U.S. Department of Labor

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



March 17, 2009

MEMORANDUM FOR

MICHAEL A. DAVIS Deputy Assistant Secretary for Operations Mine Safety and Health

THROUGH:

CHARLES J. THOMAS *Charles C. Shomas* Director of Accountability for Mine Safety and Health Administration JERRY J. KISSELL *C. C. Shomas for*

FROM:

SUBJECT:

MSHA Office of Accountability Audit, Birmingham, Alabama, Field Office,

Introduction

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

Accountability Specialist

Overview

The auditor traveled to the Birmingham, Alabama Field Office and to the Longview Operation to observe and evaluate enforcement activities and mine conditions. Prior to the field visit, the previous two E-01 inspection reports were reviewed as well as time utilization and enforcement activities for the mine and field office. Accompanying the auditor from the Birmingham, AL field office was

included

Company personnel accompanying the audit team

Areas traveled in the facility

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and areas of the quarry examined during this audit included the number 5 kiln, the number 5 kiln preheat tower and dust collector house, the warehouse and bag-house, the Primary crusher, the open pit and the truck maintenance shop. Equipment inspected included the primary crusher, conveyor belts, and areas in the mill, and surface mobile equipment. The auditor traveled on the evening shift to evaluate illumination as well as the day shift.

The auditor conducted safety discussions with mine management and during the inspection with miners as they were met. Safety discussion included a review of mine accident history, accident classification and categories for the most common accidents at this mine, as well as reviewing the 2008 M/NM fatality report. Safety best practices were discussed throughout the site visit.

One of the two required headquarters accountability reviews was conducted in the south-east district, in the Columbia, SC field office in 2008 with two mines visited. The other required headquarter accountability review was conducted in the Rolla, MO field office in the south-central district. The south-east district completed a district accountability review in the Macon, GA field office with two mine property visits in 2008.

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

- 1. The supervisor visited numerous high risk/high violation mines throughout the year.
- 2. Inspection documentation was well written and indicative of thorough and complete inspections.
- 3. Inspectors performed professionally and confidently exhibiting excellent knowledge of MSHA regulations and policy, as well as thorough review of citations issued and root cause review for each violation issued.
- 4. The 104(d) tracking system is obvious, maintained and up to date.
- 5. Ample time was spent on mine site with excellent time management. "Other" time was below 4 % for the local inspection personnel on the previous inspection.
- 6. Weekend and off-shift inspections are regularly covered.
- 7. Field Office records for self rescuer maintenance and ITX gas detectors were well maintained, and readily available.
- 8. Open and positive communications existed between MSHA and the operator. Miners, safety personnel, and management personnel demonstrated open and professional communications to all MSHA personnel during the audit.

The audit also revealed issues that require corrective actions, which include the following:

- 1. The Birmingham, Alabama field office supervisor did not document the minimum required Accompanied Activities (Item 8 in Attachment A).
- 2. 2nd level reviews were not completed for all field offices as directed in the supervisory handbook (See item 23 in attachment A).

S&S Rate Comparison

- 1. The field office S&S rate for this facility during the previous five quarters averaged 15.5% which is below the national average for CY 2008 which was 21%.
- 2. The S&S rate during the audit was 18%.
- 3. The District S&S rate currently is **25%** compared to the FY 2008 national average which was 21%.

Overall, the evaluation of citations reviewed in the previous E01 events and the citations issued during the audit at the facility indicated accurate and consistent determinations for gravity and negligence. However, there was one instance where there appeared to be enough evidence (repeat violations) to support evaluations of higher negligence. (See issue No. 16.)

Audit Results

The attached checklist (Attachment A) addresses the findings of the audit. Positive issues as well as issues requiring action are covered in detail in the checklist.

Attachments

- A. Office of Accountability Checklist, with comments, recommendations, and references
- B. Citations iss<u>ued during this audit</u>

1.	56	.12013b
2.	56	.11002
3.	56	.11001
4.	56	.12018
5.	56	.12002
6.	56	.11001
7.	56	.12030
8.	46	.9b2 (Training records/contractor)
9.	46	
10.		.12005
11.	56	.12008

C. Pictures of Facility/Safety Practices observed

Attachment A: Checklist

United States Department of Labor Mine Safety and Health Administration Office of Accountability District South East Mine ID Field Birmingham Office Metal/Nonmetal X 1. Coal Evaluate supervisory review of inspection reports and documentation for completeness. Not Х Adequate Inadequate **Comments Below** Applicable Notes overall were very well written with one area for improvement - Preconference documentation was minimal in inspection notes. 2. Coal Metal/Nonmetal | X | Determine if supervisors address report deficiencies immediately Not Х Inadequate Adequate **Comments Below** Applicable Coal Metal/Nonmetal X 4. Evaluate the quality of Field Activity Review reports (FARs) Not Adequate Inadequate Х **Comments Below** Applicable Field Activity review reports were not available for 3 inspectors in the Birmingham FO. The had traveled with inspectors but had not documented the Accompanied Activity forms or Field Activity Reviews. 5. Coal Metal/Nonmetal | X Determine if supervisors/managers are identifying and addressing performance or behavior based issues during and after accompanied inspections are conducted Not Х Adequate Inadequate **Comments Below** Applicable

