DEC - 1 2017

MEMORANDUM FOR PATRICIA W. SILVEY
Deputy Assistant Secretary for Operations
Mine Safety and Health Administration

THROUGH: KEVIN G. STRICKLIN
Acting Administrator for
Metal and Nonmetal Mine Safety and Health

FROM: THOMAS W. CHARBONEAUX
Director, Office of Assessments

SUBJECT: Mine Safety and Health Administration (MSHA)
Office of Accountability Review, Metal and Nonmetal Western District, San Bernardino, California Field Office

Introduction

This memorandum summarizes the Office of Accountability’s review of the subject District Office, Field Office and mine. This review included MSHA field activities; level of enforcement; conditions and practices at the mine; Field Accompanied Reviews (FARs); Office Reviews (ORs) and MSHA supervisory and managerial oversight. The accountability review also involved evaluations to determine if there were any issues in areas commonly identified during Agency internal reviews of MSHA’s actions following past mining disasters.

Purpose

The purpose of this accountability review is to determine whether MSHA enforcement policies, procedures, and guidance are being followed consistently and to assess whether mission critical enforcement activities are accomplished effectively. The accountability review also identifies areas for improvement and the subsequent implementation of effective corrective actions to address any identified issues.
Overview

Office of Accountability (OA) Specialists Jerry Kissell and Mark Odum (Review Team) conducted a review of Metal and Nonmetal's (MNM) Western District and the San Bernardino, California Field Office in accordance with the annual accountability review plan schedule. The Review Team conducted the on-site review from the first half of FY 2016 and the first half of FY 2017, and included review of supervisory oversight activities. The review concentrated on two Regular Safety and Health Inspections (E01), of the Event Nos. and was selected for review because it is a large operation.

Mine Visit

The Review Team accompanied the Field Office Supervisor and a MNM Inspector to the as part of a Safety and Health Spot Inspection (E16). During the visit, the Review Team evaluated general conditions at the mine, assessed whether they were commensurate with conditions documented in the inspection reports reviewed, and observed work practices at the mine site.

The mine is a surface located in . The mine employs approximately miners working two production shifts and one maintenance shift per day, five days per week. The mine produces an average of annually. is mined by drilling and blasting, loaded into haul trucks, and transported to the primary crusher. The crushed material is then transported via conveyor belts to sizing screens, where it is processed by grinding, run through kilns, and made ready for commerce.

The mine visit included inspections and observations of the following:

- pre-inspection conference;
- mine office;
- mine quarry;
- mining cycle to include, loading and haulage;
- primary crusher;
- hammer mill feed conveyor belts;
- hammer mill;
- haulage roadways;
- loading operations in the quarry;
- dumping operations at the primary crusher;
- highwalls;
- 100 ton haul truck;
- front-end loader.
As a result of the inspection, the Inspector issued six enforcement actions.

**Review Results**

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

- Inspection reports, notes and documentation reviewed were organized, clear and concise, and included pictures of violations.
- Communications with the mine operators were clear, open and positive.
- Observations of mining cycles, work practices were well documented.
- The District implemented a corrective action plan in 2016 regarding the review of Possible Knowing and Willful (PKW) forms. Since the plan was implemented, all PKW decisions were within the required timeframes.
- This accountability review did not identify any issues that required a corrective action plan.

The Review Team identified, and discussed with the Field Office personnel some inspection and procedural best practices as described in the Metal and Nonmetal General Inspection Procedures Handbook. A general outline of discussion topics is included in an attachment to this memorandum. (See Attachment C)

As a part of the review, the OA compared enforcement levels of the mine with the Field Office, District, and national averages. The S&S rate for the mine was lower than the average S&S rates of the Field Office, District and nation. The mine had a significant and substantial (S&S) rate of 10 percent during FY 2016, compared to the Field Office S&S rate of 33 percent; a District S&S rate of 23 percent; and the national S&S rate of 24 percent. In the first half of FY 2017, the S&S rate of the mine was 27 percent, compared to the Field Office S&S rate of 31 percent; a District S&S rate of 24 percent; and the national S&S rate of 23 percent. While the S&S rate for the mine increased in the first half of FY 2017, the enforcement levels were appropriate with existing mining conditions and work practices based on the review and observations made during the mine visit.
Attachments

A. Office of Accountability Checklist

B. Citations issued during the site visit:

- 56.9315
- 56.3200
- 56.9300(b)
- 56.20003(a)
- 56.14110
- 56.11001

C. Discussion Topics
### Attachment A - Office of Accountability Checklist

1. Determine if complete and thorough E01 inspections are being conducted and/or if policies and procedures were properly followed.
   - Adequate [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]

2. Determine if documentation for inspections is complete and thorough.
   - Adequate [X]
   - 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 [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]

4. Evaluate inspector(s) examination of required records and postings for compliance with applicable standards.
   - Adequate [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]

5. Evaluate the inspector(s) physical examination of the active working areas of the mine and inspection of all mining cycles.
   - Adequate [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]

6. Evaluate the inspector(s) on-site contaminant assessment and documentation.
   - Adequate [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]
7. Evaluate inspector(s) examination of electrical equipment, transformer stations, and/or electrical circuits.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

8. Determine if adequate close-out conferences are being conducted at the end of each inspection.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

9. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

10. 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 [X]
    NA - The Field Office does not have any mines in a 103(i) status.

11. Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.
    Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

12. Determine if supervisors are monitoring inspector time and activity to ensure proper use of time, including off-shift and weekend work, by all inspectors.
    Adequate [X] Corrective Action Needed [ ] Comments Below [ ]
13. Are required Field Accompanied Reviews (FARs), Office Reviews (ORs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?

14. Determine if a 104(d) tracking system is in place and being kept current at the office being reviewed.

Adequate X Corrective Action Needed □ Comments Below □

15. Determine if the Mine Files are legible, up to date, and reviewed by supervisors.

Adequate X Corrective Action Needed □ Comments Below □

16. Determine if supervisors are visiting active mines.

Adequate X Corrective Action Needed □ Comments Below □

17. Review documentation of staff meetings/safety meetings to determine their effectiveness and relevance to current issues and the Agency’s mission.

Adequate X Corrective Action Needed □ Comments Below □
Determine if Assistant District Manager is conducting the required second level reviews and holding supervisors accountable for oversight of Office Reviews and Field Accompanied Activity Reviews.

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

Adequate  X  Corrective Action Needed  □  Comments Below  □

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

Adequate  X  Corrective Action Needed  □  Comments Below  □

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

Adequate  X  Corrective Action Needed  □  Comments Below  □

Is methane liberation information being entered into the MSHA Standardized Information System (MSIS) accurately and in a timely manner?

Adequate  □  Corrective Action Needed  □  Comments Below  □

NA - No 103i mines/other mine information is updated as needed.
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<td><strong>23.</strong></td>
<td>Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.</td>
<td>Adequate [X]</td>
<td>Corrective Action Needed [ ]</td>
<td>Comments Below [ ]</td>
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<td><strong>24.</strong></td>
<td>Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.</td>
<td>Adequate [X]</td>
<td>Corrective Action Needed [ ]</td>
<td>Comments Below [ ]</td>
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<td><strong>25.</strong></td>
<td>Determine if inspectors have an understanding of when a violation of Section 103(a) for Advance Notice occurs and whether appropriate citations are issued for Advance Notice.</td>
<td>Adequate [X]</td>
<td>Corrective Action Needed [ ]</td>
<td>Comments Below [ ]</td>
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<td><strong>26.</strong></td>
<td>Determine if the management resource tracking tool is being used to track resources regarding Special Investigations.</td>
<td>Adequate [X]</td>
<td>Corrective Action Needed [ ]</td>
<td>Comments Below [ ]</td>
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<td><strong>27.</strong></td>
<td>Determine if retraining of supervisors, inspectors, and specialists is being tracked.</td>
<td>Adequate [X]</td>
<td>Corrective Action Needed [ ]</td>
<td>Comments Below [ ]</td>
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<td><strong>28.</strong></td>
<td>Determine if supervisors are rotating the mine assignments annually among inspectors assigned to their field office.</td>
<td>Adequate [X]</td>
<td>Corrective Action Needed [ ]</td>
<td>Comments Below [ ]</td>
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Attachment B - Citations issued during the site visit

<table>
<thead>
<tr>
<th>Mine Citation/Order</th>
<th>U.S. Department of Labor</th>
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<tbody>
<tr>
<td>Mine Safety and Health Administration</td>
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**Mine Citation/Order Data**

1. Date: Mo Da. Yr. | 2. Time (24 Hr. Clock) | 3. Citation/Order Number |
2. Employer | 4. Operator |
5. Mine |
6. Mine ID |
7. Mine ID (Contract) |

**Condition or Practice**

**A 992 loader was observed loading haul trucks which created a heavy dust cloud impairing the visibility of the loader operator. This was evidenced by the loader having to wait for the dust to clear to finish dumping each bucket into the haul trucks and the loader operator loading material on the canopy of the haul truck. The 2 basketball size rocks were observed falling off the canopy of the haul truck at the time of the inspection. This condition created a falling rock hazard should a rock come off the head ache rack and strike another piece of equipment. Light vehicles (pick ups, mechanics trucks) operate in the quarry daily to inspect, manage, and perform maintenance duties. Miners exposed to the hazards would receive serious injuries. The company's water truck had broken down and they had rented another water truck which broke down. They were then forced to rent a...**

**Section III - Inspector's Initiation**

10. Gravity:
   - A. Injury or illnesses (fatal) [x]: No
   - B. Unlikely |
   - C. Reasonably Likely |
   - D. Likely |
   - E. Highly Likely |
   - F. Occurred |

