSHA inspection going on and it started today, at
11 the end of the day I hand pictures out to our
12 employees to let them know. You know, it's a
13 training. And we share this with all our sites. We
14 have four active mines in the Florida area and we
15 share this between sites and we have reduced the
16 number of citations. This last inspection that we had
17 we had 14 citations for Mosaic, and four were
18 contractors.

19 We work very closely with contractors.
20 We talked about injuries earlier. If a contractor
21 gets injured on our site, it's the same as if one of
22 our employees gets injured. We keep those numbers ---
23 we have incentives. And these contractor injuries is
24 just like one of our employees because we want our
25 employees to be engaged with contractors. We do

1 audits of contactors. We do observations of
2 contractors. I did a breakout session and it was ---
3 basically would be the same topic that I talked about
4 here, that a contractor actually wanted to work for
5 Mosaic. And we encouraged him to do this behavioral
6 safety program, and his injuries have been reduced
7 more than 25 percent. He was telling me that his
8 Workers' Comp cost was \$120,000 or something and now
9 it's reduced by like 40 percent, which is great, and
10 that's how they can tell the management group that
11 these things do work.

12 MR. DAVIS:

13 Thank you.

14 MR. THIERRY:

15 Thank you for having us.

16 MR. RICHARDS:

17 I have one more question for you. Sorry.
18 From what we've already heard is that you're planning
19 to measure injury rates. Are there any other
20 indicators that you're planning to measure in terms of
21 effectiveness of this particular program?

22 MR. THIERRY:

23 Yeah. What we look at actually --- and
24 that's a good question. We do count the number of
25 observations that we have, and it's not just about

1 numbers. Some people that have a behavioral program
2 require that everybody onsite do it. You know, our
3 goal is to get 100 percent of our employees to do an
4 observation, but they do it because they know it's the
5 right thing to do. So we do look at the quality of
6 these observations. And with this program, there
7 is --- we look at, you know, was it the line of fire
8 that a person was? Was it a frustration sort of
9 injury? There's a lot of things that we're looking at
10 and it's the data that we are continuing to look at
11 and take this information and build our program from
12 there. Does that answer it?

13 MR. RICHARDS:

14 Thank you.

15 CHAIR:

16 Just one other. You have a labor
17 representative at your site; right?

18 MR. THIERRY:

19 That's correct.

20 CHAIR:

21 And who is that again?

22 MR. THIERRY:

23 Chemical workers.

24 CHAIR:

25 Chemical workers. And then there's one

1 other thing I was thinking about because you said that
2 the employees have the right to --- can exercise the
3 right to stop work if they see something. Has that
4 ever happened?

5 MR. THIERRY:

6 It has happened. And we also encourage
7 contractors to do that, too.

8 CHAIR:

9 To do that, too. Okay.

10 MR. THIERRY:

11 And with our program, we're very engaged
12 with contractors. We have contractor celebrations and
13 we'll have contractors that we will take and recognize
14 and have dinner with them for milestones that they
15 make. And also with contractors, we have had
16 contractors leave our site because when we were doing
17 audits, they didn't have their program in place.

18 CHAIR:

19 Thank you very much. Our next speaker is
20 Matthew Howard with Rio Tinto.

21 MR. HOWARD:

22 Thanks for inviting me. And you said I
23 have to hold this the right distance away. I don't
24 want to sound too loud or too quiet. So I'm just
25 going to note to you what I'm going to talk about,

1 probably not as long as some of the other
2 presentations, and I don't have any nice pictures of
3 our employees, so sorry about that.

4 Our global operations, we got 11
5 operations, got them around the world. I'm not sure
6 how familiar you are with our group, International
7 Mining Company based out of London, but listed also on
8 the U.S. Stock Exchange and Australia Stock Exchange.

9 All kinds of materials we mine and refine and produce
10 and we have a management system that covers all of our
11 operations. I'm going to try and take this to a
12 global approach. Not many more can be global.

13 Vision and values. You know, we
14 really --- we do have a management system. We believe
15 that we need world class systems to operate
16 successfully or have consistent thread about how we
17 operate in our mining operations around the world. We
18 have performance standards related to some of the more
19 technical details of safety and health issues. There
20 are a lot of --- some of the other standards MSHA,
21 OSHA and various other things, but we also believe a
22 lot of culture and leadership and things that we need
23 to attack not only the leadership, develop the
24 cultural aspects of our operations as well as the
25 system, so you'll hear me talk a lot about leadership

1 in this presentation. And you'll also notice the ad
2 line from our CEO based in London. If it's not safe,
3 we don't do it that way.

4 And again, I think that goes to the point
5 we made in the last presentation around people having
6 that opportunity to really think about what they're
7 doing and if they're putting themselves or others at
8 risk. And we're going to stop. We're going think
9 about it. We're going to change the way we're
10 approaching this and actually do things differently
11 because we're all in the same boat as some of the
12 other presentations we've seen. We don't think we can
13 get away from the risk-free mining operation. We
14 don't have risk-free operations. We have risks where
15 our employees have to deal with risks, and we want to
16 equip them so they can successfully deal with risk.
17 And I think that's one of our challenges and one of
18 the things we need to come to make sure we can operate
19 in an incident free way.

20 So this is our management system and this
21 is sort of a very high level view. The management
22 system itself is probably comprehensive standards that
23 we have. It's actually available publicly at our
24 website, so that little link at the bottom is actually
25 where you can get the entire standard or the

1 associated requirements that we have for how we
2 operate from an agency standpoint. It's integrated
3 going into the former operation. It's integrated into
4 all of our operational controls. You can see the
5 section operation controls, and that we'll --- but
6 again, it's our foundation. We expect this to be on a
7 good, solid foundation of leadership.

8 One of the cultures which is promoting
9 safe behaviors and really driving that message home
10 for employees, is something that we feel without it,
11 it's really not going to a successful program. Again,
12 we have this in operations but the basis of the
13 foundation is leadership and that commitment culture.

14 Some of the performance --- so this is
15 actually written into our global. So it's all of our
16 operations and quite a lot of operations that I'm
17 seeing there. We introduced the performance standards
18 in about 2000. So that was basically our operation
19 control standards which we have used there. We also
20 have a people-based safety approach. Fundamentally,
21 our philosophy and certainly my philosophy is that you
22 can't not have the same basic approach. It's just a
23 question of whether or not you want to have an
24 operation.

25 So again, we really try to hone in on a

1 people based approach and looking beyond the immediate
2 behavior itself and actually looking towards, what are
3 the things in the background that might be driving
4 people to choose to behave in certain ways? It's not
5 what we want to do. It's how we make sure that we
6 actually motivate them to do things we do want them to
7 do. So again, focus on the behaviors, explaining
8 clearly what behaviors you want and making sure you're
9 providing those consistent --- constant for those
10 behaviors.