	United States Department of Labor Mine Safety and Health Administration Office of Accountability	
	District South East Field Birmingham Mine ID Office	
	6. Coal Metal/Nonmetal X Evaluate the quality of Accompanied Inspections	
	Adequate X Inadequate Not Applicable Comments Below	
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	 Coal Metal/Nonmetal X Determine if supervisors are thoroughly reviewing mine files at least annually 	
	Adequate X Inadequate Not Applicable Comments Below	
Ĺ		
	8. Coal Metal/Nonmetal X Determine if Assistant District Manager is holding supervisor accountable for general mine visits, FARs, and accompanied activities	
	Adequate Inadequate X Not Applicable Comments Below	
	The had not document three Accompanied Activities reports for three inspectors during the past 2 months. (This field office has 12 inspectors.) The ADM was not aware these were not completed. <i>Reference: AH97-III-7, M/NM Mine safety and Health Supervisors Handbook</i>	
	11. Coal Metal/Nonmetal X Determine if ADMs and DMs are visiting mines with poor compliance.	\$
	Adequate X Inadequate Not Applicable Comments Below	

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
16. Coal Metal/Nonmetal X Determine if supervisors, staff assistants, and other management personnel are reviewing work products for accuracy and completeness
Adequate Inadequate X Not Comments Below
Citation ssued for guarding stated the operator had been cited ten times in the previous two years. The negligence was moderate. The following three violations were issued under the same standard and the negligence remained as moderate. There appears to be enough support for higher enforcement action. <i>Reference: C/O writing handbook, PH08-I-1, Negligence criteria, page 22-23.</i>
17. Coal Metal/Nonmetal X Determine if supervisors are monitoring inspector time and activity documentation to ensure proper use of time by inspector
Adequate X Inadequate Not Comments Below
19. Coal Metal/Nonmetal X Determine if supervisors are using the Performance Management System to hold inspectors accountable for properly evaluating gravity and negligence, termination due dates, and timely termination of citations. Adequate Not Applicable Comments Below

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
21. Coal Metal/Nonmetal X Determine if District Manager is monitoring the ACRI program and using the Performance Management System to ensure that CLRs justify changes Adequate X Inadequate Not Applicable Comments Below
22. Coal Metal/Nonmetal X Determine if District Manager is using discretion in granting conferences
Adequate X Inadequate Not Comments Below
23. Coal Metal/Nonmetal X Determine if second level reviews and Peer Reviews are used to assess supervisory review of enforcement actions
Adequate Inadequate X Not Applicable Comments Below
2nd level reviews were not completed as directed in the M/NM Mine Safety and Health Supervisors handbook. Three field offices were without supervisors during the previous year and this allowed for several inspectors to not have Accompanied Activities (AA's) or Field Activity Reviews (FAR's) completed which contributed to the lack of completed second level reviews. The Reviews that were completed were well noted and good documentation was available. <i>Reference: AH97-III-7, M/NM Mine safety and Health Supervisors Handbook</i>

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
24. Coal Metal/Nonmetal X Determine if appropriate actions are taken by supervisors and manager with respect to issues of misconduct and/or poor performance
Adequate X Inadequate Not Comments Below
25. Coal Metal/Nonmetal X Evaluate inspector/specialist knowledge of documentation required and process for completing PKW Forms.
Adequate X Inadequate Not Comments Below
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29. Coal Metal/Nonmetal X Determine if complete and thorough inspections are being conducted and adequately documented
Adequate X Inadequate Not Applicable Comments Below
30. Coal Metal/Nonmetal X 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

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
31. Coal Metal/Nonmetal X Determine that the inspector spent sufficient time on off-shifts and on weekends
Adequate X Inadequate Not Comments Below
34. Coal Metal/Nonmetal X Determine if all mine record books, postings, and other required materials are examined during the inspection
Adequate X Inadequate Not Applicable Comments Below
36. Coal Metal/Nonmetal X Determine if the amount of time expended on each inspection activity and area of the mine is sufficient to accomplish inspection goals
Adequate X Inadequate Not Applicable Comments Below
37. Coal Metal/Nonmetal X 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 Comments Below

