

U.S. Department of Labor

Mine Safety and Health Administration
201 12th Street South
Arlington, Virginia 22202-5452



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MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for Operations /
Mine Safety and Health [REDACTED]

THROUGH:

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Administrator for
Coal Mine Safety and Health [REDACTED]

THOMAS W. CHARBONEAU
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FROM:

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Deputy Director, Office of Accountability, Special
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SUBJECT:

**MSHA Office of Accountability Review, Coal District 9,
Gillette, Wyoming Field Office and [REDACTED]**

Introduction

This memorandum summarizes the Office of Accountability's review of the subject district office, field office, and mine. The review included evaluations of MSHA field activities; level of enforcement; conditions and practices at the mine; Field Activity Reviews (FARs); Accompanied Activities (AAs); second level reviews; and MSHA supervisory and managerial oversight. The accountability review also included evaluations to determine if there were any deficiencies in areas commonly identified during Agency internal reviews of MSHA's actions following past mine disasters.

Overview

Office of Accountability Supervisor, Ted Smith and Accountability Specialist, Troy Davis, conducted the review of Coal District 9 and the Gillette, Wyoming Field Office, from [REDACTED]. This review focused on inspection activities during FY 2015 (October 2014 through June 2015). The review concentrated specifically on documentation of the regular E01 inspection, Event No. [REDACTED], conducted by the Gillette, Wyoming Field Office of the [REDACTED].

The Office of Accountability selected the Gillette, Wyoming Field Office and [REDACTED] for review due collectively to:

- The number of 104(d) actions and 104(a) actions issued during FY 2014 at the mine had an S&S rate of 47% as compared to an average S&S rate of 36% for 22 other active surface mines assigned to the Gillette office for FY 2014.
- The large operational status [REDACTED] employees).
- The Gillette Field Office's S&S rate of 31% for FY 2014, compared to the national S&S rate of 28%.

A member of the review team conducted a mine visit focusing on general mine conditions; whether conditions at the mine are commensurate with enforcement levels documented in the inspection reports reviewed; and to observe company work practices at the mine site.

Mine Visit

Office of Accountability Specialist, Troy Davis accompanied the Field Office Supervisor, Assistant District Manager and an inspector to [REDACTED], [REDACTED], for a Safety and Health Spot Inspection (E16) as part of this accountability review.

The [REDACTED] is a surface coal mine located in [REDACTED]. The mine employs approximately [REDACTED] miners working two shifts per day, seven days per week. The mine has [REDACTED] pits that produce an average of [REDACTED] of raw coal annually. The mining process involves the removal of overburden by large draglines; coal is drilled and blasted; large shovels load the coal onto haul trucks and transport it to a crusher. The coal is then stored in a bunker house to be blended with coal from other areas of the mine, producing various blends to be shipped to the customer.

The inspection group traveled to the West Pit No. 002-0. The following areas were inspected: Pit No. 002-0 for imminent dangers; ground control plan compliance, haul roads and berms to and from the pit; coal drill pattern for upper seam parting, and dump sites. Equipment inspected included a Ford E-series crew van; a John Deere tractor coal drill; a Marion 351 M coal shovel and a Cat 795E haul truck. One contractor

([REDACTED]) was inspected in the 002-0 pit while preparing a blast of the upper seam. The review included observations of the following: dragline overburden removal cycle; blast preparations for the upper seam parting; coal loading and haulage cycle, and dump site work practices. Other observations during the inspection included the signage for haulage roads; the mine maps located on the surface; on-shift examination records and pre/post inspection conferences with mine officials and a miners' representatives. Two enforcement actions were issued to the mine operator during the mine visit.

