## **U.S. Department of Labor**

Mine Safety and Health Administration 1100 Wilson Boulevard Arlington, Virginia 22209-3939



September 26, 2008

MEMORANDUM FOR

RICHARD E. STICKLER

Acting Assistant Secretary for

Mine Safety and Health Administration

FROM:

CHARLES J. THOMAS Charles J. Thomas

Director of Accountability for

Mine Safety and Health Administration

SUBJECT:

MSHA Office of Accountability Audit, Hazard, KY Field

Office, and

## **Introduction**

This memorandum summarizes the Office of Accountability audit of the subject mine and field office. Audit subjects included the Uniform Mine File, MSHA field activities, level of enforcement, Field Activity Reviews (FARs), MSHA supervisory and managerial oversight, mine plans, and the conditions and practices at the mine. The audit was conducted during the week of the by Charles Thomas. Positive findings and issues requiring attention are included in this audit report.

## Overview

The auditor traveled to the Hazard, KY field office and the
observe and evaluate enforcement activities, supervisor oversight, management
oversight, and current mining conditions. Accompanying the auditor was
The two highwalls, spoil banks, roadways, berms, pits, signage,
dump points, explosive magazines, were all adequately maintained. Equipment
inspected included a highwall miner, two front end loaders, bulldozers, and rock
trucks. Respirable dust survey was conducted on five (5) high risk occupations and the
results are attached.

The audit revealed many positive findings related to MSHA field activities and mine conditions, including well organized pre-inspection conferences, and enforcement actions.

Other positive findings included good communication and professional relations with the operator. FARS and Accompanied Activities were detailed, and in-depth second level reviews were being conducted. Conditions at the mine site were reflective of the inspection reports and enforcement actions reviewed. The equipment maintenance has

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improved from each inspection to the next inspections with a reduction in violations observed this audit.

The level of enforcement appears accurate and fair for the conditions observed at the mine. The district has conducted several "truck emphasis" inspections that have caused operators and independent contractors to maintain trucks in good condition as was observed this inspection.

Issue that required corrective action:

The supervisory CMI must conduct a thorough review of inspection reports, time reporting and violations concerning E02 spot inspections and scheduling of those inspections. One required E02 inspection was missed during the week of February 25th-March 12th, 2008. There was a communication failure between the and CMIs.

Corrective action already instituted: The E02 calendar has been modified and is posted in the office and given to all CMI's. The the control of the control

#### Recommendation:

Reflective vests <u>should</u> be provided for all surface inspectors who inspect on off shifts and are required to be on foot around heavy mobile equipment.

Corrective action already completed: Reflective vests have been delivered, and were on order prior to the audit. All surface inspectors have been issued reflective vests.

#### **Audit Results**

The attached checklist addresses the findings of this audit. Positive results as well as issues that need to be addressed are covered in the checklist.

## **Attachments**

- A. OOA Checklist with comments
- B. Respirable Dust Survey Results
- C. Citations Issued during audit

1. Coal X Metal/Nonmetal
Evaluate supervisory review of inspection reports and documentation for completeness.
Adequate
One required E02 inspection was missed during the week of February 25 <sup>th</sup> -March 12 <sup>th</sup> , 2008 in the Field Office. A communication failure occurred between the acting and CMI's.
Corrective action: The E02 calendar has been modified and is posted in the office and given to all CMI's. The supervisor CMI also addressed this issue during a staff meeting, to make certain that E02 inspections are completed timely. Corrected.
2. Coal X Metal/Nonmetal
2. Coal X Metal/Nonmetal Determine if supervisors address report deficiencies immediately
Determine if supervisors address report deficiencies immediately  Adequate X Inadequate Not Comments Below
Determine if supervisors address report deficiencies immediately  Adequate X Inadequate Not Comments Below
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Determine if supervisors address report deficiencies immediately  Adequate X Inadequate Not Applicable Comments Below  3. Coal X Metal/Nonmetal

District Coal Dist 7 Field Hazard, KY Mine ID Office
4. Coal X Metal/Nonmetal
Evaluate the quality of Field Activity Review reports (FARs)
Adequate Inadequate X Not Applicable Comments Below All FAR's did not evaluate E02 inspections as part of the oversight process <i>Authority: Mine Act, Section 103(i)</i> See item No. 1 above.
5. Coal X Metal/Nonmetal Determine if supervisors/managers are identifying and addressing performance or behavior based issues during and after accompanied inspections are conducted
Adequate X Inadequate Not Applicable Comments Below
6. Coal X Metal/Nonmetal
Evaluate the quality of Accompanied Inspections
Adequate X Inadequate Not Applicable Comments Below
7. Coal X Metal/Nonmetal
Determine if supervisors are thoroughly reviewing mine files at least annually
Adequate X Inadequate Not Applicable Comments Below
Positive Comment: The UMF was orderly and up to date. All outdated material was removed by the inspector, supervisor, or field office administrative assistant.