United States Department of Labor Mine Safety and Health Administration Office of Accountability South East District Field Birmingham Mine ID Office 38. Coal Metal/Nonmetal X Accompany and evaluate inspector's imminent danger run Not Adequate Inadequate Х **Comments Below** Applicable 39. Coal Metal/Nonmetal | X | Check adequacy of preshift/onshift examinations Not Adequate Х Inadequate **Comments Below** Applicable 41. Coal Metal/Nonmetal X Evaluate operator's workplace examinations Not Х Adequate Inadequate **Comments Below** Applicable Metal/Nonmetal X 42. Coal Evaluate conditions and observe work cycle Not Adequate Х Inadequate Comments Below Applicable

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
45. Coal Metal/Nonmetal X Determine adequacy of training.
Adequate X Inadequate Not Applicable Comments Below
Training plan reviews, miners are well seasoned and knowledgeable.
49. Coal Metal/Nonmetal X Evaluate several pieces of equipment.
Adequate X Inadequate Not Comments Below
50. Coal Metal/Nonmetal X Examine signage
Adequate X Inadequate Not Comments Below
54. Coal Metal/Nonmetal X Travel and evaluate condition and maintenance of conveyor belt, structures, and walkways.
Adequate X Inadequate Not Comments Below

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
58. Coal Metal/Nonmetal X Evaluate cleanup of accumulations and Housekeeping.
Adequate X Inadequate Not Comments Below
Over all/pretty well maintained.
62. Coal Metal/Nonmetal X Examine mine bulletin board and evaluate adequacy of all required postings
Adequate X Inadequate Not Comments Below
64. Coal Metal/Nonmetal X Determine if approved plans address and are compatible with mining conditions and equipment
Adequate X Inadequate Not Comments Below
66. Coal Metal/Nonmetal X Determine if districts are conducting sufficient, in-depth Peer Reviews
Adequate X Inadequate Not Comments Below
The district conducted an Accountability review at the Macon, GA field office with two different mines visited.

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
67. Coal Metal/Nonmetal X Determine if MSHA headquarters is conducting sufficient, in-depth Peer Reviews
Adequate X Inadequate Not Applicable Comments Below
HQ conducted the required accountability review in the south-east district, at the Columbia, SC field office and in the south-central district at the Rolla, MO field office during 2008.
68. Coal Metal/Nonmetal X Determine if Peer Reviews identify root causes of deficiencies, corrective actions, set time lines for corrections, and identify a method for accurately measuring the success or failure of corrective actions.
Adequate Not Comments Below
69. Coal Metal/Nonmetal X Determine if Peer Reviews are being used to assess supervisors and managers performance
Adequate X Inadequate Not Applicable Comments Below
70. Coal Metal/Nonmetal X Determine if Peer Reviews include a visit to the mine, and include observation of the producing areas, conveyor belts, and escapeways. Adequate X Inadequate Not Comments Below
See Item 66.

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
 71. Coal Metal/Nonmetal X Determine if Peer Reviews accurately reflect and evaluate MSHA activities at all types of mining (underground/surface/surface facilities) within the district Adequate X Inadequate Not Applicable
75. Coal Metal/Nonmetal X Evaluate approved training plan after discussion with miners
Adequate X Inadequate Not Comments Below
77. Coal Metal/Nonmetal X Evaluate the two most current completed E01 (regular) inspection reports (two quarters)
Adequate X Inadequate Not Comments Below
79. Coal Metal/Nonmetal X
Citations, orders, and safeguards issued during previous two quarters
Adequate Inadequate X Not Applicable Comments Below
See Item 16.

United States Department of Labor Mine Safety and Health Administration Office of Accountability
District South East Field Birmingham Mine ID Office
80. Coal Metal/Nonmetal X Determine if 104(d) tracking system is in place at the office being audited, and is being kept up to date
Adequate X Inadequate Not Applicable Comments Below
115. Coal Metal/Nonmetal X Evaluate the effectiveness of management's support of, and communication with, inspectors and specialists
Adequate X Inadequate Not Comments Below
116. Coal Metal/Nonmetal X Review documentation of staff meetings/safety meetings to determine their effectiveness and relevance to the Agency's mission and current issues Adequate X Inadequate Not Applicable Comments Below
Coal Metal/Nonmetal X 117. Are MSHA Forms 7000-1 accurately reviewed for proper information and potential violations, unsafe practices, or conditions? Adequate X Inadequate Not Adequate X Inadequate Comments Below

United States Department of Labor Mine Safety and Health Administration Office of Accountability South East Mine ID District Field Birmingham Office Coal Metal/Nonmetal Х 118. Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections. Not Inadequate Х **Comments Below** Adequate Applicable Coal Metal/Nonmetal Х 119. Determine if adequate close-out conferences are being conducted at the end of each inspection. Not Х Inadequate Adequate **Comments Below** Applicable Coal Metal/Nonmetal Х 121. Determine if manpower at the field office is sufficient to ensure adequate, complete inspections, investigations, and other activities. Not Х Inadequate **Comments Below** Adequate Applicable

