APR 22 2014

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

THROUGH: MARVIN LICHTENFELS
Acting Administrator for
Metal and Nonmetal Mine Safety and Health Administration

JAY P. MATTOS
Director, Office of Assessments, Accountability, Special
Enforcement and Investigations

FROM: ALFRED L. CLAYBORNE
Deputy Director, Office of Accountability, Special Enforcement
and Investigations

SUBJECT: MSHA Office of Accountability Audit, MNM Western District,
Elko, Nevada Field Office, and ...

Introduction

This memorandum summarizes the Office of Accountability’s audit of the subject district office, field office, and mine. The audit included MSHA field activities; level of enforcement; conditions and practices at the mine; Field Activity Reviews (FARs); Office Reviews (ORs); and MSHA supervisory and managerial oversight. The audit 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.

Positive findings as well as issues requiring attention are included in this audit report.

Overview

This audit was conducted by Accountability Specialists Jerry Kissell, Troy Davis, and Mark Odum from [redacted] through [redacted] [redacted] accompanied the accountability specialists during this audit.

The audit team traveled with the inspection party to the [redacted] on a spot (E-16) inspection on [redacted] Areas and activities examined included haulage/travel ways to several levels and headings of the...

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underground mine on both the Examinations included
ground conditions, escapeways, ventilation, tests for oxygen levels and contaminants,
workplace examination records, general housekeeping, permanent refuge chambers
and Mine ARC portable refuge chambers, mine communication systems and
observations of most all phases of the mining cycle. Mine equipment observed included
Sandvik bolting machines, Sandvik jumbo drills, Getman powder trucks, Alpine road
header development mining machine, underground haulage trucks, and Load Haul
Dump (LHD) loader mining machines. Additional stationary equipment examined
included ore pass dump points, rock breaker machines, and underground conveyor
belts. The team observed safety talks given to several miners and management
personnel during inspection activities.

The audit team traveled with the inspection party to the surface
mining operation on a regular (E-01) inspection on Areas
and activities examined included the open pit mining area, haulage roadways, and two
Caterpillar 795F, 400-ton haulage trucks. Examinations also included the haulage
cycle, loading cycle, and drilling operations. The team observed safety talks given to
several miners and management personnel during inspection activities.

Audit Results

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

1. Enforcement personnel conducted themselves in a professional and courteous
   manner at all times during the audit and during the inspection.
2. Inspection procedures observed during the audit were in compliance with MSHA
   policy and procedures.
3. provided thorough feedback in his documentation for
   the Office Reviews (ORs) and Field Accompanied Reviews (FARs) as well as
   exceeding the minimums required for FY 2012.
4. Staff and safety meetings documented updates and reviews of MSHA initiatives
   and policy memoranda.

This audit revealed no issues that require a corrective action.

Attachments
Attachments

A. Internal Review Summary
B. Office of Accountability Checklist
C. Statistics
D. Citations/Orders issued during this audit
   Issued at:
   1. 57.20011
E. Examples of Citations Issued During Previous E01 Inspections
   (No issues were identified during this audit)
F. District Corrective Action Plan
   (No corrective plan required)
**Attachment A – Internal Review Summary**

The table below lists the most common internal review findings following mine disasters. The Elko, Nevada Field Office had none of the most commonly identified issues.

