U.S. Department of Labor

Assistant Secretary for Congressional and Intergovernmental Affairs Washington, D.C. 20210



MAR 2 6 2010 MEMORANDUM FOR:

MICHAEL A. DAVIS

Deputy Assistant Secretary for Operations Mine Safety and Health

FROM:

PETER J. MONTALI Detust. Montali Acting Director of Accountability Mine Safety and Health

SUBJECT:

MSHA Office of Accountability Audit. MNM Northeastern District. Wyomissing North, PA, and

Introduction

This memorandum summarizes the Office of Accountability audit of the subject field office and mine. Audit subjects included MSHA field activities, level of enforcement, Field Activity Reviews (FARs), Accompanied Activities (AAs), MSHA supervisory and managerial oversight, and the conditions and practices at the mine. The audit was conducted during the week defined activity Positive minings and issues requiring attention are included in this audit report.

Overview

The field office audit was conducted of the audit with the on-site portion of the audit conducted or . Accompanying the audit team were

On-site areas examined included the MCC 1 room, MCC 2 room, MCC 3room, pit & highwalls, Cat haul truck, Western Star Tri-axle dump truck, blasting site, diesel fueling area, CAT 345B, CAT 775E haul truck, CAT 775 D haul truck, CAT 992 Front End Loader, Cat 773 B Haul Truck, Haulage roads, MCC transformer, C-1 conveyor belt, tarping station, standard feed conveyor, standard incline conveyor, and roadway to second mill conveyor.

S&S Rate Comparison

S&S rates for the Wyomissing North Field Office, were slightly above the Districts' average and slightly below the National rate in FY 2008. In FY 2009, the Wyomissing Field Office's S&S rate increased and is currently above both the District and National averages.

	S&S Rate Comparison					
Fiscal	Wyomissing North	Northeastern	National			
Year	Field Office	District	Average			
2008	20.51%	19.65%	21.42%			
2009	35.93%	28.78%	28.03%			

Time and Activity Comparison

Time distribution for E01 inspections conducted out of the Wyomissing North field office from October, 2008 to August, 2009.

	Time Distribution (Percent) – E01 Inspections at Surface Facilities					
	Travel	Other	Total On-Site	Citations Issued On-site	Citations Issued Off-site	Total Percent
2008	17.90%	2.80%	75.57%	.62%	3.78%	100%
Nat'l Ave 2008	20.31%	10.42%	61.59%	3.02%	7.69%	100%
2009	14.14%	5.04%	70.16%	2.03%	10.66%	100%
Nat'l Ave 2009	20.42%	10.66%	61.88%	3.82%	7.05%	100%

*Total On-site time includes Citations Issued on-site

	Tin	ne Distril	oution (Per	cent) - E01 Ins	pections at Surfac	e Mines
	Travel	Other	Total On-Site	Citations Issued On-site	Citations Issued Off-site	Total Percent
2008	27.40%	9.70%	57.10%	2.88%	5.80%	100%
Nat'l Ave 2008	28.19%	11.97%	56.17%	3.16%	5.67%	100%
2009	27.59%	8.68%	57.29%	2.75%	6.43%	100%
Nat'l Ave 2009	25.89%	11.93%	56.18%	3.27%	6.00%	100%

*Total On-site time includes Citations Issued on-site

Time Distribution (Percent) - E01 Inspections at Underground Mines

	Travel	Other	Total	Citations	Citations	Total
	<u>8</u>		On-Site	Written On-	Written Off-	Percent
				site	site	
2008 NE	20.45%	8.10%	64.38%	0.13%	7.07%	100%
Nat'l Ave 2008	22.19%	11.90%	59.92%	1.69%	5.21%	100%
2009 NE	20.01%	7.20%	68.52%	0.31%	4.27%	100%
Nat'l Ave 2009	23.72%	11.40%	59.81%	2.22%	5.08%	100%

*Total On-site time includes Citations Issued on-site

Audit Results

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

- 1. Inspection work by the accompanied inspector was commendable regarding the identification of hazards and violations at the mine site.
- 2. Condition or practice as identified by the inspector was very detailed.
- The documentation of the second level reviews of Field Activity Reviews by district management provided detailed comments. The second level reviews identified many specific deficiencies and provided excellent feedback to FO supervisors concerning the submitted reports.
- 4. Personnel at the field office displayed a professional attitude and appearance.