### United States Department of Labor Mine Safety and Health Administration Office of Accountability

District Coal Dist 7 Field Hazard, KY Mine ID Office
8. Coal X Metal/Nonmetal Determine if Assistant District Manager is holding supervisor accountable for general mine visits, FARs, and accompanied activities
Adequate X Inadequate Not Applicable Comments Below
Adequate yes, except for one instance see item 4.
20. Coal X Metal/Nonmetal Determine if supervisors are adequately evaluating the level of enforcement by visiting each producing mine
Adequate X Inadequate Not Applicable Comments Below
23. Coal X Metal/Nonmetal Determine if second level reviews and Peer Reviews are used to assess supervisory review of enforcement actions
Determine if second level reviews and Peer Reviews are used to assess
Determine if second level reviews and Peer Reviews are used to assess supervisory review of enforcement actions  Adequate X Inadequate Not Comments Below
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District Coal Dist 7 Field Hazard, KY Mine ID Office
30. Coal X Metal/Nonmetal Determine if inspection notes, air samples, rock dust samples, and tracking map/diagram support the inspector's assertion that the mine was inspected in its entirety
Adequate X Inadequate Not Applicable Comments Below
31. Coal X Metal/Nonmetal Determine that the inspector spent sufficient time on off-shifts and on weekends
Adequate X Inadequate Not Applicable Comments Below
34. Coal X Metal/Nonmetal J Determine if all mine record books, postings, and other required materials are examined during the inspection
Adequate X Inadequate Not Applicable Comments Below
Records were current and well maintained.

District Coal Dist 7 Field Hazard, KY Mine ID Office
37. Coal X Metal/Nonmetal
Evaluate each citation/order/safeguard for inspector's determination of gravity, negligence, number of persons affected, and the level of enforcement
Adequate X Inadequate Not Applicable Comments Below
38. Coal X Metal/Nonmetal
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Adequate X Inadequate Applicable Comments Below
39. Coal X Metal/Nonmetal
Check adequacy of preshift/on shift examinations
Adequate X Inadequate Not Applicable Comments Below
Detailed, timely exams are being conducted.
41. Coal X Metal/Nonmetal
41. Coal X Metal/Nonmetal Evaluate operator's workplace examinations
41. Coal X Metal/Nonmetal Evaluate operator's workplace examinations

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District Coal Dist / Field Hazard, KY Mine ID Office
52. Coal X Metal/Nonmetal
Examine mine bulletin board and evaluate adequacy of all required postings
Adequate X Inadequate Not Comments Below
3. Coal X Metal/Nonmetal Interview responsible person(s) and evaluate knowledge of emergency response, evacuation procedures, and fire fighting processes
Adequate X Inadequate Not Comments Below
6. Coal X Metal/Nonmetal
Determine if districts are conducting sufficient, in-depth Peer Reviews
Adequate X Inadequate Not Applicable Comments Below
Recommendation: All second level peer reviews should include review of E02's are being
onducted in accordance with the Mine Act.