<table>
<thead>
<tr>
<th>Common Internal Review Findings</th>
<th>Examples of Deficiencies:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to identify deviations in approved plans.</td>
<td>Not identifying operator departures from requirements in any plan that requires approval, such as training plans, roof control plans, ventilation plans, emergency response plans, etc.</td>
</tr>
<tr>
<td>Incomplete or inadequate inspections.</td>
<td>Not following policy or procedures for conducting inspections. Failure to cite all violations. Not inspecting all areas and equipment.</td>
</tr>
<tr>
<td>Failure to conduct 103(i) spot inspections according to policy.</td>
<td>Not conducting spot inspections not conducted in a timely manner and at irregular intervals.</td>
</tr>
<tr>
<td>Supervisors did not provide adequate oversight.</td>
<td>No review/lax review of inspection reports. Inadequate review of PKW/SAR forms. Failure to conduct required Field Activity Reviews and Accompanied Activities.</td>
</tr>
<tr>
<td>Improper evaluations of gravity, negligence and type of enforcement action.</td>
<td>Inadequate documentation to support citation and evaluation. Failure to consider and document aggravating or mitigating circumstances.</td>
</tr>
<tr>
<td>Inadequate Peer Reviews</td>
<td>Inadequate district level Peer Reviews. Failure to adopt and follow corrective action plans. Failure to follow up or monitor effectiveness of corrective action plans.</td>
</tr>
<tr>
<td>Weakness in the ACR Program</td>
<td>Not following ACR handbook. Inadequate management oversight. Failure to follow the Mine Act, MINER Act, 30 CFR and MSHA policy.</td>
</tr>
<tr>
<td>MSHA data not used or reviewed.</td>
<td>Key Indicators, Mine Profile, Inspection completion reports not being used. Failure to keep MSIS data up to date and accurate.</td>
</tr>
<tr>
<td>Lack of unwarrantable failure tracking system</td>
<td>No or inadequate unwarrantable failure sequence tracking system.</td>
</tr>
<tr>
<td>Conflict of Interest</td>
<td>Inspecting prior employers, employment of relatives</td>
</tr>
<tr>
<td>Failure to comply with Hazard Complaint Procedures.</td>
<td>Improper coding of inspections. Inadequate documentation of inspections/investigations.</td>
</tr>
<tr>
<td>Investigations of multi-phase plans</td>
<td>Failure to conduct on-site evaluations of plans.</td>
</tr>
<tr>
<td>Failure to observe retreat mining.</td>
<td>Inadequate periodic evaluations when retreat mining is conducted.</td>
</tr>
<tr>
<td>Section 103(a) is violated when an operator gives advance notice of MSHA’s presence on mine property</td>
<td>Citation not issued when advance notice of impending MSHA inspection.</td>
</tr>
<tr>
<td>Tracking tool was needed to monitor personnel resources and those devoted to special investigations</td>
<td>Not monitoring resources devoted to special investigations.</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>Needed to improve tracking of retraining of supervisors, inspectors, and specialists</td>
<td>Some supervisors, inspectors, and specialists were not being retrained.</td>
</tr>
</tbody>
</table>
### Attachment B – Audit Checklist

**1.** Determine if complete and thorough E01 inspections are being conducted and/or if policy 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 [ ]

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.

**3.**
- 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 [ ]

No blasting took place during the mine visit.

**6.** Evaluate the inspector(s) on-site contaminant assessment and documentation.
- Adequate [X]
- Corrective Action Needed [ ]
- Comments Below [X]

No health samples were taken during the mine visit. A review of previous inspection reports verify the last health survey was conducted in FY 2012.
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 [ ]
   Field notes reviewed show daily and final close-outs are consistently conducted.

9. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.
   Adequate [ ]  Corrective Action Needed [ ]  Comments Below [X]
   No PKW's were completed during the audit.

10. Evaluate 103(i) spot inspection (E02) reports for the office/district being audited 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]
    Not Applicable, there are no 103(i) mines in the Western district.

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 [ ]
Are required Office Reviews (ORs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?
(One E-01/Inspector/every six months/FY—minimum)

Adequate X  Corrective Action Needed □  Comments Below X

Are Field Accompanied Reviews (FARs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?
(one/inspector/year - minimum)

Adequate X  Corrective Action Needed □  Comments Below □

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

Adequate X  Corrective Action Needed □  Comments Below □

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

Adequate X  Corrective Action Needed □  Comments Below □

Determine if supervisors are visiting active mines.