The audit also revealed several issues that require corrective actions, including the following:

- Conditions observed and citations issued during this audit indicate that highwall ground conditions and mining methods that address compliance with maintaining safe ground conditions appear not to have been addressed in previous inspections. (See Attachment D)
- 2. Evaluation of gravity, negligence, number of persons affected, and level of enforcement do not appear commensurate with the notes or the narrative of the citations. [See Attachment C]
- 3. There was insufficient enforcement focus during past inspections. Previous inspections averaged and C/O issued. The audit revealed area issued. There did not appear to be any signmeant changes regarding mining methods, equipment, and employment since the previous inspection. (See Attackment A Item 27 Item 32, Item 36)
- 4. Site inspection time for previous inspections at the nine do not appear appropriate for the mine size, equipment or mine type. (See Item # 27)

- 5. The district should review the status of intermittent and full-time operations for accuracy. A review of man-hour reports for some operations listed in intermittent status indicate they should be classified as full-time. [76% of Wyomissing North field office mines are classified as Intermittent, 69% of the Northeastern Districts' operations are classified as Intermittent]
- 6. Inspection site time during the audit totaled an ecessary to complete the regular inspections with a s issued at 5&S rate . Previous inspections averaged to the time hours with an average determinations issued. (*See Item #27, Attachment B*)

Attachments

- A. Office of Accountability Checklist with comments, recommendations, and references
- B. Citations/Orders issued during this audit

	1	_	
1.			56.14207
2.		141	56.14207
3.			46.11d
4.			56.9300a
5.			56.6306a
6.			56.11002
7.			56.3200
8.			56.14100b
9.			56.9314
10			56.12041
11			56.12041
12			56.4201a1
13			56.3130
14			56.14107a
15			56.12034
16			56.14112b
17			56.9100b
18			56.3401
19			56.11002
20			56.12041
21			56.12018
22			56.12018
23			56.12018
24			56.12018
25			56.11001
26			56.14107a
27			56.11001
28			56.12016
29			56.12032
30			56.12004



- C. Appropriate determinations of gravity, negligence, and level of enforcement appears not to have been determined correctly.
- D. Photos taken during audit

District MNM Northeastern Field Office Wyomissing North Mine ID 1. Evaluate supervisory review of inspection reports and documentation for completeness.
Adequate Inadequate X Not Applicable Comments Below
A review of prior inspection reports indicate a lack of consistency in evaluation of negligence, gravity, and type of action on a number of citations.
(See Attachment C)
2. Determine if supervisors address report deficiencies immediately
Adequate Inadequate X Not Applicable Comments Below
The deficiencies highlighted on the citation listing in <i>Attachment C</i> , which have been reviewed by were not addressed or corrected.
(See Attachment C)
4. Evaluate the quality of Field Activity Review reports (FARs)
Adequate Inadequate X Not Applicable Comments Below
Ten FAR's were available for review during the audit for this field office. Four of the ten reviews did not have any deficiencies identified. When deficiencies are noted, a statement "As noted in comments above" has been used in a number of FAR's. This area of the FAR should contain any deficiencies noted during the accompanied visit not just to refer to the checklist. One FAR/AA was conducted at mine identify is is is 2 inspectors on the same FAR. A FAR should not contain multiple inspectors on the same evaluation since the checklist would not identify which inspector met or did not meet the criteria listed. 2 nd level reviews lists a number of comments on each FAR that was missed and not included 1 added comments such as "FAR missed the mark", "Internal These comments/deficiencies were identified but no follow-up or corrective action.