11 Then we have revised the management
12 system so that, as you can see at the bottom, we've
13 gone through the process of revising a new management
14 system. This is the one that we now have implementing
15 in all of our operations, and you can see we've had a
16 steady decline in our frequency rate. We have
17 slightly different criteria on how we report globally
18 into London on our injury metric. This would be
19 medical treatment or lost time injuries in that
20 statistic. So obviously, medical treatment is the
21 large method, includes both of those numbers, and it
22 also includes our contractors. We report a contractor
23 out with injuries just the same as we do employees,
24 and that gets rolled up into that number you can see
25 as well.

1 So again, we include contractors, not
2 only in the standards, which they're required to
3 follow when they work in our premises, but also we try
4 to involve them in daily activities as well to make
5 sure that we have them equally participating in our
6 safety program and some of the culture initiatives as
7 well. So clearly, it's obviously a big factor in our
8 performance and our contractor's performance. We want
9 to make sure they're performing in a way we would
10 expect our own employees to do as well.

11 So really, some of the lessons learned
12 we've come across in our time integration and
13 implementation of the management system. Again,
14 reflecting on the fact that without foundation of
15 leadership development and culture of safety, it's
16 very difficult, even with an excellent system, to
17 really achieve world class performance. And when we
18 see that in our operations now, the real opportunity
19 still lies with cultural development, leadership
20 development and making sure that that is improved
21 where we can to improve our performance.

22 Ownership. And I think we've got quite a
23 lot of ownership with our systems. Obviously, we've
24 developed our own, so in that sense, we have that
25 ownership and I think that helps create

1 sustainability. The same with the cultural piece. We
2 want to get --- you know, each site has their own
3 unique culture and having them own how they do things
4 and in certain ways it'll seem helpful in that
5 sustainability piece.

6 We have seen that the mechanisms around
7 major events and that involved the bulk of injuries.
8 Lower level of injuries are actually different. So
9 contradicting a little bit of the last presentation in
10 the sense of miner's triangle, we'll obviously look at
11 that as a model. I think that's probably more
12 compelling evidence that suggests that it's not strict
13 ratio. And actually, the mechanism of damage are
14 actually fundamentally different for injuries and low
15 level injuries and also the high level fatalities and
16 the major process that happens that people have to
17 deal with.

18 So I think the key for us is applying the
19 right tool for the right circumstances, and we have a
20 fairly comprehensive risk management process which I'm
21 sure a lot of people do as well. We have the
22 employee --- very similar to the slam risk approach
23 where we equip our employees with a risk tool to help
24 them make conscious and deliberate decisions around
25 risk on a daily basis. But then we have some more

1 comprehensive risk approaches by looking at the major
2 potential capacity we have around fatality when
3 approaching safety issues. So I think it's really a
4 case of looking at the different mechanisms and trying
5 to work out how we can best predict the predictable
6 and working on that and making sure that we actually
7 take appropriate actions.

8 We also found that one size doesn't fit
9 all. We got brand new sites. You can see a lot of
10 sites, some big, some small, and even without a
11 management system. It's fairly comprehensive. Some
12 of our smaller operations struggle from a standpoint,
13 and it doesn't make a lot of sense to all of our
14 operations. So I think it's very difficult to think
15 of a management system approach which isn't scalable
16 in some way, shape or form or at least provides that
17 ability for it to fit to all sites. I think it's sort
18 of a challenge with those management systems.

19 Just looking at a model of other
20 industries. I'm not sure if you seen this. This
21 takes the form of responsible care. Obviously,
22 responsible care is something --- the industry self
23 regulation model framework for a management system and
24 is --- and I don't want anybody to think I've been
25 successful in the chemical industry. So with some of

1 those numbers over --- again, I think it's about two
2 decades' worth of numbers on that.

3 You know, we've been working closely with
4 the National Mining Association and I'm sure they'll
5 be happy to elaborate more on that. But really, a
6 rather coarse safety initiative which is akin to the
7 responsible industry self regulation and providing
8 framework for a management system which is both
9 scalable and also has tools that can assist all the
10 people in the mining sector in the U.S. And I think
11 this is really a compelling model and a great piece
12 off work that I'm very excited about getting involved
13 with.

14 And again, I think the NMA would be
15 delighted to share more information, but in addition
16 to what responsible care does, what I think this does
17 is provides a tool set for folks who may not have the
18 resources or the ability to go out and get information
19 readily available that some of the other industry
20 players have. So it does focus in on culture and it
21 does focus in on the system side and it also
22 recognizes there's a huge piece that's around ancient
23 development and getting that right to make sure that
24 we follow with the performance.

25 So again, more information I think

1 probably mixed with the record and I think very
2 encouraging initiatives, similar models on responsible
3 care on the regulation. Because we didn't invent most
4 of this ourselves. We did reference other people
5 outside the mining industry, people like Colby
6 Daniels, people like Scott Gallo, around the people
7 who face safety aspects and how do we make sure that
8 we can use what's available from science to best
9 tailor our program to make sure we have a world class
10 performance? Again, we are not advocates of we
11 invented the wheel. We just want to make sure that
12 what we have is based on sound rationale and making
13 sure that our process is sort of the line of best
14 practice. I'm not sure if there is any question here
15 on what we've done, our direction.

16 CHAIR:

17 I have a couple questions. And thank you
18 for your presentation. First of all, you mentioned
19 that I think you all introduced that in about 2000.
20 Have you all seen any measurable results, and if so,
21 you know, in what areas, any particular areas over
22 other areas?

23 MR. HOWARD:

24 I mean, unfortunately, with it being such
25 a large range of sites, we got a huge span of one

1 certain --- on one site or another, so it's a broad
2 spectrum. Speaking for my division, yes, we've seen a
3 huge impact for cultural initiatives that people
4 submit safety approach models around which employees
5 involved have an understanding what are the mechanisms
6 that motivate. I would say that has been as
7 transforming in a way as a management system itself.

8 I think from our stance, we're looking
9 for a real breakthrough in terms of where we go from
10 here. We've got some pretty good numbers. Our global
11 division at this stage in the year is .36, so very low
12 numbers. If we truly can break from that and get
13 close to zero tolerance, which is obviously --- we see
14 that as one where we create a culture. We're everyday
15 people looking out for opportunities to help each
16 other. And that's not something you can mandate, so
17 that becomes very difficult from a system standpoint.
18 So really, it operates on a cultural piece of work,
19 more often on the cultural side of getting people
20 accustomed to that's the way we operate. I'm not sure
21 I answered your question.

22 CHAIR:

23 I hear you. And you mentioned your work
24 with the National Mining Association. Either through
25 them or individually on your own, if you all have

1 additional information that you could provide us in
2 terms of results. And I'll say to you here, whether
3 they be quantitative results or qualitative results as
4 you just talked about in terms of culture and
5 sustainability and imbedding the cultural safety and
6 leadership commitment, so even if it's qualitative
7 type things, then we would be interested in that, too.

