



SEP 30 2014

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

THROUGH: NEAL MERRIFIELD
Administrator for
Metal and Nonmetal Mine Safety and Health Administration
[REDACTED]

JAY P. MATTOS
Director, Office of Assessments, Accountability, Special
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FROM: ALFRED L. CLAYBORNE
Deputy Director, Office of Accountability, Special
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[REDACTED]

SUBJECT: MSHA Office of Accountability Audit, MNM Western
District, Kent, Washington 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 Accompanied Reviews (FARs); Office Reviews (ORs); second level reviews; 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 Troy Davis and Jerry Kissell from [REDACTED] through [REDACTED]

[REDACTED]

The Mine was visited on [REDACTED] on a regular E-01 inspection. Areas and activities examined included the open pit and high walls, roadways, pit feeder, the crusher plant, wash plant, sand plant, re-wash plant, de-watering plant, pump house, Phoenix belt press, the mobile equipment repair shop, pressure wash shop, electrical shop, tool room, parts room, fabrication shop, barge load-out facility, three MCC rooms, three storage CONEX trailers, out of service equipment area, the North and South conveyor tunnels, 12 tunnel feed belt conveyors, 44 conveyor belts, 17 pumps, conveyor belt access, walkways and guarding on all belts examined.

Mobile equipment examined included a Peterbuilt fuel truck, Caterpillar 740-HD haul truck, Caterpillar 740-B HD haul truck, Caterpillar 992-G Front End Loader (FEL), Caterpillar 992-D FEL, Caterpillar 990 FEL, Caterpillar 988-F FEL, Caterpillar 924-H FEL, Caterpillar 690-C rubber tire dozer, 2 Caterpillar D10-R dozers, Caterpillar 12-G maintainer, two overhead cranes, 5 compressors, Bobcat 743 skid steer, one ton Dodge service vehicle and two half-ton supervisor trucks.

Additional inspection activities observed included observations of the pre-inspection conference, mining cycle, plant processes, warning alarm startup test, barge loading practices, personal protective equipment usage throughout the mine, work place examination records and hazard warning signs throughout the mine site.

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 appeared in compliance with MSHA policy and procedures.
3. Field Accompanied Reviews (FARs) and Office Reviews (ORs) for the Kent Field Office were adequately documented.
4. Enforcement personnel used appropriate enforcement tools during the mine site visit.
5. Staff and safety meetings were well documented and showed updates and reviews of MSHA initiatives and policy memoranda.
6. Field Notes reviewed in inspection reports showed thorough documentation of mine inspections.

This audit revealed no issues that require a corrective action:

Attachments

- A. Internal Review Summary
- B. Office of Accountability Checklist
- C. Statistics
- D. Citations/Orders issued during this audit
 - 1. [REDACTED] 56.14201(b)
 - 2. [REDACTED] 56.14110
 - 3. [REDACTED] 56.14207
- E. Examples of Citations Issued During Previous E01 Inspections
(No issues were identified during this audit)
- F. District Corrective Action Plan
(No corrective action plan required)

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District Western Field Office Kent, WA Mine ID [REDACTED] Date [REDACTED]

Attachment A – Internal Review Summary

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

Common Internal Review Findings	Examples of Deficiencies found in this Accountability Review:
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.

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Common Internal Review Findings	Examples of Deficiencies found in this Accountability Review
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.
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
Tracking tool was needed to monitor personnel resources and those devoted to special investigations	Not monitoring resources devoted to special investigations.
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 drilling or blasting occurs at this mine.

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

No health samples were taken during this inspection. A review of previous inspection reports verify the last health survey was conducted in June of 2013.

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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 reviewed during this 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

No 103(i) mines in the Kent FO jurisdiction.

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

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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 Activity Reviews.

[REDACTED]

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

Adequate Corrective Action Needed Comments Below

Completed as part of the second level reviews.

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

ACR not reviewed during this audit.

22. 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

Monthly Data reports and internal reports are used.

23. 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

Office of Accountability conducts Peer reviews annually every year in all MNM districts.

24. 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

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

27. 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

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

Adequate Corrective Action Needed Comments Below

District is aware of the MSHA Report Center Reports; not reviewed during this audit of the field office.