5. Determine if supervisors/managers are identifying and addressing performance or
behavior based issues during and after accompanied inspections are conducted

District MNM Northeastern Field Office Wyomissing North Mine ID
Adequate Inadequate Not Applicable X Comments Below
No performance or behavior based issued were identified during the AA's
6. Evaluate the quality of Accompanied Inspections
Adequate Inadequate X Not Applicable Comments Below
Second level reviews are very detailed with good comments and questions regarding the FAR's/AA's. It appears that although the 2 nd level reviews are detailed with very good comments, the FAR's quality has not improved. 40% of the FAR/AA had no deficiencies identified, 30% of the AA's had no comments/observations listed, 60% of the AA's comments were almost identical stating that a thorough inspection was completed and one AA revealed that two inspectors were evaluated on one report.
 Determine if Assistant District Manager is holding supervisor accountable for 8. FARs and accompanied activities
Adequate Inadequate X Not Applicable Comments Below
During FY 2009 – All required FAR's/AA's were not completed on each inspector in the Wyomissing North Field Office. No FAR's/AA's documents were in the file for two inspectors; First half year reviews (10-1-08 thru 3-31-09) were not completed for three inspectors:
 Determine if District Manager is using Performance Management System to hold ADMs accountable for oversight of subordinates
Adequate Inadequate X Not Applicable Comments Below
All FAR's/AA's were not completed during FY 2009. No FAR's/AA's documents were in the file for two of the Wyomissing North Inspectors and no documentation was provided that First half year reviews (10-1-08 thru 3-31-09) were completed for 3 inspectors:

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United States Department of Labor Mine Safety and Health Administration

	Office of Accountability	
District MNM Northeastern Field C	Office Wyomissing North Mine ID	
Evaluate supervisory 12. system for compliance	v and management review of 103(ce with time frames	i) (spot inspection) tracking
Adequate Inadequate	e 🗌 Not Applicable 🔀	Comments Below
A	sors and managers are ensuring t other type of inspection	hat 103(i) inspections are no
Adequate Inadequate	e Not Applicable X	Comments Below
14. reviewing work proc	sors, staff assistants, and other ma lucts for accuracy and completene	ess
Adequate Inadequate	e X Not Applicable	Comments Below
See Item 17, Attachment C		· · · ·
	sors are monitoring inspector tim sure proper use of time by inspec	-
Adequate X Inadequate	e 📄 Not Applicable 🗌	Comments Below
1 0	y Indicator reports to monitor tim rview with the field office superv during inspection activities.	2
		9 at 1 a .
	d Operating Procedures (SOPs) as HA policies and procedures	re in place, current, and in
Adequate X Inadequate	e 🔄 Not Applicable 🗌	Comments Below
4		2
Attachment A		

Office of Accountability
District MNM Northeastern Field Office Wyomissing North Mine ID
Determine if supervisors are using the Performance Management System to hold 17. inspectors accountable for properly evaluating gravity and negligence, termination due dates, and timely termination of citations
Adequate Inadequate X Not Applicable Comments Below
Questionable determinations on citations issued on previous inspections. See Attachment C
18. Determine if supervisors are adequately evaluating the level of enforcement.
Adequate Inadequate X Not Applicable Comments Below
Evaluation of gravity and negligence is questionable following the review of prior inspection reports.
See Attachement C
Determine if District Manager is monitoring the ACR program and using thePerformance Management System to ensure that CLRs justify changes
Adequate Inadequate Not Applicable Comments Below X.
Audit team did not conduct a review of the ACR program during this audit.
20. Determine if District Manager is using discretion in granting conferences
Adequate Inadequate Not Applicable Comments Below X.
ACR program was not review during the Accountability Audit.
Determine if second level reviews are used to assess supervisory review of 21. enforcement actions