8 MR. HOWARD:

9 I think we do have cultural --- that's
10 all meaningful in terms of being protective. And
11 that's one of the things that National Mining
12 Association is looking at for us. How do we equip
13 sites? We have the cultural surveys to help them
14 actually understand what perception employees strive
15 for and make sure that we include that.

16 CHAIR:

17 And the other thing was I was interested
18 when you --- and I may not have gotten it right. I
19 was trying to get when you talked about low level
20 injuries and illnesses versus high level fatalities.
21 And I was curious, quite frankly, in terms of how you
22 address those. Do you address having conditions that
23 you would have in one category versus the other
24 differently?

25 MR. HOWARD:

1 Yeah. I mean, a risk approach is trying
2 to understand what are the consequences if that did
3 happen and then how likely it is to occur, and that's
4 really driving --- and the risk assessment approach.
5 What are the things that are really likely to cause a
6 major concern, what we see from an injury standpoint
7 that probably never result in fatality. We see a lot
8 of small finger injuries, hand injuries and other
9 stuff, but for the most part, that's not going to
10 cause a fatality or cause multiple fatalities. The
11 tools we use for the high profile risk is a process
12 assessment that breaks down each phase of that
13 scenario and tries to drill in one of the mechanisms
14 that drive that. I guess it's similar to another
15 analysis versus safety, but it's different from what
16 we see from the lower level injury.

17 CHAIR:

18 And I understand that. And I guess to
19 that I will only say one thing, and this came up at
20 some other point, that in my mind, and I'm sure you
21 all --- you think that, too, that I would suggest to
22 you and I would think that sometimes you may have a
23 situation or a condition or hazard that would
24 generate, and 99 percent of the time, could then rise
25 to a low level injury. But then you may have another

1 condition that's in conjunction with that that if it
2 were separate and apart from that one, would lend rise
3 to a low level injury. But sort of like in tandem,
4 taken together or adding to another, the two out of
5 three together may then rise to a high level, as you
6 put it, high level injury or fatality type situation.

7 Do you all ever --- do you think that that might ---?

8 MR. HOWARD:

9 Yeah. We look at all of the risks and
10 we're always trying to address any potential for
11 injury. It's something to be addressed. The bigger
12 issue, again, I think is one management alluded to, is
13 one --- it causes something as well as an illegal
14 issue or risk we face on a day-to-day basis.
15 Fundamentally having a risk of operating --- and one
16 of the mechanisms is do we get situations where there
17 are multiple risks on a particular scenario? And some
18 of those high level ones are a complex myriad of how
19 can this occur or what --- it's almost like Swiss
20 cheese there. What are the holes in the process that
21 we have to rely on to make that happen and
22 understanding what the issue is? And we see that tool
23 being one that's much better suited to the high level
24 outcome and we can run some tests. One of the things
25 we have in play to make sure that doesn't happen. So

1 that's sort of the process that we apply, really
2 looking at those main areas rather than making one.

3 MR. DAVIS:

4 I just have one question. There was a
5 statement that I was looking at on your presentation
6 that said punishment and penalty does not drive
7 outstanding performance. Does that mean that you all
8 use some type of reward, some compensation for
9 positive behavior, and if so, how do you do that?

10 MR. HOWARD:

11 Well, it's not so much a reward, but we
12 do focus on positive reinforcement. The model
13 essentially is that people respond back to certain
14 consequences. We want to make sure that we encourage
15 them, so along that same line as any behavioral
16 process, we make sure we are reinforcing people to do
17 what we want.

18 If we had employees that do go above and
19 beyond, they do recognize them and see some are
20 working in a way to get --- if they do see an issue
21 that they can correct, do so. They do report, and we
22 want to make sure we can cover that. And that's what
23 we see as driving beyond minimum expectation. We want
24 to get above that expectation. We can only do that by
25 reinforcing that. Punishment and penalty will only

1 get us so far. Correcting them doesn't take us to
2 really where we want to go. We are world class people
3 looking out for each other. So that's sort of our
4 methodology. That becomes part of the thing we're
5 doing, which is why we try to go beyond compliant.
6 Recognizing without driving some of that internally,
7 never going to get to an end reward. So I'm not sure
8 if that answers your question.

9 MR. DAVIS:

10 It sounds like it would be more of a
11 recognition that would recognize that kind of
12 performance.

13 MR. HOWARD:

14 But I mean some of our operations do have
15 recognition programs. So we avoided some of the
16 issues that I think you correctly indentified
17 around --- if you only --- I mean, what's your injury
18 rate? You don't get little prizes when you see people
19 having injuries because --- and most think to do so,
20 which is why you got to look beyond that.

21 I look for the most of it. You really
22 look for the reason behind it so you can avoid those
23 issues. So again, we do have recognition programs.
24 We do try to --- as best we can --- one of the things
25 we actually want to see is --- okay. I see someone

1 walking in. That's when I'm going to recognize it
2 rather than looking out for it.

3 MR. DAVIS:

4 Thank you.

5 MR. MERRIFIELD:

6 I noticed in the presentation you had one
7 slide that talked about you really didn't see an
8 engaged punishment in the penalty. And then when I
9 saw another slide on the course safety, the NMA
10 Program, it had this book --- discipline as one of the
11 cogs of the wheel. But I didn't know whether those
12 were conflicting statements or how those interplay
13 with each other.

14 MR. HOWARD:

15 The actual slide of the punishment and
16 penalty brings outstanding performance, which I stand
17 on. However, I do agree in punishment and penalty.
18 So it dropped. It dropped. They are undesirable.
19 There needs to be some balance. At least you have to,
20 because the recognition that you're working only
21 punishment and penalty are probably not going to get
22 to the kind of performance you want to see. Certainly
23 not an advocate of no consequences. Just have to get
24 to where they are. And I think that's all.

25 MR. DAVIS:

1 Thank you.

2 MR. RICHARDS:

3 I just have one question. One thing I
4 noticed was you talked about the contractors and you
5 track their injury on this rate as well. Do you
6 require contractors to actually either comply with
7 your system or have their own system? Is that the
8 type of condition that you are awarding that
9 contractor? How do you get to them to buy into what
10 you're doing?

11 MR. HOWARD:

12 Fundamentally, they're working on our
13 premises, they have to follow our standards. That's
14 clear in the outset. We do encourage them to get
15 involved with some of the management side of the
16 operations. We encourage them to get involved in
17 doing their own behavioral interaction and style of
18 approach, but we will fundamentally observe them
19 perform and we will follow up on what we observe.

20 We have to make sure they continue. It's
21 not so difficult. I don't understand why. It covers
22 all of our operations. But then how do you do it?
23 It's somewhat a description aside from our business.

24 CHAIR:

25 Thank you very much. Our next speaker

1 will be Joe Casper with the National Stone, Sand and
2 Gravel Association.