Adequate X  Corrective Action Needed □  Comments Below □

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 X

Staff meeting documentation reviewed was well organized and documented.
Determine if Assistant District Manager is conducting the required second level reviews and holding supervisors accountable for oversight of Office Reviews and Field Accompanied Reviews.

20. Determine if district management personnel are reviewing work products and reports for accuracy and completeness.
   Adequate [X] Corrective Action Needed [ ] Comments Below [X]

Random inspection reports are reviewed by district staff.

21. 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 [X]

Not reviewed during this audit.

22. 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 [X]

Not reviewed during this audit.

23. 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 [X]

Key indicators and internal district data is used.

24. Determine if Districts are conducting in-depth Peer 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 [X]

Elko received a Peer review in July 2012.
| Is information (mine status, methane liberation, number of employees, etc) being entered into the MHSA Standardized Information System (MSIS) accurately and in a timely manner? |
| Adequate | X | Corrective Action Needed | | Comments Below | |

| Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections. |
| Adequate | X | Corrective Action Needed | | Comments Below | |

| Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections. |
| Adequate | X | Corrective Action Needed | | Comments Below | |

| 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. |
| Adequate | X | Corrective Action Needed | | Comments Below | |

| Determine if the management resource tracking tool is being used to track resources regarding Special Investigations. |
| Adequate | X | Corrective Action Needed | | Comments Below | |

| Determine if retraining of supervisors, inspectors, and specialists is being tracked. |
| Adequate | X | Corrective Action Needed | | Comments Below | |
Attachment C – Statistics

S&S Rate Comparison

During FY 2011 and 2012, the S&S rates for the Elko, Nevada Field Office were higher than the average for the Western District and national average.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Elko Field Office</th>
<th>Western District</th>
<th>National Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>35%</td>
<td>33%</td>
<td>30%</td>
</tr>
<tr>
<td>2012</td>
<td>34%</td>
<td>29%</td>
<td>27%</td>
</tr>
<tr>
<td>2013 (1st half)</td>
<td>24%</td>
<td>24%</td>
<td>26%</td>
</tr>
</tbody>
</table>

Time and Activity Comparison

A comparison of FY 2011 and FY 2012 time distribution for the Elko, Nevada Field Office for all mining operations shows that time in the other category has decreased and on-site time has increased.

<table>
<thead>
<tr>
<th>FY</th>
<th>Area/Office</th>
<th>Travel</th>
<th>Other</th>
<th>**On-Site Enf. time</th>
<th>Total Enf. Time</th>
<th>Non Enf. time</th>
<th>Total Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>Elko FO</td>
<td>18%</td>
<td>19%</td>
<td>42%</td>
<td>79%</td>
<td>21%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>Nat'l Avg</td>
<td>21%</td>
<td>16%</td>
<td>42%</td>
<td>79%</td>
<td>21%</td>
<td>100%</td>
</tr>
<tr>
<td>2012</td>
<td>Elko FO</td>
<td>19%</td>
<td>15%</td>
<td>44%</td>
<td>78%</td>
<td>22%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>Nat'l Avg</td>
<td>20%</td>
<td>15%</td>
<td>42%</td>
<td>78%</td>
<td>22%</td>
<td>100%</td>
</tr>
</tbody>
</table>

* Other time includes off site citation/order writing, health equipment calibration, and mailing of samples
** On-Site time includes on-site citation/order writing time
Attachment D- Citations issued during the Audit

On the 1025 level, at the 3375 access there was no barricade or signs warning of an unventilated area. The vent bag was chocked closed going into this drift. This area is accessed/used for loading haul trucks and parking mobile equipment as needed. There is foot traffic in the area. In the event of an accident fatal injuries would be reasonably expected to occur.
A proper barricade with warning signs was secured in place across the drift.
Upon further review this citation is modified.
Attachment E – Examples of Citations Issued During Previous E01 Inspections

(No potential issues were identified during this audit)
Attachment F – Western District Corrective Action Plan
(No Action plan required)