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

THROUGH:  
TIMOTHY R. WATKINS  
Deputy Administrator for  
Coal Mine Safety and Health

FROM:  
THOMAS W. CHARBONEAU  
Director, Office of Assessments

SUBJECT: Mine Safety and Health Administration (MSHA) Office of Accountability Review, Coal District 9, Farmington, NM Field Office and the

Introduction

This memorandum summarizes the Office of Accountability’s review of the subject District, Field Office, and mine. The review included MSHA field activities; level of enforcement; conditions and practices at the mine; Field Activity Reviews (FARs), Accompanied Activity (AA) reviews; and MSHA supervisory and managerial oversight. This accountability review also included 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 the Coal District 9 and the Farmington, New Mexico Field Office (FO) in accordance with the annual accountability review plan schedule. The Review Team conducted the on-site portion of this review from [Date], to include a mine visit on [Date]. The review focused on inspection and supervisory oversight activities conducted during Fiscal Year (FY) 2016 and the first half of FY 2017. The review concentrated on documentation of the Regular Safety and Health Inspection (E01), Event No. [Event No.], conducted [Date]. The [Event No.] was selected because it is a large surface coal mine with multiple active working pits. The mine is located in [Location].

Mine Visit

The Review Team accompanied the Assistant District Manager – Enforcement, the Field Office Supervisor, and an inspector to the mine as part of the on-going E01 inspection. During the mine visit the Review Team evaluated general conditions of the mine, assessed whether conditions at the mine correspond with enforcement levels documented in the inspection reports reviewed, and observed work practices at the mine site.

The mine employs approximately [Number] miners working two production shifts and one maintenance shift per day, five days per week. The mine utilizes draglines, stripping excavators, and haul trucks to remove overburden and mine coal from seven different coal seams out of three active working pits. The coal is transported to a preparation plant by haul trucks and overland conveyor belts where it is processed and prepared for commerce.

The mine visit included inspections and observations of the following:

- the primary haulageways;
- highwalls and spoil piles associated with the J19 and N9 active working pits;
- berms along the roadways;
- the #276 dewatering truck;
- the #268 maintenance truck;
- the [Area] area and on-shift records; and
- the explosives magazine storage facility.

Observations also included the inspector’s conference with mine management and miner’s representative and his health and safety discussions with miners, as encountered.
As a result of the inspection the inspector issued three enforcement actions. (See Attachment D)

**Review Results**

The accountability review revealed positive findings from the E01 reviewed which included:

- Inspectors documented observations of mining cycles and work practices.
- Inspectors used printed pages from the Inspection Tracking System (ITS) as notes.
- Inspectors used questions from the Coal Mine Safety and Health General Inspection Procedures Handbook, PH16-V-1 (GIPH) to conduct health and safety talks with miners on ground control and highwall safety.
- Inspectors discussed safety alerts with miners as encountered.

The review identified one issue that required a corrective action plan. (See Attachment B for Issues Requiring a Corrective Action Plan and Attachment C for Office of Accountability Checklist Items)

**Issue 1:**

The Review Team discussed with the District some inspection and procedural best practices as described in the General Inspection Procedures Handbook. A general outline of discussion topics is included in an attachment to this memorandum. (See Attachment E for Discussion Topics)

Based on the review of the E01, Event No. [redacted] and on observations made during the mine visit, enforcement personnel were using the proper level of enforcement at the [redacted]
Attachments

A. District Corrective Action Plan

B. Issues Requiring a Corrective Action Plan

C. Office of Accountability Checklist

D. Citations Issued during this review
   Citation No. 47.41(a)(1)
   Citation No. 77.205(a)
   Citation No. 77.1606(a)

E. Discussion Topics
MEMORANDUM FOR TED SMITH
Supervisor, Office of Accountability

THROUGH TIMOTHY R. WATKINS
Deputy Administrator for Coal Mine Safety and Health

MARCUS A. SMITH
Supervisor, Accident Investigations/ACF Group

FROM RICHARD A. GATES
District Manager
District 9

SUBJECT Proposed Corrective Actions

This is a response to the review conducted by the Office of Accountability from
and the
The results of your review identified
one deficiency, which is required to be addressed by this district.