3 MR. CASPER:

4 Thank you very much for the opportunity
5 to provide testimony on the importance of safety and
6 health management systems. I want to acknowledge my
7 group to have really great comments the Safety and
8 Health Conference. And Mike, I pledge to you next
9 year --- I said that some of us are starting to help
10 promote these things. I've engaged in some dialogue
11 with operators, the full gamut ---. So thank you.

12 I wanted to talk about the effectiveness
13 of the safety health management systems. We got very
14 full, helpful responses from several companies. So my
15 presentation today is based on those. As I was
16 preparing the presentation, I couldn't help but think
17 of a saying from someone known as Will Rogers, who was
18 credited for having said, if you don't know where
19 you're going, any road will get you there.

20 And when it comes to safety and health
21 today, we need to know what road we need to take to
22 get ahead of the curve on hazards, to make continuing
23 improvements in our operations and our behaviors and
24 management, our workers, so that we can get injury
25 rates to the lowest possible level and hopefully limit

1 them once and for all.

2 The rest of the case work in this area
3 decided to ---.

4 BRIEF INTERRUPTION

5 MR. CASPER:

6 Can you hear me now? The core safety
7 principles performed by MSHA outline, we would
8 contend, outlining the skeleton, mainly for the safety
9 and health management system.

10 Let me go through the individual items
11 because I want to speak to those relative to the two
12 companies that provided a lot of information about
13 what we think is essential in the safety and health
14 management system. First, you need frontline
15 management, leadership and commitment. Without that,
16 nothing else stands a very good chance of success.

17 Two, in the trading and development.
18 Third, in the formal auditing of employee work
19 practices. Fourth, we need employee involvement and
20 participation. Fifth, we need incident investigations
21 performed. We certainly need safety communications.
22 We need a regulatory compliance program. Things have
23 been very busy on that front lately. We need
24 operational safety and health for best practices.
25 There should be a recognition program, accountability

1 system and you have to have in this day and age a
2 substance abuse prevention program.

3 Let me talk first about Old Castle, a
4 very actively involved member company of NSSGA. They
5 represent it very well in our safety health committee
6 and were a past member of the MSHA and NSSGA alliance
7 committee. Old Castle has what it calls employee-
8 driven safety culture. Management and leadership has
9 manifested a number of ways, including the CEO signed
10 the NSSGA safety pledge, which calls for all CEOs to
11 sign it to commit to helping the industry reduce its
12 injury rate by ten percent for each five years. I'm
13 very pleased to report that 70 percent of NSSGA
14 operated company CEOs have signed that pledge. And
15 this represents, we estimate, around 90 percent of the
16 workers in our industry. Also in this way,
17 supervisors get very, very involved in biannual
18 refresher training. Management leadership and
19 commitment is central in the effort to reduce
20 injuries.

21 With regard to training and development,
22 the supervisors manage weekly safety meetings to
23 review tasks and hazards. The supervisors manage
24 topics of those meetings and change those based on
25 risks and organize weekly toolbox talks. The

1 resulting information that comes out of these safety
2 meetings is very, very important to factor into
3 planning for future safety and health work. That kind
4 of assessment of what's going on in the workplace is
5 critical to future plans and it's integral to any
6 management of the system.

7 Also with regard to auditing employee
8 work practices, the safety department at Old Castle
9 manages the work of local area risk assessments done
10 by employees to get different sets of items on the
11 conditions. Also, managers have set up MSHA safety
12 committees to manage the work and compliance. Here
13 again, results of both processes are fed into the work
14 and development of safety and health work practices
15 going forward.

16 In terms of employee involvement and
17 participation, employees review all work practices,
18 and it's important to note that the basic underlying
19 safety and health management system in Old Castle is
20 based on the company's core safety values, and that's
21 true with the other companies I will be describing
22 shortly.

23 In terms of incident investigations,
24 employees reviewed near misses to share lessons
25 learned in safety talks. Senior managers are involved

1 to share lessons learned from report of injuries. And
2 the division president, not company president,
3 division president gets directly involved in analysis
4 of lost time incidents.

5 In terms of safety and health
6 communications and safety alerts, particularly after
7 an incident, and best practices are shared at safety
8 meetings. And on the company intranet is also where
9 it goes key, is for workers to obtain critical
10 information on injuries and illness avoidance. The
11 really critical point that concerns operators and I
12 think concerns MSHA is the idea of how do you make
13 sure --- no matter how good your safety and health
14 messages are, how do you make sure they get down to
15 the workforce all the way down to the driver, to the
16 hauler, to a maintenance person. And that's a
17 continuing problem, challenge for us. And while
18 technology can be our friend, this area is going to
19 necessitate further work to really successfully and
20 persuasively get the safety and health messages down
21 to everybody in the company, no matter where they
22 appear in the organization chart.

23 In terms of regulatory compliance
24 corporate staff, after notification of regulatory
25 changes, gets involved in a past practices committee

1 to devise a suggested approach to amend all operations
2 while as often as possible trying to allow for
3 flexibility from both levels as far as compliance
4 goes.

5 For safety and best practices the company
6 deals very closely with us, NSSGA, as well as NAPA,
7 the Asphalt Paving Association to share ideas on how
8 to move forward on best practices. One interesting
9 thing that came with this was Old Castle's decision to
10 change the terminology relative to its work on lock
11 out/tag out. I know other companies are very
12 interested and also verified that lock out/tag out has
13 occurred. This has been a function of --- really good
14 useful dialogue in safety committee meetings, talking
15 about best practices.

16 As far as the recognition program is
17 concerned, monetary and other awards are available to
18 individual operations for their excellence in either
19 compliance or safety and health. In terms of
20 accountability, there is zero tolerance of violations.
21 So violations need to be either verbal or written
22 warnings and a possible firing for failure to be in
23 compliance with standards or entering of these
24 practices.

25 Also as far as substance abuse is

1 concerned, there is a zero tolerance policy at Old
2 Castle. The data suggests that this program of safety
3 has been working favorably. Just since 2010, there's
4 been a 25 percent reduction in the reportable rate and
5 a 65 percent reduction in lost time accidents. For
6 the company, a total case incidents rate stands at
7 1.79 for 2010. That was more than .5 --- more than
8 half a percentage point below the aggregate
9 industries' injury rate of 2.33.

10 I move to another leading company that
11 provided us some very useful information on this issue
12 and that is Knife River. In both cases, these
13 companies do have labor representation involved.
14 Knife River is actually involved in our safety and
15 health committee and is currently a member of the MSHA
16 and NSSGA Alliance committee.

17 As far as management and leadership and
18 commitment is concerned, the CEO did sign the NSSGA
19 safety pledge. And the division president
20 participates in training of the first 170 supervisors,
21 an observational safety program that I will describe
22 in greater detail in a couple of minutes.