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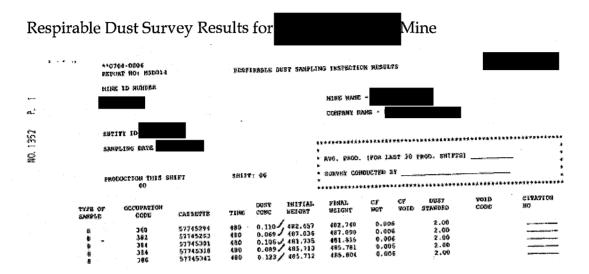
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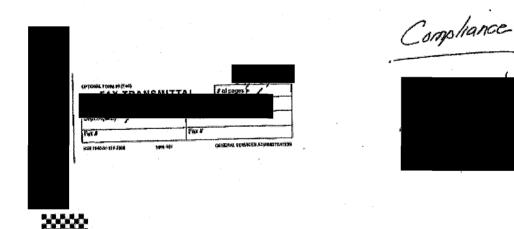
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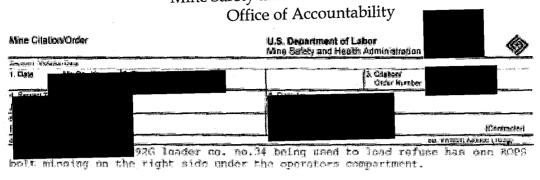
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A. Injury or litness (has) (is): No Likelihood B. Injury or litness could reasonably be expected to be: No Lost Wo C. Significant and Substantial: Yes [ ] I. Negligence (chack one) A. None [ ] Z. Type of Action [ ] B. Order ( ] C. Safeguard [ ] J. Area or Equipment  J. Termination Due A. Date ( ] C. Safeguard [ ] J. Termination Action J. Action III-Termination Action J. Action to Terminate  J. Terminated A. Date Mo Da Yr B. Terminated A. Date ( ] Da	No D. Written Notice 1	ys Or Restricted Duty P  D N  Berate P D High        Citation  Citation	ermanently Disabiling Litumber of Parsons Affecto  E. Reckless Disreg	Fatald: 001 gardSafeguard
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# United States Department of Labor Mine Safety and Health Administration Office of Accountability

Mine Citation/Order Continuation		U.S. I Mine	Department of Labor Safety and Health Ad	r ministration	
Section I-Subsequent Action/Continuation Data					***
1. Subsequent Action 1a, Continuation	Dated     (Original Issue)	Ido Da Va	3. Citation/ Order Number		-
4. Served To		13. Upe	ralor		The state of the s
establish Agentus	- Comment	1			(Contractor)
Section II-Justinosion for Action	Annual Control of the			Transport of the Control of the Cont	

The front horn is now operative.

Section III-Subsequent Action Taken			000 00 00 00 00 00 00 00 00 00 00 00 00	Ne Commission of the Commissio		See Continuation Form
8. Extended To A. Date Mo D	a Yr	B. Time (24 Hr. Clock)		[] C. Vacated	D. Terminated	E. Modified
Section IV-Inspection Data				- 7.		
9. Type of inspection EOT	10. E	vent Number				Assemble Ass
11. Sign		AR Number	12. Date	Ma Ca St	142 Time (24 Lls 7)	ck)
MSNA Form 7009-3a, Mar 85 (revised)						

# United States Department of Labor Mine Safety and Health Administration Office of Accountability

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration	
Section I-Violation Data		
1. Date	3. Citation/ Order Number	,
Militaria de 19 paga 12 a 1		(Contractor)
	8a. Written Noti	ce (103g)
	co. no. 153 loading coal in the highwall and grease on the frame of the machine.	miner

See Continuation Form (MSHA Form 7900-3a) 9. Violation A. Health B. Section C. Part/Section of Safety Title 30 CFR 77.1104 Other 10. Gravity: A. Injury or Illness (has) (is): Unlikely No Likelihood Reasonably Likely 🗸 Highly Likely Occurred | B. Injury or illness could rea-No Lost Workdays Lost Workdays Or Restricted Duty 🛂 Permanently Disabling Fatal 🗌 sonably be expected to be C. Significant and Substantial: D. Number of Persons Affected: Yes 🗸 No 🗔 001 11. Negligence (check one) D. High A. None B. Low E. Reckless Disregard C. Moderate 12. Type of Action 13. Type of Issuance (check one) Citation 🗸 104(a) Order [ Safeguard ... 14. Initial Action E. Citation/ F. Dated Mo Da Yr B. Order C. Safoguard D. Written Notice A. Citation Order Number 15. Area or Equipment 16. Termination Due A. Date B. Time (24 Hr. Clock) Section III-Termination Action 17. Action to Terminate 18. Terminated Mo Da A. Date B. Time (24 Hr. Clock Section IV-Automated System Data 19. Type of Inspection (activity code) 20. Event Number 21. Primary or Mill E01 22. Signature 23, AR Number MSHA Form 7900-3, max so (revised) arraccordance with the provisions of the Small Business Regulatory Enforcements Fairness Act of 1996, the Small Business and Agriculture Regulatory Ombudismen and 10 Regional Fairness Boards to receive comments from small businesses about federal agency efforcement actions. The Ombudismen annually evaluates enforcement activities and raise each agency responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-Bas-734-3247, or write the Ombudisman at Small Business Administration, Office of the National Ombudisman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudisman is in addition to any other right you may hear including the right to contest citations and proposed genetics and obtain a hearing before the Federal Mino Safaty and Health Review Commission.