Issue 1:

ROOT CAUSE:
**PROPOSED CORRECTIVE ACTIONS:**

The SSI will monitor SEI for PKW's that require action and will notify the applicable person to process the PKW's. The appropriate ADM and the DM will be included in the notifications to ensure timely responses. Since the implementation of the corrective action no PKW's have gone beyond the 30 day requirement. A request has been made to have the SEI program send out an email reminder so that individuals will be aware when an action is required on their part.

**OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):**

District Manager

**TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:**

The corrective action has been completed. (September 7, 2017)

**METHOD FOR DETERMINING SUCCESS:**

Evaluations to determine the effectiveness will be on-going. If there are no PKWs that have exceeded the 30-day window on or before December 31, the corrective action will deemed successful.

**A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTION:**

The District Manager will send a memorandum to Thomas W. Charboneau, Director, Office of Assessments through Ted Smith, Supervisor, Office of Accountability, through Timothy R. Watkins, Deputy Administrator for Coal Mine Safety and Health, and through Marcus A. Smith, Supervisor, Accident Investigation/Special Investigations/ACR Group upon completion and evaluation of the corrective actions.

(This will be a separate memorandum sent to document closure of the corrective action(s))
Attachment B – Issues Requiring a Corrective Action Plan

Issue 1: __________________________________________________________

Requirements: Special Investigations Procedures Handbook, PH05-I-4, page 4-2, states that for “each citation and/or order required by MSHA Policy to be reviewed, a Possible Knowing/Willful Violation Review Form, MSHA Form 7000-20, shall be completed.” Page 4-3 states that “within 30 calendar days of the date of issuance of the citation/order a determination must be made by the DM (with the assistance of the SSI) whether to initiate an investigation or take no further action.”
### Attachment C - 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 [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/specialist examination of required record books and postings for compliance with applicable standards.
   - Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

5. Evaluate inspector/specialist examination of the operator’s maps (on-site) for accuracy, escapeway locations, etc.
   - Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

6. Evaluate, upon arrival on the working section, inspector/specialist examination of all working places for imminent dangers.
   - Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]
### 7. Evaluate the inspector/specialist observation of the work cycle and conditions on the working section during the review.

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

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

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

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*Not applicable - surface mine*

### 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.

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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.

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*Not Applicable – surface mine*
13. Determine if adequate close-out conferences are being conducted at the end of each inspection.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

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

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 [X]  Corrective Action Needed [ ]  Comments Below [ ]

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

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

17. 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 [ ]
Determine if required Accompanied Activities (AAs); Field Activity Reviews (FARs) and supervisory follow-ups are being conducted and documented according to agency policy and procedures?

18. __Adequate__ ×  Corrective Action Needed  □  Comments Below  □

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

19. Determine if the Uniform Mine File (UMF) books are being maintained and reviewed according to current agency policy and procedures.

20. __Adequate__ ×  Corrective Action Needed  □  Comments Below  □

Determine if supervisors are thoroughly reviewing Uniform Mine Files at least annually?

21. __Adequate__ ×  Corrective Action Needed  □  Comments Below  □

Determine if supervisors are visiting each active underground mine at least annually.

22. __Adequate__ ×  Corrective Action Needed  □  Comments Below  □

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

23. __Adequate__ ×  Corrective Action Needed  □  Comments Below  □
24. Determine if documentation of staff meetings/safety meetings are effective and relevant to current issues and the Agency's mission.

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Determine, after an in-mine visit, if approved plans (Ventilation, Roof Control, Training, Emergency Response Plan (ERP), etc.) are compatible with mining conditions and equipment.

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

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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).

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Discussed timeframes of plan reviews and status of pending plans. See Discussion Items in Attachment E.

Determine if Assistant District Managers (ADM) are 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 \( X \) Corrective Action Needed \( \square \) Comments Below \( \square \)

30. Determine if District Managers, Assistant District Managers, and supervisors are conducting required mine visits and properly completing the required spreadsheet.
   Adequate \( X \) Corrective Action Needed \( \square \) Comments Below \( \square \)

31. Determine if District Manager is using discretion in granting conferences and monitoring the Alternative Case Resolution (ACR) program to ensure that all decisions (including upholding, modifying or vacating citations) are properly documented and justified by the Conference and Litigation Representatives (CLRs).
   Adequate \( \square \) Corrective Action Needed \( \square \) Comments Below \( X \)
   NA – Not part of this review.