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

12. Type of Action:
   - A. Citation |
   - B. Order |
   - C. Safeguard |
   - D. Written Notice |

13. Type of Issuance (check one): Citation |
   - Order |
   - Safeguard |
   - Written Notice |

14. Initial Action:
   - A. Citation |
   - B. Order |
   - C. Safeguard |
   - D. Written Notice |

15. Area of Equipment |

16. Termination Date:
   - A. Date: Mo Da Yr. |
   - B. Time (24 Hr. Clock) |

17. Action to Terminate |

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

19. Type of Inspection (activity code): E16 |

20. Event Number |

21. Primary or MIB |

22. AR Name: __________________________ |

23. AR Number: __________________________ |

MSHA Form T1001-3, Apr 05 (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 Ombudsmen Bases to receive complaints 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 1-866-MSHAP-FAX (1-866-674-6729) or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 3rd Street, SW, MC 2125, Washington, DC 20418. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other right 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.
smaller version water truck that was unable to reach the muck piles to keep the dust down. The company was aware that they had a dust issue and was attempting to get the main water trucks repaired as fast as possible.
The operator failed to maintain the highwalls along the main haul road. Several areas were observed where loose, broken, and fractured material created a fall of material hazard. The haul road was used multiple times a day to haul material to the gyro crusher. The high walls were approximately 20-25 feet high. Persons exposed to the hazards would receive serious injuries. The company did not think that they could bring the walls off because the road was a county road.

**Standard 56.3200 was cited**

**Section 8-Inspection Data**

- **Date**: 
- **Time**: 
- **Operator**:
- **Mine#:**
- **Condition or Practice**: 

**Section 9-Inspection Data**

- **Date**: 
- **Time**: 

**Section 10-Inspection Data**

- **Date**: 
- **Time**: 

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MSHA Form 7000-3, Apr 09 (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 Ombudsmen to receive comments from small businesses about federal agency enforcement actions. The Ombudsman usually 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 1-866-MSHA-PAR (1-866-748-7727), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 425 3rd Street, SW., MC 2120, Washington, DC 20410. 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.
The operator failed to maintain the berm on the Old Dust Dump Rd. The berm was approximately 18 inches high. There was approximately 120 yards of low berm. There was a drop off of approximately 10 feet. The 777 Cat haul trucks travel this section of road twice a day. The mid axle height of the 777 Cat haul truck was approximately 48 inches. This condition created a roll over hazard to miners. Miners exposed to the roll over hazard would receive serious injuries.
The operator failed to store the materials in the Maintenance Welder Storage Area / Crusher Overhaul Storage Area in a manner that did not create a trip and fall hazard. The operator had 2x4 wooden boards and 8x8 wood sections strewn across the storage area. There were footprints inside the barricade and on the 8x8 pieces of wood. This condition created a trip, slip, and fall hazard to miners. Miners exposed to the hazard would receive serious injuries.

Standard 55.20003a was cited
The operator failed to maintain the ledges at the bottom of the surge bin. The ledges had material built up on them from the to 2 conveyor belts feeding the surge bin. The west ledge had a build up of material that was approximately 3 1/2 ft. deep. The material appeared to be solid. Miners were in the area weekly to clean and as needed to perform maintenance. Miners exposed to the falling material hazard would receive serious injuries.
The operator failed to provide safe access to the South Hammer Mill #121-CR-102 when performing maintenance duties. Miners accessed the side of the hammer mill using the I-beams and bolts installed on the side of the mill. Miners would stand on the platform which was approximately 4 feet high. There were no hand rails installed on the platform. Miners would then climb the side of the hammer mill to stand on the bearing and guard to install the fall protection. The miners were then exposed to an approximate 10 feet fall. This condition created a fall hazard to miners. Should miners fall they would hit the metal structure of the hammer mill on the way down. This job was performed an average of 6 times a year. This condition exposed miners to a fall hazard. Miners exposed to the fall hazard would receive serious injuries.
United States Department of Labor  
Mine Safety and Health Administration  
Office of Accountability

Mine Citation/Order  
Continuation

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<th>Section I: Subsequent Action/Continuation Date</th>
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<td>1. Subsequent Action Type</td>
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4. Served To  
5. Operator

6. Mine

7. Mine ID

(Contractor)

Section II: Justification for Action

Continuation of II. Condition or Practice

Standard 56.11001 was cited

See Continuation Form

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<th>Section III: Subsequent Action Taken</th>
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10. Event Number

11. AR Name

12. AR Number

13. Date (Mo, Da, Yr)

13. Time (24 Hr. Clock)

MSHA Form 7000-3a, Mar 05 (rev 8/09)
Attachment C – Discussion Topics

1. Enforcement Action Review – Discussed documentation and justification of gravity and negligence of several citations reviewed.

2. Discussed hazard recognition for ground conditions, berming, visible dust conditions, and housekeeping.