Review Results

The accountability review revealed positive findings in several areas, including the following:

- The District and Field Office staffs were courteous, professional and accommodating during the review.
- The inspector conducted himself in a professional manner while performing his inspection duties at the mine and had a good rapport with miners and management officials.
- During the first day activities on E01 Event No. [REDACTED] two inspectors conducted all required procedures and included additional imminent danger examinations of all active pits; safety discussions with 35 miners concerning the ground control plan; observed the mining cycle; and observed the condition of haul roads and berms over a large majority of the property.
- The lead inspector prepared a report summary of the inspection activities and root causes for enforcement actions taken. This report was reviewed with mine officials and a miners' representative during the post conference. This document was also included with the final inspection report.

The review concentrated specifically on the regular safety and health inspection, E01 Event No. [REDACTED], conducted from [REDACTED] with the following findings:

- Total citations issued was 31
- S&S rate was 16.13%

These findings were lower than the mine selection criteria cited above, however it was determined that the inspector provided adequate documentation of enforcement actions during this event as it pertains to evaluations of gravity and negligence. The inspector also appropriately documented a root cause analysis for enforcement actions and discussed the findings with mine officials.

This accountability review revealed no issues that required corrective actions.

Attachments

A. Office of Accountability Checklist

B. Citations/Orders issued during this review

1. [REDACTED] 77.1607(n)
2. [REDACTED] 77.502

C. Examples of Citations Issued During Previous E01 Inspections
(No issues were identified during this review)

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Attachment A - Office of Accountability Checklist

1. Determine if complete and thorough E01 inspections are being conducted and/or if policy and procedures were properly followed.

Adequate Corrective Action Needed Comments Below

2. Determine if documentation for inspections is complete and thorough.

Adequate Corrective Action Needed Comments Below

3. Determine if citations and orders issued during previous inspections were properly evaluated for gravity, negligence, level of enforcement, number of persons affected, and supported by documentation.

Adequate Corrective Action Needed Comments Below

4. Evaluate inspector/specialist examination of required record books and postings for compliance with applicable standards.

Adequate Corrective Action Needed Comments Below

5. Evaluate inspector/specialist examination of the operator's maps (on-site) for accuracy, escapeway locations, etc.

Adequate Corrective Action Needed Comments Below

Surface Mine Map

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6. Evaluate, upon arrival on the working section, inspector/specialist examination of all working faces for imminent dangers.

Adequate Corrective Action Needed Comments Below

Surface Pit 002-0: Ground Control, haul roads, berms, observation of work practices.

7. Evaluate the inspector/specialist observation of the work cycle and conditions on the working section during the review.

Adequate Corrective Action Needed Comments Below

Surface pit operations

8. Evaluate the inspector/specialist air quantity, quality, and gas checks during the review.

Adequate Corrective Action Needed Comments Below

N/A

9. Evaluate inspector/specialist examination of equipment electrical cables during the review.

Adequate Corrective Action Needed Comments Below

10. Evaluate inspector/specialist examination for permissibility during the review.

Adequate Corrective Action Needed Comments Below

N/A

11. Determine if previous E01 inspections include examinations of the condition and maintenance of conveyor belts, belt entries, belt drives, fire detection and suppression systems, and separation of belt entries from other air courses.

Adequate Corrective Action Needed Comments Below

N/A (Surface Mine)

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12. Evaluate, during the review, the inspection of at least one set of seals, including methods for obtaining samples from sealed area.

Adequate Corrective Action Needed Comments Below

N/A (Surface Mine)

13. Determine if adequate close-out conferences are being conducted at the end of each inspection.

Adequate Corrective Action Needed Comments Below

14. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.

Adequate Corrective Action Needed Comments Below

N/A – not part of this review

15. Evaluate 103(i) spot inspection (E02) reports for the office/district being reviewed for compliance with agency policies and procedures, including compliance with time frames and separating E02 inspections from other events.

Adequate Corrective Action Needed Comments Below

No 103(i) spot mines in this field office, however reviewed 10 Health and Safety Spot Inspections (E16)

16. Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.