32. Determine if managers and supervisors are using standardized reports to review critical data relevant to inspections and investigations.
   Adequate \( X \) Corrective Action Needed \( \square \) Comments Below \( \square \)

33. Determine if Districts are conducting accountability reviews in compliance with agency policy and procedures including follow-up to determine the effectiveness of corrective actions.
   Adequate \( X \) Corrective Action Needed \( \square \) Comments Below \( \square \)
United States Department of Labor
Mine Safety and Health Administration
Office of Accountability

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 X Corrective Action Needed Comments Below

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

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 X Corrective Action Needed Comments Below

Determine if a proper examination of the Atmospheric Monitoring System (AMS) and/or AMS systems that operate Carbon Monoxide (CO) sensors is being conducted. A complete inspection includes those items in the Coal General Inspection Procedures Handbook (GIPH) AMS checklist.

Adequate X Corrective Action Needed Comments Below

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 X

NA - not part of this review
Determine if proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys are being followed. Proper documentation to include blue cards, 2000-86s, etc.

Adequate ✗ Corrective Action Needed □ Comments Below □

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 Standard Operating Procedure (SOP) for training newly promoted Field Office Supervisors.

The Roof Control Plan SOP should comply with the established Program Policy Manual requirements as identified by the OIG report to address deficiencies identified in the Internal Review report. The SOPs should account for:

- checking that required information is submitted
- checking for communication with other plan approval groups
- assuring that designated MSHA personnel contact the operator for additional information
- discussing results of on-site evaluations with the operator and identified miners’ representatives.

Adequate ✗ Corrective Action Needed □ Comments Below □
The mine operator failed to maintain safe working conditions. The Peterbilt mechanics truck, Company Number 268, had a one gallon plastic container without a label. This container was half full with an unknown liquid. This could cause serious injuries to miners that tried using the liquid without any hazard information about it. Serious injuries have occurred to miners using unlabeled liquids including poisoning and/or chemical burns.
The mine operator failed to maintain safe working conditions. The Peterbilt mechanics truck, Company number 268, was observed with a broken handle on the back of the mechanics bed used to help get onto the bumper of the truck. It also appeared steps were broken off of the bottom of the bumper. The bumper was covered with loose dirt that when wet would become very slick. The bed of the truck also had pieces of metal, wire and nylon lifting straps. Safe means of access shall be provided and maintained to all working places. The truck was removed from service until repairs are made.

Standard 77.205(a) was cited.
The miners operating the Peterbilt mechanics truck, Company number 268, failed to perform an adequate pre-shift inspection. The truck had several slip/trip/fall hazards involving housekeeping and no hazards were noted on the pre-operational checklist. This is in reference to Citation number ____. The miners will be retrained in the proper procedure of pre-inspection of equipment they operate.

Standard 77.1606(a) was cited. 

See Continuation Form (MSHA Form 7000-3a).
Attachment E – Discussion Topics

- Documentation in inspection notes – Discussed the requirement to conduct an inspection for imminent dangers of the working pit each time an inspection is made in the pit. For the E01 event reviewed, Event No. [redacted] on one occasion, an inspector did not document that an inspection for imminent dangers was conducted in an active pit. See Coal Mine Safety and Health General Inspection Procedures Handbook (GIPH), PH16-V-1, June 2016, page 2-10, for reference.

- 103i Spot Inspection Tracking – Discussed the need to track each spot inspection. For 2017, one spot inspection tracking information was omitted from the tracking calendar. The information was added to the calendar during the on-site review. See GIPH, page 4-4 and Coal Mine Safety and Health Supervisor's Handbook, page 1-8, for reference.

- Discussion on enforcement actions – Discussed documentation of gravity and negligence for 4 issuances out of 44 reviewed. See GIPH, page 2-19 through 2-22 and Citation and Order Writing Handbook for Coal Mines and Metal and Nonmetal Mines, PH13-I-1(1), pages 11 through 13 and page 35 for reference.