Attachment A

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Office of Accountability
District MNM Northeastern Field Office Wyomissing North Mine ID
Adequate Inadequate X Not Applicable Comments Below
See Item #4
22. Determine if appropriate actions are taken by supervisors and manager with respect to issues of misconduct and/or poor performance
Adequate Inadequate Not Applicable X Comments Below
Misconduct / poor performance issues were not identified in the field office.
Evaluate inspector/specialist knowledge of documentation required and process23.for completing PKW Forms.
Adequate Inadequate Not Applicable Comments Below X
PKW'S not reviewed during the audit
Evaluate the district's process for performing Possible Knowing/Willful (PKW)24.reviews and initiating or denying special investigations
Adequate Inadequate Not Applicable Comments Below X.
Not reviewed during the audit. Information/documentation located at the district office.
Determine if District Manager is using Performance Management System to hold
25. the Supervisory Special Investigator accountable for properly evaluating potential cases
Adequate Inadequate Not Applicable Comments Below X.
Not reviewed during the Accountability Audit

Determine if managers and supervisors are using required "standardized reports"
to review critical data relevant to inspections and investigations

Attachment A

District MNM Northeastern Field Office Wyomissing North Mine ID]
Adequate X Inadequate Not Applicable Comments Below	
District and Supervisors review the Key Indicator Reports	

27. Determine if complete and adequately documented	thorough inspections are being conducted and
Adequate Inadequate X	Not Applicable Comments Below
a total of citations issued at a rat	of the accountability audit of the were necessary to complete the inspection The previous six (6) regular inspections averaged
site time hours to compete the regular average rate (

Determine if inspection notes support the inspector's assertion that the mine wasinspected in its entirety, including health sampling
Adequate X Inadequate Not Applicable Comments Below
29. Determine that the inspector spent sufficient time on off-shifts and on weekends
Adequate Inadequate Not Applicable X Comments Below
works only one shift.
30. Determine if all mine records, postings, and other required materials are examined during the inspection
Adequate Inadequate Not Applicable Comments Below X.
Mine records were not examined during the audit. The inspection was on-going following the accompanied audit.

United States Department of Labor
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Office of Accountability
District MNM Northeastern Field Office Wyomissing North Mine ID
Determine if all provisions of the MINER Act (Affecting MNM) are evaluated
31. during the inspection
Adequate Inadequate Not Applicable X Comments Below
32. Determine if the amount of time expended on each inspection activity and area of the mine is sufficient to accomplish inspection goals
Adequate Inadequate X Not Applicable Comments Below
Bite time hours were required to complete the inspection at the Hamburg Division
during the accountability audit mine visit. Previous site time hours expended to complete
the regular inspections average the hours/regular inspection.
Evaluate each citation/order for inspector's determination of gravity, negligence, 33. number of persons affected, and the level of enforcement
Adequate Inadequate X Not Applicable Comments Below
The inspector way work methodical in his inspection activities and identified becards and
The inspector was very methodical in his inspection activities and identified hazards and violations during the audit. The evaluation and determination of the number of persons and
level of enforcement was appropriate but available information useful in evaluating
negligence was not considered by the inspector. Citations were modified to reduce the
negligence from High to Moderate or Low on 12 citations that were issued.
neghzence mont i ngit to moderate of Low on 12 chattons that were issued.
Previous inspection reviews [<i>See Attachment C</i>] indicate appropriate determinations of gravity, negligence, and level of enforcement may not have been correctly determined.
Attachment C
Citation and Order Writing Handbook pp7,9
<u> </u>
34. Evaluate the inspector's imminent danger mine site check.
Adequate Inadequate Not Applicable X Comments Below

Attachment A

District MNM Northeastern Field Office Wyomissing North Mine ID
35. Check adequacy of work place examinations/pre-operational examinations
Adequate Inadequate X Not Applicable Comments Below
The number and type of citations issued indicate that adequate work place exams/pr- operational exams are not being conducted by the operator. Three citations have been issued for work place examinations since 1981. <i>See Attachment C</i>
36. Evaluate inspector's observation of back/Ground conditions
Adequate Inadequate X Not Applicable Comments Below
Inspector evaluated the condition of the highwall correctly during the accountability audit but, the highwall conditions have not been addressed during previous inspections. Citation #'s structure The containens appear to have been permitted to exist for extended period of time. Since CY 2000, zero citations were issued at the structure mine regarding ground control or mining methods.
The district peer review conducted from dentified similar issues regarding ground conditions at the two mining operations visited during their review. The review stated; 1. Ground Conditions in the Pit. (No indication of citations ever issued for ground conditions at this mine)
 Failure to examine and test for loose ground conditions in the pit. Failure to maintain wall bank and slope stability in the pit.
See Attachments B & D
39. Determine adequacy of training plans (interview miners)
Adequate Inadequate Not Applicable Comments Below X.
Training plans not reviewed during the audit.