Adequate Corrective Action Needed Comments Below

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Determine if supervisors are monitoring inspector time and activity to
17. ensure proper use of time, including off-shift and weekend work, by all
inspectors.
Adequate Corrective Action Needed Comments Below

Determine if required Accompanied Activities (AAs); Field Activity Reviews
18. (FARs) and supervisory follow-ups are being conducted and documented
according to agency policy and procedures?
Adequate Corrective Action Needed Comments Below

19. Determine if a 104(d) tracking system is in place and being kept current at
the office being reviewed.
Adequate Corrective Action Needed Comments Below

20. Determine if the Uniform Mine File books are being maintained and
reviewed according to current agency policy and procedures.
Adequate Corrective Action Needed Comments Below

21. Determine if supervisors are thoroughly reviewing Uniform Mine Files at
least annually?
Adequate Corrective Action Needed Comments Below

22. Determine if supervisors are visiting each active underground mine at least
annually.
Adequate Corrective Action Needed Comments Below

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23. Determine if all sections where retreat mining is occurring (not to include longwall mining) are being inspected at least monthly?

Adequate Corrective Action Needed Comments Below

No retreat mining conducted in the Gillette field office. The ADM tracks retreat mining inspections for the District.

24. Determine if documentation of staff meetings/safety meetings are effective and relevant to current issues and the Agency's mission.

Adequate Corrective Action Needed Comments Below

25. Determine, after an in-mine visit, if approved plans (ventilation, roof control, training, ERP, etc.) are compatible with mining conditions and equipment.

Adequate Corrective Action Needed Comments Below

Ground Control Plan in effect was reviewed by MSHA Technical Support services.

26. Determine if approved plans are being revised or updated to reflect changes in conditions and/or equipment.

Adequate Corrective Action Needed Comments Below

27. Determine if plan reviews are in compliance with current agency policy and procedures (performed within required timeframes, tracked from the date of submission, properly documented, and contain input from all affected departments and field offices).

Adequate Corrective Action Needed Comments Below

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28. Determine if Assistant District Manager is conducting the required second level reviews and holding supervisors accountable for oversight of Field Activity Reviews and Accompanied Activities.

29. Determine if district management personnel are reviewing work products and reports for accuracy and completeness.

Adequate Corrective Action Needed Comments Below

30. Determine if District Managers, Assistant District Managers, and supervisors are conducting required mine visits and properly completing the required spreadsheet.

Adequate Corrective Action Needed Comments Below

31. Determine if District Manager is using discretion in granting conferences and monitoring the ACR program to ensure that all decisions (including upholding, modifying or vacating citations) are properly documented and justified by the CLRs.

Adequate Corrective Action Needed Comments Below

ACR was not a part of this review.

32. Determine if District Manager is holding the Supervisory Special Investigator accountable for properly evaluating and initiating or denying potential cases.

Adequate Corrective Action Needed Comments Below

SI was not part of this review

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33. Determine if managers and supervisors are using required standardized reports to review critical data relevant to inspections and investigations.

Adequate Corrective Action Needed Comments Below

34. Determine if Districts are conducting reviews in compliance with agency policy and procedures including follow-up to determine the effectiveness of corrective actions.

Adequate Corrective Action Needed Comments Below

ADM- conducting in-house reviews in all field offices

35. Determine if information (mine status, methane liberation, number of employees, etc.) is being entered into the MSHA Standardized Information System (MSIS) accurately and in a timely manner?

Adequate Corrective Action Needed Comments Below

36. Determine if District Managers are using the Report Center to identify overdue responses from operators and take appropriate actions.

37. Determine if a complete permissibility inspection of each longwall system is being conducted by electrical specialists or inspectors who hold a current MSHA electrical qualification card on at least an annual basis.

Adequate Corrective Action Needed Comments Below

Review based on interviews with the field office supervisor and ADM.

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38. Determine if a proper examination of the AMS system and/or AMS systems that operate CO sensors for the purposes of 75.1101 is being conducted. A complete inspection includes those items in the revised GIPH (AMS checklist).