23 In terms of training and development,
24 over the course of five states, employees were trained
25 seven and a half hours per person on observational

1 safety. That was over the course of a five-week long
2 period. What comes out of this observational program
3 is factored into the future planning of the work
4 processes in safety and health planning. That
5 constant assessment and evaluation of injury
6 conditions is very, very important to the success of a
7 safety and health management system. When auditing
8 the employee work practices, supervisors review
9 observations recorded by all employees, review certain
10 safety compliance, safety management, and safety
11 culture. Knife River certainly sees this as, really,
12 a three-legged stool for success.

13 In terms of employee involvement, which
14 is not only --- workers themselves conduct
15 observations for practices and develop ideas for
16 solutions by identifying improvements in conditions
17 and practices. One of the great things about this
18 observation program is it seems to give a real
19 tangible sense of ownership to all workers everywhere
20 in the company that they have a stake in safety and
21 health management.

22 In terms of incident investigations, the
23 workers populate what is called the injury review
24 committee, which means the supervisors and the
25 division president should discuss injuries and near

1 misses and to share lessons learned.

2 In terms of safety communications,
3 toolbox talks are held weekly, as well as for
4 pressures and observational safety. The key is for
5 workers to obtain critical information on injury and
6 illness avoidance. The company intranet hosts an
7 online library of guidance and provides best practices
8 to the committee. It's just a robust amount of
9 information that's on that company intranet. So
10 there's no shortage of information that employees can
11 draw from via the internet to get information on best
12 practices.

13 In terms of regulatory compliance, after
14 notification of regulatory changes, the appropriate
15 steps here due to regulatory mandates with operational
16 staff.

17 As far as a substance abuse policy is
18 concerned, Knife River has a zero-tolerance for
19 violation of the substance abuse policy.

20 In terms of recognition, money for
21 compliance as well as safety and health of the workers
22 is afforded through the annual cost awards program,
23 which allows workers to shop at Knife River's expense.
24 Cost focus is the annual program. Different workers
25 have different levels of dollars that they are

1 awarded. And it's become a very popular program and
2 it's even gotten to the point where spouses of Knife
3 River employees are told at the end of the year how
4 much money they're going to get if there's a
5 difference between what the worker at Knife River is
6 expecting to get and the spouse is trying to get him
7 to spend in time for the holidays. There could be
8 some ambient discussions on the home front about the
9 safety performance or health performance. And
10 compliance may be less than what Knife River thought
11 it should be.

12 As far as accountability goes,
13 supervisors are held responsible for unsafe or
14 unhealthy work practices. One supervisor recently was
15 suspended for three days for failure to successfully
16 manage their safety.

17 Let me speak briefly about the
18 observation program. Knife River implemented a new
19 STOP program, STOP stands for Safety Training and
20 Observation Program, for supervisors in 2006. The
21 goal was training by management to mitigate injuries
22 and incidents through worker observations and
23 discussions. This led to a number of improvements in
24 Knife River's effort to make everyone involved with
25 safety as opposed to just meting that responsibility

1 just to managers and supervisors. This was initially
2 rolled out to 40 managers through implementation
3 assistance workshops and to 130 supervisors and then
4 finally to 550 employees in the northwest.

5 One of the challenges in introducing the
6 program was that there were isolated pockets of
7 frontline employees who had been inattentive. In
8 other words, they weren't conducting their
9 observations and training their men. Knife River
10 brought in operations for additional managers to
11 facilitate complying and got a much higher rate of
12 volume in that case.

13 This was mandated through annual
14 maintained --- the success of the program, as
15 initially concerned, has been maintained through end
16 group pressure training on the basis of STOP as well
17 as requiring formal observation times a month for all
18 workers. The divisions with higher rates of injuries
19 for compliance challenges may require more formal
20 observations a week.

21 As far as the results go, the STOP
22 program has helped drive down injuries by 65 percent
23 and the rate of days away from work injuries down by
24 85 percent. Observations themselves, assessing
25 whether a condition is safe or not, have gone to ---

1 from 65 percent to 95 percent all safe. So that
2 metric right there illustrates that this observation
3 program, which led to intelligence --- here's where
4 some of the challenges were, and then recommendation
5 of those challenges and changes in work processes
6 helped achieve a rate of 95 percent all safe by virtue
7 of this program.

8 Also, employees take earnings home. And
9 just by one of the examples given earlier in earlier
10 testimony, we've got a great one. One worker who had
11 been recalcitrant about this program was at home
12 climbing a tree in order to cut down a branch, almost
13 all the way up. He did notice that he was not
14 conducting this in a safe manner. And he went down
15 the tree and changed the way in which he was going to
16 elevate himself to the branch so he could cut it. He
17 called his manager at nine o'clock that night and
18 said, I've been wrong. I hadn't been a believer. But
19 I know at work operating safely is important, and I
20 know that it's no less important here at home. And
21 thanks to the program you instituted at work, my
22 family is now going to be better served because I'm
23 working around the house in a more safe manner.

24 I'm pleased that the company's total case
25 incident rate for 2010 stands at just 1.45. That's

1 about eight tenths of one point lower than the
2 industry average of 2.33 injuries for 200,000 workers.

3 I thought of a sentiment to express about
4 why this is important and I thought of a quote that's
5 attributed to the late Bear Bryant. And it's simply
6 that a failure to prepare really is akin to nothing
7 more than preparing to fail. And in safety and health
8 management, you've got to prepare. You've got to
9 prepare to what we don't always see, what workers may
10 not always tend to worry about. In fact, the process
11 is more important. That has to be a function of the
12 company's overall business process. Also, all
13 operators should prepare for safety and health by
14 implementing safety and health management in the
15 system.

16 Finally, our recommendations at this
17 point are that we ought to promote best practices in
18 this area. NSSGA is very pleased to fully support an
19 effort in sharing best practices in all of the six
20 MSHA districts for metal and non-metal. We offered to
21 do this last year just with regard to 5002 initiatives
22 and didn't get as much money as we wanted, but we had
23 help everywhere we can on this going forward.

24 Secondly, we would urge that any effort
25 undertaken by MSHA in this regard would allow the

1 flexibility relative to the operator facility size,
2 geography and a number of work factors that impact
3 their businesses and that, by their commission, impact
4 our positions and our pursuit with regard to safety
5 and health.

6 As I said at the beginning, my
7 presentation has been a function of what some of our
8 committee members weren't able to share. This is not
9 exhaustive. I'd be happy to provide further
10 information on these programs and others going
11 forward. Hopefully the record will be kept open. I
12 also want to acknowledge a fabulous member of ours,
13 Kelly Bailey of Vulcan Materials, who did provide
14 testimony on this topic about a year ago. We
15 appreciate the leadership he's provided on this
16 program, also in the sense of the importance of
17 health.