# United States Department of Labor Mine Safety and Health Administration Office of Accountability

Mine Citation/Order Continuation			U.S. Department of Labor Mine Safety and Health Administration	
Section I-Subsequent Action	vContinuation Date	,, ,,		Samuel Control of the
1. Subsequent Action 1a	. Continuation	2. Dated (Original Issue	3. Citation/ Order Number	
			·	
				(Contractor)
Georgia (HANDERHORIGH FOF AU	tion		104704-00154	

The accumulation was removed from the machine.

	See Continuation Form [
Section III-Subsequent Action Taken  8. Extended To A. Date Mo Da Yr B. Time (24 Hr. Clock)	
	☐ C. Vacated ☑ D. Terminated ☐ E. Modified
Section IV-Inspection Data	
9. Type of Inspection E01 10. Event Number	
AR Number	f 12. Date Mo Da Yr 113. Time (24 Hr. Glock)
WSHA Form 7000-3a, Mar 85 (revised)	

Mine Citation/Order				U.S. Department of Labor Mine Safety and Health Administration	
Section IViolat					
1. Date	Mo De Yr	2. Time (24 Hr. Cinck)		3. Citation/ Order Number	1
4. Served T			5	2 2 2 2 3 3 3 3 4 4 4 4 4 4 4 4 4 4 4 4	
			I.		
Ji 5. E.		No.	7.	William	A THE PARTY OF THE
E			WILLIAM TO THE STREET	· · · · · · · · · · · · · · · · · · ·	(Contractor)
STANKE					Notice (103g)
fuel ta	ink near t	ng on the fire extinct the parking lot was ne last six months.	not marked to sho	w it had been exam	mined at
				•	
		•		*	
				4	
				See Continuation Form (MSHA	Form 7000-3a)
9. Violation	A. Health	B. Section	C. Perl/Section of	ma 1416	
	Safety V	of Act	Title 30 CFR	77.1110	
Section II-Inspe	ector's Evaluation				
10. Gravity:			- American de la companya de la comp		- No.
	r Mness (has) (is)		Reasonably Likely	Highly Likely Occum	ed [ ]
	r illness could rea be expected to be		Workdays Or Restricted Duly	Permanently Disabling	Fatal [
-	ant and Substanti			D. Number of Persons Affected:	001
11. Negligeno	e (check one)	A. None S. Low S.	C. Moderate 🗹 D. High	E. Rockloss Disrega	rd 🗍
12. Type of A	ction 104	(a) 13. Type	of Issuance (check one)	Citation V Order	Safeguard
14. Initial Acti A. Citation	ion	C. Safeguard [ ] D. Written Notice	E. Citation/ Order Number	F. Dated	Mo Da Yr
15. Area or E	quipment	1			
16. Terminali	on Due		, manufacture of the state of t		
	A Da	time (24 Hr. C	(ack)		
Section III-Tem	The second secon				
17. Action to	Terminate The	e fire extinguisher	was examined and	the date was mark	ed on ∫
the per	manent t	ag.	•		
18. Terminate Section IV-Aut	A. Date	Time (24 Hr. Clock			
19. Type of In	repection	20. Evant Number	21. Primary or Mill		The second secon
(activity c 22. Signature				23. AR Number	
-		Att.			
	DOM		Small Business Regulatory Enforcemen	it Fairness Act of 1996, the Small Busine	est nonevaluation has
MSHA Form 70 established a N		ess and Agriculture Regulatory Ombudanian at	td 10 Regional Fairness Boards to receive	re comments from small businesses abo	ul federal agancy
established a N	lational Smet Busine tions. The Ombeds	man annually evaluates enforcement activities	and rates each agency's responsiveness	s to small business. If you wish to comm	ent on the
established a N enforcement ac anforcement ac Street, SW 440	lational Smell Busine None. The Ombeds None of MSHA, you C 2120, Washington		and rates each agency's responsiveneer or write the Ombudsman at Small Busine ight to file a comment with the Ombudsn	s to small business. If you wish to commuse Administration, Office of the National names in addition to any other <u>Habits you.</u>	ont on the Ombussman, 409 3rd