



APR 22 2014

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for Operations
Mine Safety and Health Administration

THROUGH:

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FROM:

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SUBJECT:

MSHA Office of Accountability Audit, MNM Western District,
Elko, Nevada Field Office, and [REDACTED]
[REDACTED]

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 [REDACTED]

underground mine on both the [REDACTED] 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 [REDACTED] surface mining operation on a regular (E-01) inspection on [REDACTED] 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. [REDACTED] 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 [REDACTED]
1. [REDACTED] 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)

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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.

Common Internal Review Findings	Examples of Deficiencies :
Failure to identify deviations in approved plans.	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.
Incomplete or inadequate inspections.	Not following policy or procedures for conducting inspections. Failure to cite all violations. Not inspecting all areas and equipment.
Failure to conduct 103(i) spot inspections according to policy.	Not conducting spot inspections not conducted in a timely manner and at irregular intervals.
Supervisors did not provide adequate oversight.	No review/lax review of inspection reports. Inadequate review of PKW/SAR forms. Failure to conduct required Field Activity Reviews and Accompanied Activities.
Improper evaluations of gravity, negligence and type of enforcement action.	Inadequate documentation to support citation and evaluation. Failure to consider and document aggravating or mitigating circumstances.
Inadequate Peer Reviews	Inadequate district level Peer Reviews. Failure to adopt and follow corrective action plans. Failure to follow up or monitor effectiveness of corrective action plans.
Weakness in the ACR Program	Not following ACR handbook. Inadequate management oversight. Failure to follow the Mine Act, MINER Act, 30 CFR and MSHA policy.
MSHA data not used or reviewed.	Key Indicators, Mine Profile, Inspection completion reports not being used. Failure to keep MSIS data up to date and accurate.
Lack of unwarrantable failure tracking system	No or inadequate unwarrantable failure sequence tracking system.
Conflict of Interest	Inspecting prior employers, employment of relatives
Failure to comply with Hazard Complaint Procedures.	Improper coding of inspections. Inadequate documentation of inspections/investigations.
Investigations of multi-phase plans	Failure to conduct on-site evaluations of plans.
Failure to observe retreat mining.	Inadequate periodic evaluations when retreat mining is conducted.
Common Internal Review Findings	Examples of Deficiencies :
Section 103(a) is violated when an operator gives advance notice of MSHA's presence on mine property	Citation not issued when advance notice of impending MSHA inspection.

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Tracking tool was needed to monitor personnel resources and those devoted to special investigations	Not monitoring resources devoted to special investigations.
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Needed to improve tracking of retraining of supervisors, inspectors, and specialists	Some supervisors, inspectors, and specialists were not being retrained.
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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 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(s) examination of required records and postings for compliance with applicable standards.
Adequate 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 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 Corrective Action Needed Comments Below
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.

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7. Evaluate inspector(s) examination of electrical equipment, transformer stations, and/or electrical circuits.

Adequate Corrective Action Needed Comments Below

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

Adequate 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

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

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 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 Corrective Action Needed Comments Below

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13. 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 Corrective Action Needed Comments Below



14. 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 Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

17. Determine if supervisors are visiting active mines.

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

Staff meeting documentation reviewed was well organized and documented.

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19. 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 Corrective Action Needed Comments Below

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 CLR's.

Adequate Corrective Action Needed Comments Below

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

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 Corrective Action Needed Comments Below

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 Corrective Action Needed Comments Below

Elko received a Peer review in July 2012.

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

Adequate Corrective Action Needed Comments Below

26. Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.

Adequate Corrective Action Needed Comments Below

27. Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.

Adequate Corrective Action Needed Comments Below

28. 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 Corrective Action Needed Comments Below

29. Determine if the management resource tracking tool is being used to track resources regarding Special Investigations.

Adequate Corrective Action Needed Comments Below

30. Determine if retraining of supervisors, inspectors, and specialists is being tracked.

Adequate Corrective Action Needed Comments Below

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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.

Fiscal Year	Elko Field Office	Western District	National Average
2011	35%	33%	30%
2012	34%	29%	27%
2013 (1 st half)	24%	24%	26%

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.

Time Distribution (%) – E01 Inspections							
FY	Area/Office	Travel	*Other	**On-Site Enf. time	Total Enf. Time	Non Enf. time	Total Percent
2011	Elko FO	18%	19%	42%	79%	21%	100%
	Nat'l Avg	21%	16%	42%	79%	21%	100%
2012	Elko FO	19%	15%	44%	78%	22%	100%
	Nat'l Avg	20%	15%	42%	78%	22%	100%

* 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

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District WESTERN Field Office Elko, NV Mine ID [REDACTED] Date [REDACTED]

Attachment D- Citations issued during the Audit

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 8a. Written Notice (103g)

On the 1025 level, at the 3375 access there was no barricade or signs warning of an unventilated area. The vent bag was choked 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.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR		
				57.20011	

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 104a 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

18. Terminate 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 Mill	P
22. Signature	[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 WESTERN Field Office Elko, NV Mine ID [REDACTED] Date [REDACTED]

Mine Citation/Order
Continuation

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Section I—Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
4. Served To			5. Operator		
6. Mine			7. Mine ID (Contractor)		

Section II—Justification for Action

A proper barricade with warning signs was secured in place across the drift.

Section III—Subsequent Action Taken					See Continuation Form <input type="checkbox"/>
8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)
					<input type="checkbox"/> C. Vacated <input checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
Section IV—Inspection Data					
9. Type of Inspection E16			10. Event Number		
11. Signature		AR Number		12. Date	
				13. Time (24 Hr. Clock)	

MSHA Form 7000-3a, Mar 85 (revised)

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District WESTERN Field Office Elko, NV Mine ID [REDACTED] Date [REDACTED]

Mine Citation/Order
Continuation

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Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr [REDACTED]	3. Citation/Order Number [REDACTED]
4. Served To [REDACTED]	5. Operator [REDACTED]	
6. Mine [REDACTED]	7. Mine ID (Contractor) [REDACTED]	

Section II-Justification for Action

Change	From	To
10. A. Injury or Illness	Reasonably Likely	Unlikely
Reason	Upon review it was determined that a partial berm was in place.	
10. B. Injury Expected	Fatal	Permanently Disabling
Reason	Upon review it was determined that the Oxygen reading taken in the main drift was 20.8% and then taken 30 feet in by the reading was 20.1%. Readings taken with Altair 5 s/n 3737, bump tested on [REDACTED]	
10. C. Significant and Substantial	Yes	No
Reason	Gravity reduced to Unlikely.	

Upon further review this citation is modified.

See Continuation Form

Section III-Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated <input type="checkbox"/> D. Terminated <input checked="" type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E16	10. Event Number [REDACTED]		
11. Signature [REDACTED]	AR Number [REDACTED]	12. Date Mo Da Yr [REDACTED]	13. Time (24 Hr. Clock) [REDACTED]

MSHA Form 7000-3a, Mar 85 (revised)

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Attachment E – Examples of Citations Issued During Previous E01 Inspections

(No potential issues were identified during this audit)

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District Field Office Mine ID Date

Attachment F – Western District Corrective Action Plan
(No Action plan required)