18 And if we're looking at injury rates this
19 year, I'm wondering, gosh, why are we seeing some of
20 the spikes that we're seeing? The thought did occur
21 to me, and I discussed it with Kelly, you know, health
22 can be related to some more injury issues. There are
23 a lot of workers out there who perhaps aren't living
24 in as healthy a way as they should, and that can and
25 that can adversely affect safety rates. So the idea

1 of health and safety are integral programs, are the
2 key point we need to remember that on our front. That
3 said, that's my presentation. Thank you for this
4 opportunity to be here.

5 CHAIR:

6 Thank you, Joe. I just have a couple of
7 comments, really. You gave the case studies, and
8 thank you, from Old Castle and Knife River. Both of
9 those companies are represented by labor?

10 MR. CASPER:

11 Yes.

12 CHAIR:

13 And who is the labor rep?

14 MR. CASPER:

15 I don't know that.

16 CHAIR:

17 Okay. It's not a major point, but at
18 some point, if you don't mind, even if it's just e-
19 mailing it in.

20 MR. CASPER:

21 Yes.

22 CHAIR:

23 I'm sure we can find it out. And then
24 the second point was going to be, what size of --- I
25 know Old Castle is big, I think, if I'm ---. Is Knife

1 River ---?

2 MR. CASPER:

3 Knife River is not as big, but they are
4 big.

5 CHAIR:

6 But they are big?

7 MR. CASPER:

8 They are big.

9 CHAIR:

10 Yeah. So if any of your members have ---
11 if any of them are smaller in size, if you have any
12 information from them, because we are particularly
13 interested from some small companies and anybody else
14 in here who would have that type of information.

15 MR. CASPER:

16 I would be happy to get that. Let me
17 just say that I do know from previous discussions with
18 committee members that the work in a small mine office
19 providing management systems to small operations has
20 been very, very helpful in a proportionate sense that
21 it just makes a very, very big difference. And I've
22 seen data that showed that that kind of system has
23 allowed small mine operators to reduce their fatality
24 rates three times faster than the industry. So that's
25 a fact of this program we would like to see.

1 CHAIR:

2 And it will be continued. I mean, I
3 spoke on that at the conference in the setting of
4 another meeting, but from that standpoint, our goal
5 was to restructure the small mine office, as some of
6 you may know, and particularly those in the metal and
7 non-metal industry, but in no way to eliminate. I
8 think some of the word got out that that was --- but
9 that was never MSHA's goal at all. And as I said,
10 it's not really the point during the conference. When
11 you're operating on a potential resolution or budget
12 continuing resolution, you are constrained by what
13 kind of organizational changes you can make. Okay.
14 Thank you very much.

15 Our next speaker is, and hopefully I'm
16 pronouncing this right, Chris Thynne with Uniman.

17 MR. THYNNE:

18 Good afternoon. My name is Chris Thynne.
19 I'm a safety and health manager with Uniman
20 Corporation. I'm going to give you a very brief
21 overview of the operation of the health program
22 developed by National Industrial Sand Association, or
23 NISA.

24 Just to point out, this is a more
25 specific program, strictly on occupational health.

1 It's not the broad range programs that everybody else
2 is discussing. It's a little more specific, so please
3 bear with me. This may be repetitive. You may have
4 read this presentation before. It was given at one of
5 the other public meetings last October. So just a
6 brief overview of the NISA occupational health
7 program.

8 Originally developed some time ago, but
9 it went through significant revision in 2010. It was
10 updated at that time. It very clearly outlines the
11 purpose of the program. Conducting a surveillance
12 program as outlined in the manual is crucial to our
13 industry reaching our goal of preventing the
14 development of new cases of silicosis in employees.
15 So again, it's very specific as to what we're
16 targeting throughout this program.

17 There's four main sections to the
18 program: an introduction, respiratory health effects,
19 exposure to crystalline silica, workplace dust
20 surveys, and respiratory medical surveillance for
21 silicosis. Looking deeper into the introduction part,
22 respiratory health effects of exposures, more
23 information on workplace dust surveys, and respiratory
24 medical surveillance.

25 Breaking down each one of those a little

1 further, respiratory health effects and exposure to
2 crystallized silica, the program basically has a
3 description of the respiratory system. And again, if
4 I may make it a little bit more detailed. We need it
5 here. But it also has descriptions for
6 pneumoconiosis, silicosis, chronic, accelerated,
7 acute. Of course, these vary based on the length of
8 exposure and concentrations. The potential
9 correlation of silica to lung cancer, goes into great
10 detail on this. These are studies based on the
11 American Thoracic Society and the International Agency
12 for Cancer Research --- or Research on Cancer. Sorry.

13 Medical surveillance and epidemiology and
14 exposure limits. It goes into great detail on the
15 exposure limits, how to determine them via the PEL
16 calculations, also on whether or not you're dealing
17 with cristobalite or silica-formed quartz and how to
18 kind of vary those calculations.

19 Workplace dust surveys, basically why
20 you're doing them, to evaluate workplace exposure to
21 silica dust. When dust sampling, it explains what
22 type of equipment to use, what size selective
23 equipment or cyclings you use, what type of dust pumps
24 to use, the calibration of sampling, how to do it, how
25 to do it properly, different calibration methods,

1 different sampling procedures, whether it's a personal
2 sample or a varied sample, when to take each one, why
3 you should take each one, why you should collect both.

4 It goes into direct reading instruments
5 and why you should use them. The picture here is a
6 personal dataRAM, PDR. These instruments provide
7 instantaneous results for respirable dust. They're
8 great for troubleshooting problem areas. They report
9 data. It's a tool. It's an excellent tool for
10 tracking the persons for exposure. They're also great
11 for area sampling. A lot of different applications
12 for this type of device.

13 It also explains different handling
14 procedures for determining the silica analysis or your
15 dust analysis, including the NIOSH proof method. And
16 of course, collecting all this data, it generates a
17 fair amount of paperwork, records. It goes into
18 details on how to or what to do with your
19 calibrated --- your equipment. It explains how to do
20 it. It also explains that you need to keep those
21 records and keep your calibration records, your sample
22 results, and your activity log. The activity log is
23 very important. If you do have an elevated level,
24 elevated results, you go back to your activity log and
25 determine what inflated it, or if it's an area sample,

1 what was going on in that area, what equipment was
2 running. Were there any outside conditions?

3 Staffing frequency provides general
4 guidelines of how to initiate your program. It's
5 typically population-based. The more employees you
6 have, the more samples you can take. This can vary.
7 After you start to develop your program, you may find
8 that, you know, you need to concentrate or increase
9 the number of samples that you have with your
10 maintenance department versus a bagging facility or
11 vice-versa.

12 Discussion of results. Basically, you
13 get your results. You give the results back to the
14 miner. The miner may not know what they're looking
15 at. So you need to explain that to the miner. The
16 NISA program elaborates further on that, what the
17 results mean, how to convey that to the employees.