Adequate Corrective Action Needed Comments Below

Review based on interviews with the field office supervisor and ADM.

39. Determine if SSIs are maintaining a memorandum detailing the reasons for not conducting a special investigation when the district manager decides to take no further action, in accordance with the Special Investigations Procedures Handbook.

Adequate Corrective Action Needed Comments Below

SI not part of this review

40. Determine if proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys are being followed. Proper documentation to include blue cards, 2000-86's, etc.

Adequate Corrective Action Needed Comments Below

41. Determine if District Managers and Assistant District Managers are providing acting field office supervisors with the level of oversight necessary to manage their work groups on a temporary basis including an online distance learning training course with a knowledge check for temporarily promoted supervisors. The guidance will be included in each District's SOP for training newly promoted field office supervisors.

[REDACTED]

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District Coal District 9 Field Office Gillette Wyoming Field Office Mine ID [REDACTED] Date [REDACTED]

Attachment B – Citations/Orders Issued During This Review

Mine Citation/Order U.S. Department of Labor
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Section I—Violation Data

1. Date Mo Da Yr [REDACTED]	2. Time (24 Hr. Clock) [REDACTED]	3. Citation/Order Number [REDACTED]
4. Served To [REDACTED]		5. Operator [REDACTED]
6. Mine [REDACTED]		7. Mine ID [REDACTED] (Contractor)

8. Condition or Practice 8a. Written Notice (103g)
 The John Deere 4640 Tractor Drill (unit #832), located at the West Pit, 4 1/2 West Area Coal Drill Pattern, was left unattended and parked on a grade without blocking the equipment or turning it into a bank. The park brake was securely engaged and only one operator runs this Drill at a time leaving a minimal possibility of accidental release of the park brake.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 77.1607(n)
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Section II—Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal

C. Significant and Substantial: Yes No D. Number of Persons Affected: 001

11. Negligence (check one) A. None B. Low C. Moderate D. High E. Reckless Disregard

12. Type of Action 104(a) 13. Type of issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)

Section III—Termination Action

17. Action to Terminate Drill was parked into a bank and chocks were delivered to the drill, therefore this citation is terminated.

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)

Section IV—Automated System Data

19. Type of Inspection (activity code) E16	20. Event Number [REDACTED]	21. Primary or MHI
22. AR Name [REDACTED]		23. AR Number [REDACTED]

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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District Coal District 9 Field Office Gillette Wyoming Field Office Mine ID [REDACTED] Date [REDACTED]

Mine Citation/Order

**U.S. Department of Labor
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Section I—Violation Data

1. Date Mo Da Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
4. Served To	5. Operator	
6. Mine	7. Mine ID (Contractor)	
8. Condition or Practice		9a. Written Notice (103g) <input type="checkbox"/>

The conduit running to the Hoist Motor Cooling Fan of the Marion 351M Shovel (Unit #8), located in the West Pit, 4-West Bottom of Coal Area, had come out of its fitting exposing the cable that feeds the fan with 480V power. None of the inner conductors nor copper was exposed on the cable.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 77.502
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Section II—Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal

C. Significant and Substantial: Yes No D. Number of Persons Affected: 001

11. Negligence (check one) A. None B. Low C. Moderate D. High E. Reckless Disregard

12. Type of Action 104(a) 13. Type of issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)

Section III—Termination Action

17. Action to Terminate The conduit was reset into the fitting, therefore this citation is terminated.

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)

Section IV—Automated System

19. Type of inspection (activity code) E16 20. Event Number 21. Primary or Mill

22. AR Name 23. AR Number

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Office of Accountability

District Coal District 9 Field Office Gillette
Wyoming
Field Office Mine ID [REDACTED] Date [REDACTED]

Attachment C – Examples of Citations Issued During Previous Inspections

No issues during this review.