Office of Accountability
District MNM Northeastern Field Office Wyomissing North Mine ID
40. Evaluate Self-Rescuer conditions
Adequate Inadequate Not Applicable X Comments Below
41. Electrical equipment maintained (includes electrical cables/equipment/power supply stations, etc.)
Adequate Inadequate X Not Applicable Comments Below X.
During the accountability audit, thirteen (13) citations were issued on electrical standards.
function hment B – Citation #'
Recommendation: When a journeyman inspector identifies this many hazards relating to the electrical standards, an electrical inspector should conduct a follow-up inspection to determine the extent of electrical problems.
42. Evaluate several pieces of equipment for permissibility (Gassy mines)
Adequate Inadequate Not Applicable X Comments Below
45. Evaluate condition and maintenance on conveyor belts, structures, and guarding
Adequate Inadequate X Not Applicable Comments Below

Office of Accountability
District MNM Northeastern Field Office Wyomissing North Mine ID
46. Evaluate fire valves and hoses
Adequate Inadequate Not Applicable X Comments Below
49. Evaluate cleanup of accumulations/housekeeping
Adequate X Inadequate Not Applicable Comments Below
51. Examine mine bulletin board and evaluate adequacy of all required postings
Adequate Inadequate Not Applicable Comments Below X.
Did not have the opportunity to review the bulletin board during the mine visit. Inspection was on-going at the time of departure of the audit team.
52. Interview responsible person(s) and evaluate knowledge of emergency response, evacuation procedures, and fire fighting processes and first aid (Person in charge)
Adequate Inadequate Not Applicable Comments Below X.
Did not review during the mine visit. Inspection was on-going at the time of departure of the audit team.
54. Determine if districts are conducting sufficient, in-depth Peer Reviews
Adequate Inadequate Not Applicable Comments Below X.

Audit team did not review the peer reviews. Documentation is maintained at the District

Attachment A

District MNM Northeastern Field Office Wyomissing North Mine ID
Office.
55. Determine if MSHA headquarters is conducting sufficient, in-depth Peer Reviews
Adequate Inadequate Not Applicable Comments Below X.
Not reviewed during the audit.
56. 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 Inadequate Not Applicable Comments Below X.
Audit team did not review the peer reviews. Documentation is maintained at the District Office.
Determine if Peer Reviews are being used to assess supervisors and managers performance
Adequate Inadequate Not Applicable Comments Below X.
Did not review Supervisors Performance rating.
52. Ten most current completed E02 (103(i) spot) inspection reports
Adequate Inadequate Not Applicable X Comments Below
63. Citations and orders issued during previous two quarters

Office of Accountability
District MNM Northeastern Field Office Wyomissing North Mine ID
Adequate Inadequate X Not Applicable Comments Below
See Attachment C
Determine if 104(d) tracking system is in place at the office being audited, and isbeing kept up to date
Adequate X Inadequate Not Applicable Comments Below
65. Determine mine files are legible, and up to date
Adequate X Inadequate Not Applicable Comments Below
Mine files are neat, orderly, legible, up to date, and labeled appropriately. These files are the best well kept files that the audit team has observed.
 Determine if miners are adequately trained in the provisions of any new conditions/changes/equipment at the mine.
Adequate Inadequate Not Applicable Comments Below X.
Inspection was not completed during the accountability audit. Was not review during the audit mine visit.
69. Determine if required information is submitted in the plan
Adequate Inadequate Not Applicable X Comments Below