18 And to develop your sampling strategy.
19 And again, once you start building up history, gather
20 some data, you may increase your focus in certain
21 areas to find --- you may increase your personal
22 samples. You may decrease them based on the history
23 you're developing.

24 Respiratory medical surveillance for
25 silicosis. Why do we do that? Basically to establish

1 baselines. Early detection of any potential problems.
2 Prevent development of silicosis. That's a key one
3 right there. Another reason is to disclose
4 occupational and non-occupational problems that may be
5 detected during chemical surveillance.

6 Identify potential hazards in working
7 conditions. If you see problems generated at one
8 particular area, at one particular industry, a plant,
9 whatever it is, these kind of things could possibly be
10 identified in a program like this. And to develop
11 data on which epidemiological studies can be based.

12 We also gather medical and occupational
13 history to determine if the person, the employee, has
14 predisposition or something hereditary, something
15 genetic that may increase their potential for
16 respiratory illness, like a smoker. It could have a
17 big influence on respiratory issues. Do they have a
18 prior exposure to another chemical, another agent,
19 something that could cause a problem? This could be
20 from, you know, things that they do at home or things
21 that they do --- have done in a previous job. Are
22 there any adverse effects that they're currently ---
23 currently exhibit?

24 Medical examination. Again, this is part
25 of the program. Medical examination of the thorax, a

1 chest x-ray. The program actually goes into some very
2 specific details on the type of x-ray, the size of the
3 x-ray and to make sure that they're done correctly,
4 they're taken correctly, who they're sent to, who
5 they're read by. The NISA program basically states
6 that they need to be qualified Board Certified
7 radiologists, NIOSH approved "B" readers. They
8 provide the list of where to get "B" readers and where
9 to send them to. Another portion of the medical
10 examination is a pulmonary function test. And for
11 long-term employees who have more than 25 years
12 exposure, it's recommended that they have a TB test as
13 well.

14 With the x-rays, because they are subject
15 to interpretation by whoever the reader is, we've
16 actually built in a census program within the program.
17 If there's a normal reading and there's nothing to
18 see, that's great. If there is an abnormality
19 detected in the chest x-ray but it's deemed non-
20 occupational, basically the employee is referred for
21 further follow-up with their own physician or, of
22 course, another specialist. If there is an
23 abnormality but it's deemed occupational in nature,
24 they're sent to a second "B" reader, again, from the
25 qualified list. If the two readings agree, the first

1 and second reading both come back with the same
2 result, then we move on. If they disagree, one there
3 is an abnormality, one there is not, it's sent for a
4 third reading, basically a tie breaker. And that's
5 what the consensus is based on. The program also
6 includes guidelines for storage and retention of the
7 x-rays, how to do it, where to store them, what
8 conditions to store them under.

9 Guidelines for the pulmonary lung
10 function testing. This is a mandatory part of this
11 program. Medical assessment of the ability to wear a
12 respirator. This is another critical component of it.
13 It's performed by a physician and it's basically based
14 on whether or not they are physically able to wear a
15 respirator. It's based on their physical condition,
16 the worker's health, the type of respirator and the
17 environment they are going to end up working in with a
18 respirator.

19 Record keeping and notification. There
20 are guidelines in the program for that. Records, x-
21 rays, sample results, everything is kept for 30 years
22 past the worker's retirement. And that's due to the
23 nature of the silicosis and other respiratory
24 illnesses that may be chronic and may develop after a
25 number of years. Workers have to be provided the

1 results from their samples. Frequency of examinations
2 in this --- in the NISA program, medical evaluations,
3 physical examinations are done biannually. As far as
4 the chest x-rays go, it may vary. Initially you take
5 your baseline reading for your physical. Typically
6 the x-rays, again, are every two years unless there is
7 an issue or based on the employee's health, the
8 employee's age, and their duration with their ---
9 their exposure duration over the years. That may be
10 increased. That may be done every year.

11 NISA has also developed a silica
12 prevention --- silicosis prevention program. The
13 seven main parts of this are management commitment,
14 and that's key --- that's pretty much for any
15 management system. You have to have a biannual
16 commitment from upper management, management all the
17 way through. Occupational health program, again,
18 medical assessment, dust exposure assessment, dust
19 control, employee involvement and a smoking cessation
20 program.

21 So these programs have been in place for
22 a number of years with NISA with its members. We feel
23 it's a great program, collectively put together. We
24 know it works in preventing new cases. Unfortunately,
25 we know it works, but that doesn't mean that everybody

1 is on board. We have just over 50 percent of the
2 members participating in this program, which is up
3 slightly. Last October, it was just under 50 percent
4 participation. So it has improved slightly, but still
5 not enough. If you look at the members that have
6 participated in it and are committed to it, it varies.
7 They may not fully embrace it. They may use select
8 parts within the program. It does vary between the
9 numbers. There are, you know, a number of companies
10 that embrace it and, you know, follow it basically to
11 the letter.

12 Some of the reasons for that, some of the
13 roadblocks, possible roadblocks, one of them is the
14 concern for the creation of enforceable data. And
15 that would be a dust sample. So if a company collects
16 dust samples and they reach or they exceed that PEL,
17 they fear that they could be cited. So rather than,
18 you know, give MSHA the noose, you know, to hang
19 themselves, they just don't take samples at all.
20 Obviously, it's not the right thing to do. But there
21 is that fear of --- obviously, one of the other
22 roadblocks is costs. A lot of our small operations
23 feel that it's not cost effective to do it. Most of
24 the other companies that are participating in this
25 will say that the cost by far outweighs the --- you

1 know, getting out of the issue that would come as a
2 result of a respiratory illness to one of their
3 workers or that the costs really aren't as high as
4 some other companies perceive them to be.

5 And then of course, you've still got a
6 lot of member companies --- a lot of companies, you
7 know, outside of this association that still don't
8 understand or fully embrace what is going on or what's
9 involved in the program. Even after, you know, a
10 number of different forum presentations and trying to
11 get the information out there, you still have that
12 reluctance or that non-understanding of what exactly
13 is involved.

14 So just in summary, the occupational
15 health program that NISA had developed, it's a great
16 program, very, very competent. The silica prevention
17 or silicosis prevention program does prevent the
18 disease. Unfortunately, the last statement, even with
19 no --- the near majority members are hesitant to fully
20 commit to this program. That's pretty much all I
21 have.

22 CHAIR:

23 Thank you very much. Thank you very much
24 for giving a presentation that is focused on health,
25 which is obviously a very significant part of an

1 effective safety and health program also. A lot of
2 times we think about safety because, you know, safety
3 conditions happen immediately, so to speak, as opposed
4 to health, which has a long, lengthy process. I mean,
5 I'm sure we all here agree that health is very
6 important, too. Do you have ----?