29. 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 2012, the S&S rates for the Kent, Washington Field Office are lower than the average for the Western District and the same as the national average. In FY 2013 the Kent, Washington Field Office S&S rates are lower than the average for the Western District and the national average. Citations issued during the audit were appropriately issued and consistent with policy and procedures. (See attachment D)

Fiscal Year	Kent Field Office	Western District	National Average
2012	26%	28%	26%
2013	19%	24%	25%

Time and Activity Comparison

A comparison of FY 2012 and FY 2013 time distribution for the Kent Field Office at all mining operations shows that time in the other category has slightly increased and on-site time also increased.

Time Distribution (%) – E01 Inspections							
FY	Area/Office	Travel	*Other	**On-Site Enf. time	Total Enf. Time	Non Enf. time	Total Percent
2012	FO	22%	18%	34%	74%	26%	100%
	Nat'l Avg	20%	15%	42%	78%	22%	100%
2013	FO	23%	19%	44%	86%	14%	100%
	Nat'l Avg	21%	15%	42%	78%	22%	100%

* Other time includes off site citation/order writing, health equipment calibration, and mailing of samples

** Total On-Site time includes citations written on-site

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Mine Citation/Order

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Section I—Violation Data

1. Date <input type="text" value="Mo Da Yr"/>	2. Time (24 Hr. Clock) <input type="text" value="[REDACTED]"/>	3. Citation/Order Number <input type="text" value="[REDACTED]"/>
4. Served To <input type="text" value="[REDACTED]"/>		5. Operator <input type="text" value="[REDACTED]"/>
6. Mine <input type="text" value="[REDACTED]"/>		7. Mine ID <input type="text" value="[REDACTED]"/> (Contractor)
8. Violation of Standard <input type="text" value="[REDACTED]"/>		8a. Written Notice (103g) <input type="checkbox"/>

There were several rocks seen rolling and or bouncing from a conveyor fed, screened, pit run stockpile onto the road/travel way at the base of the stockpile. The rocks were rounded pit run, 2" to 3" in size, were numerous on the road and were seen bouncing and rolling down the stockpile. The area is accessed as needed by pick-ups, loaders and dozers and on occasion by miners on foot.

Standard 56.3200 was cited .

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR	56.3200	<i>14. P. 10</i>
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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 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 B. Time (24 Hr. Clock)

Section III—Termination Action

17. Action to Terminate Berms were placed blocking access to both sides of the road around the stockpile. A gate system with signage will be designed and constructed for permanent placement in the near future.

18. Terminate A. Date B. Time (24 Hr. Clock)

Section IV—Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number <input type="text" value="[REDACTED]"/>	21. Primary or Mill P
22. AR Name <input type="text" value="[REDACTED]"/>		23. AR Number <input type="text" value="[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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Mine Citation/Order
 Continuation

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Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input 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 [REDACTED] (Contractor)	

Section II--Justification for Action

Change	From	To
9. C. Part/Section	56.3200	56.14110

Reason

To more accurately reflect the standard in Title 30 CFR which was violated.

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 E01	10. Event Number [REDACTED]		
11. AR Name [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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District Western Field Office Kent, WA Mine ID [REDACTED] Date [REDACTED]

Mine Citation/Order

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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 Dodge 1 ton service truck # 1974 was unattended, parked on a slight grade behind the shop, with the front wheels chocked, the transmission was in park but the park brake was not applied or set. The truck had been used that day and is used daily by miners to conduct maintenance on the crushing, screening, wash plant.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 56.14207
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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 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 [REDACTED]	B. Time (24 Hr. Clock) [REDACTED]
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Section III--Termination Action

17. Action to Terminate The park brake was applied. Miners will be retrained on the hazards of not setting park brakes when equipment is left unattended. Rules to Live By.

18. Terminate	A. Date Mo Da Yr [REDACTED]	B. Time (24 Hr. Clock) [REDACTED]
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number [REDACTED]	21. Primary or Mill P	
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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Attachment E – Examples of Citations Issued During Previous E01 Inspections
(No issues were identified during this audit.)

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District

Western

Field Office

Kent, WA

Mine ID

[REDACTED]

Date

[REDACTED]

Attachment F – District Corrective Action Plan
(No Corrective action Required)