Office of Accountability
District MNM Northeastern Field Office Wyomissing North Mine ID
 Determine if submitted plans are evaluated for provisions contrary to standards or regulations
Adequate Inadequate Not Applicable X Comments Below
71. Evaluate the effectiveness of management's support of, and communication with, inspectors and specialists
Adequate X Inadequate Not Applicable Comments Below
Weekly meeting are conducted with district and field office personnel.
73. Are MSHA Forms 7000-1 accurately reviewed for proper information and potential violations, unsafe practices, or conditions?
Adequate Inadequate Not Applicable Comments Below X.
Not reviewed during the accountability audit.
74. Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.
Adequate X Inadequate Not Applicable Comments Below
The accompanied inspector had the necessary equipment to conduct a thorough and complete inspection at the Hamburg Division operation.
75. Determine if adequate close-out conferences are being conducted at the end of each inspection.
Adequate Inadequate X Not Applicable Comments Below
Documentation in the files review indicates that close out conferences are being conducted by the inspector at the end of the inspection. Some of the inspection files indicate that all the information required for the close-out conference is not included on the close-out form 4000-49C. FAR 2 nd review notes state "No MSHA participants listed", "No comments or topics discussed on issuances – just provides a list of citations", etc.

Attachment A

Once of Accountability
District MNM Northeastern Field Office Wyomissing North Mine ID
76. Determine if E01 inspections at surface mines includes an observation/evaluatior of blast hole drilling, loading, and blasting operations.
Adequate X Inadequate Not Applicable Comments Below
Inspection party observed blasting during the time of the audit. Citation was issued during the inspection under 56.6306a.
77. Determine if manpower at the field office is sufficient to ensure adequate, complete inspections, investigations, and other activities.
Adequate X Inadequate Not Applicable Comments Below
100% Completion rate was achieved in FY 2009 with current number of FTE's
100% Completion fale was achieved in 11 2007 with current number of 1112.5
78. Evaluate the two most current completed E01 (regular) inspections
Adequate Inadequate X Not Applicable Comments Below
The following information is a summary of the most recent two completed regular
inspections:
(1) Citations issued with Audit Team.
(2) Total Hrs and Citations Issued during the regular inspection.
See Attachment C

District MNM Northeastern Field Office Wyomissing North Mine ID	
79. Citations, orders issued during previous two quarters	S
Adequate Inadequate X Not Applicable	Comments Below
Evaluations for gravity, negligence, and the type of enforcement consistent with the narrative of the citations issued. Examples of in <i>Attachment C</i> such as 1]	
Citation and Order Writing Handbook pp 7 & 9	