Attachment B - Citations issued during audit

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MSHA Form 7000-3, Apl 09 (revised) In accordance with th established a National Small Business and Apricultury Regulate enforcement actions. The Ombudersine naniusly evaluates ante enforcement actions. Other Ombudersine naniusly evaluates ante enforcement actions. Other Mission (2014), State and enforcement actions of MSHA, you may call 1-980-HIG FARI Stroot, SW. Mc 2120, Waymington, D2 20416. Phage note, h the fight to contest citations and proposed penalties and obtain	provisions of the Small Busin y Ornaudsman and 10 Region cament activities and rates co 880-734-32471, or write the O waver, thei your right to file a- heoring boforo the Federal M	ess Regulatory Enforcer al Folmess Boards to re- ich agoncy's responsiver mbodsman at Small Bus comment with the Ombus ine Safety and Health Re-	nent Faimess Act of 1996, t coive comments from small less to amail business. If yo liness Administration, Omce Isman is in addition to any o view Commission	he Small Business Administration ha businesses about learnal agency u wish to commont on the of the National Chritudyman, 409 3 ther rights you may have, including	
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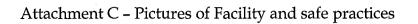
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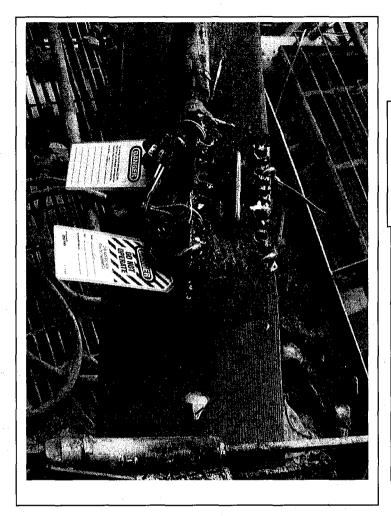
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equited 24 hour new miher traini ndicated the employee had only r nd was not working within close	he failed to record and certify the MSHA ing received on one employee. The certificate received 16 hours training since 11/19/2008 observation of a trained miner. The employee sived the remainder of the training on the job assigned.
Violation A, Health B Section	See Continuation Form (MSHA Form 7000-39)
Safety of Act Other	Title 30 CFR 46.9h2
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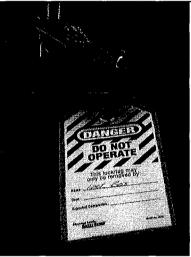
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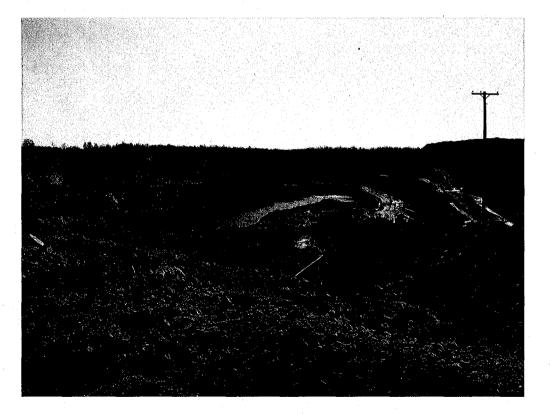


Lock practices – main key is locked inside the location box, which is locked by all who are working on machinery/circuits.

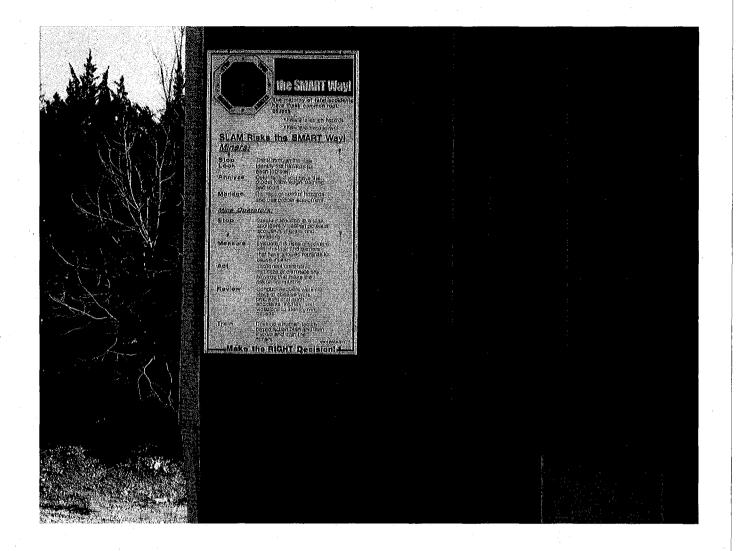


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Task operating directions and procedures posted.



Quarry operations: Good berming, wide benching/step back mining technique



Posted SLAM safety and SMART safety signs.