7 MR. DAVIS:

8 I just have one question. When you
9 talked about the sampling frequency, it sounds like
10 population-based samplings; correct? Would you
11 clarify that a bit? Is that random or do you target
12 high risk?

13 MR. THYNNE:

14 Both. Initially it's based on the
15 population, more employees you have, or if it's set up
16 by department, the more employees that you have in
17 one --- you know, in the maintenance department versus
18 a packaging or a load-up department, you'd have fewer
19 numbers there, so you're going to collect fewer
20 samples. But once you identify higher risk areas,
21 then you definitely have to increase your sampling
22 frequency in that area.

23 MR. DAVIS:

24 Okay. Thank you.

25 MR. MERRIFIELD:

1 I don't have a question, but I would like
2 to remove one of your roadblocks for you. MSHA will
3 only cite on our samples. We have told industry that
4 before, and so if there's concerns in your operators
5 that we're going to cite them for their samples,
6 that's not the case.

7 MR. THYNNE:

8 I think it's more a perceived fear.

9 MR. RICHARDS:

10 If he didn't say it, I was going to say
11 it. So yes, we have made that clear. And if we need
12 to keep making that clear, we have no problems doing
13 that. I do have some questions. Of course, as the
14 chief of health I'm going to ask you a couple of
15 things. The first one is, on your exposures, do you
16 actually describe a target exposure that goes beyond
17 the existing MSHA pallet or is the exposure the
18 existing pallet in this program?

19 MR. THYNNE:

20 I can't speak for all the companies
21 within the association. I can tell you what we do at
22 Uniman. We go one half of what ---.

23 MR. RICHARDS:

24 Okay. And the second one is, do you have
25 any data on the impact that this program has had on

1 exposures? You did talk about it is effective. And I
2 think we would agree we like the fact that you have a
3 list to exposures, if you could provide that to us.

4 MR. THYNNE:

5 I don't, but I can --- and I knew that
6 you would ask that. Unfortunately, I don't, but it
7 may be something that NISA can provide collectively.
8 If not, you know, we may be able to get that, target
9 the individual member companies that are
10 participating.

11 MR. RICHARDS:

12 Okay. That's all I have. Thanks.

13 CHAIR:

14 Thank you very much.

15 MR. THYNNE:

16 Thank you.

17 CHAIR:

18 Is there anybody else in the audience who
19 wishes to make a presentation? Anybody else who
20 didn't who wishes to do so. Okay. Mr. Wilson. Tom
21 Wilson, United Mine Workers.

22 MR. WILSON:

23 Good afternoon. My name is Thomas Wilson
24 with the UMWA International Union. I have 35 years of
25 experience in working in the mine safety. I have no

1 model to offer today that is currently working, but I
2 do want to address several key elements in the
3 effected program.

4 Number one would be increased frequency
5 and quality of examination. This would apply to all
6 workplaces, surface and underground. Examinations set
7 the stage and must be the foundation of any program.

8 Number two, examination findings must be
9 constantly monitored and responded to. The time
10 between identification of hazards and correction must
11 be charted.

12 Number three, constant and advanced
13 training must be part of the program for all levels of
14 the organization. Simply relying on regulatory
15 training that's required will not get us to the level
16 we're seeking. Workers must have stop work authority.
17 Asking a worker to believe that we're serious about
18 reducing injuries without giving them stop work
19 authority, that's just not a sellable position.

20 Involvement of everyone, all levels of
21 the organization. It absolutely does not work when
22 you just have one department or one group of people
23 trying to implement it. Everybody has to have an
24 ownership and involvement.

25 The program must be led by the

1 organization's top leaders. Also on that point, I
2 would want to share a precaution. It's not adequate
3 enough for just the top leaders are to introduce it
4 and then pull away from it. The top leaders must stay
5 involved. The program must identify and share closed
6 costs. Closed costs cannot be ignored, and must be
7 looked at as a second chance.

8 The development of a culture and safety
9 professionals must be woven through the tapestry of
10 the program, including home and family. The time and
11 method of traveling to and from work and, of course,
12 the time at work. Simply arriving at work and putting
13 on their hat as a safety professional has to be a
14 culture. It has to be allowed. It has to be at home,
15 that passion for the family, for his fellow drivers on
16 the highway, also for the fellow workers.

17 The program must include weekly team
18 inspections and weekly inspection is an excellent
19 place to involve different departments of the
20 organization. It should include daily safety shifts,
21 with a goal of involving more and more persons in
22 presenting those safety shifts.

23 Training to approach all jobs in step
24 back. There are different names for it, but we should
25 step back and analyze each and every job situation.

1 For any program to work, it's important that the
2 safety department has involvement and is viewed with
3 trust. It's essential for employees to believe and
4 understand that straight and immediate answers can be
5 obtained from their safety personnel and that the
6 safety personnel are involved. The program must
7 include all crews and all shifts. Having good
8 involvement with management or workers on the day
9 shift and not having the same visibility on all
10 shifts, that can cause the program to fail.

11 I didn't have it down to one point, but
12 the earlier comments --- comments on contracts being
13 covered, I would rise in support of that. Contract
14 workers are on property, they should be held to the
15 same standards.

16 Thank you for this opportunity, and I
17 would be glad to answer any questions.

18 CHAIR:

19 Thank you, Tom. I would just say that
20 many of your principles you stated as you heard from
21 the previous speakers were --- embodied some of their
22 comments. I would say that generally speaking, and we
23 heard this at some of our last meetings, that many of
24 the principles that lead and facilitate and add to and
25 promote safety are common. And you can probably go to

1 any mining operation in any state in the United States
2 and you'll find some of those facilities and, you
3 know, safety mining people are generally thinking
4 alike. But thank you very much. I don't have any
5 questions.

6 Does anybody else wish to make any
7 comments? Okay. Any additional comments? If nobody
8 wishes to make any additional comments, then I would
9 like to say again that on behalf of Assistant
10 Secretary Main and us at MSHA, we appreciate very much
11 your being in attendance here today. We appreciate a
12 whole lot those of you who stayed after the Sixth
13 Annual Southeastern Conference was over and stayed to
14 attend this public meeting. For those of you who
15 attended the meeting and did not, in fact, provide
16 testimony, I would say to you we appreciate you, too,
17 because that shows to us that while you may not have
18 provided comments, you have interests in this
19 regulatory action. And for that we thank you.

20 So as I said earlier, we plan to have
21 additional meetings through next year. And they will
22 be --- the notice of those meetings will be placed in
23 the Federal Register to the extent that we can we plan
24 to integrate them with other meetings that we have.
25 All the conferences, much like the one that we had in

1 Birmingham. So we invite you to attend those when you
2 can. And we also invite you to provide any additional
3 information you might have on the program as your mine
4 sites prior to the comment period closing. So at this
5 point, this public meeting is concluded. Thank you.

6 * * * * *

7 HEARING CONCLUDED AT 3:00 P.M.

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CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.



Court Reporter