United States Department of Labor

ict MNM Northeastern Fie	eld Office Wyomissin	g North Mine ID		
line Citation/Order		U.S. Department of La Mine Safety and Health		
ection I-Violation Data			3	
. Date			3. Citation/ Order Number	
				£
			-	
Condition or Practice		-		(Contractor) Notice (103g)
he Caterpillar 773 B H rea, was not chocked of quipment were exposed warked. The area is hea	or ribbed, with a to a fatal injur	slight grade. y if the trucke	People around the moved after in	his t was
	of the haul truck			
		19		
		×		
				· · ·
Violation A. Health B. Section Safety of Act		art/Section of le 30 CFR	See Continuation Form (MSHA 56.14207	Form 7000-38)
Other			a Young and	<u></u>
ction II-Inspector's Evaluation). Gravity:				
ction II-Inspector's Evaluation). Gravity: A. Injury or Illness (has) (is): No Likelihoo B. Injury or Illness could rea-			tighty Likely 🗌 Occum	
ction II-Inspector's Evaluation). Gravity: A. Injury or Illness (has) (is): No Likelihoo B. Injury or illness could rea- sonably be expected to be: No Lost O. Simplement and Evaluation	Workdays Lost Workday	ys Or Restricted Duty	Permanently Disabling	Fatal 🖌
ction II-Inspector's Evaluation D. Gravity: A. Injury or Illness (has) (is): No Likelihoo B. Injury or illness could rea- sonably be expected to be: No Lost C. Significant and Substantial: Yes	Workdays Lost Workday	ys Or Restricted Duty []	Permanently Disabling	Fatal 🗹
ction II-Inspector's Evaluation D. Gravity: A. Injury or Illness (has) (is): No Likelihood B. Injury or illness could reasonably be expected to be: No Lost C. Significant and Substantial: Yes I. Negligence (check one)	Workdays Lost Workday	ys Or Restricted Duty	Permanently Disabling D. Number of Persons Affected: E. Reckless Disregar	Fatal 🖌
ection II—Inspector's Evaluation 0. Gravity: A. Injury or Illness (has) (is): No Likelihoo B. Înjury or Illness could rea- sonably be expected to be: No Lost C. Significant and Substantial: Yes 1. Negligence (check one) A. None 2. Type of Action 104a 4. Initial Action	Workdays Lost Workday No B. Low C. Mod 13. Type of Issuance (ys Or Restricted Duty	Permanently Disabling D. Number of Persons Affected: E. Reckless Disregar	Fatal 🗹
ction II-Inspector's Evaluation D. Gravity: A. Injury or Illness (has) (is): No Likelihoo B. Injury or illness could reasonably be expected to be: No Lost C. Significant and Substantial: Yes I. Negligence (check one) A. None P. Type of Action 1.04a M. Initial Action A. Citation	Workdays Lost Workday No B. Low C. Mod 13. Type of Issuance (ys Or Restricted Duty terate D. High check one) Citation E. Citation/	Permanently Disabling D. Number of Persons Affected: E. Reckless Disregar Order Safeguard	Fatal 🖉 001 d 🗌 Written Notice 🗌
ction II—Inspector's Evaluation D. Gravity: A. Injury or Illness (has) (is): No Likelihood B. Injury or Illness could reasonably be expected to be: No Lost C. Significant and Substantial: Yes I. Negligence (check one) A. None P. Type of Action 1. Otdation B. Order C. Safeguard	Workdays Lost Workday No B. Low C. Mod 13. Type of Issuance (ys Or Restricted Duty terate D. High check one) Citation E. Citation/	Permanently Disabling D. Number of Persons Affected: E. Reckless Disregar Order Safeguard	Fatal 🖉 001 d 🗌 Written Notice 🗌
ction II-Inspector's Evaluation D. Gravity: A. Injury or Illness (has) (is): No Likelihoo B. Injury or illness could reasonably be expected to be: No Lost C. Significant and Substantial: Yes I. Negligence (check one) A. None P. Type of Action 104a Initial Action A. Citation B. Order C. Area or Equipment	Workdays Lost Workday No B. Low C. Mod 13. Type of Issuance (ys Or Restricted Duty terate D. High check one) Citation E. Citation/	Permanently Disabling D. Number of Persons Affected: E. Reckless Disregar Order Safeguard	Fatal 🖉 001 d 🗌 Written Notice 🗌
a. Injury or Illness (has) (is): No Likelihoo B. Injury or Illness (has) (is): No Likelihoo B. Injury or Illness could reasonably be expected to be: No Lost C. Significant and Substantial: Yes 1. Negligence (check one) A. None 2. Type of Action 104a 4. Initial Action B. Order C. Safeguard 5. Area or Equipment A. Date	Workdays Lost Workday No B. Low C. Mod 13. Type of Issuance (D. Written Notice	ys Or Restricted Duty terate D. High check one) Citation E. Citation/	Permanently Disabling D. Number of Persons Affected: E. Reckless Disregar Order Safeguard	Fatal 🖉 001 d 🗌 Written Notice 🗌
ction II-Inspector's Evaluation D. Gravity: A. Injury or Illness (has) (is): No Likelihoo B. Injury or Illness could reasonably be expected to be: No Lost C. Significant and Substantial: Yes I. Negligence (check one) A. None 2. Type of Action 104a 4. Initial Action B. Order C. Safeguard 5. Area or Equipment A. Date Station III-Termination Action The Truck	Workdays Lost Workday No B. Low C. Moo 13. Type of Issuance (D. Written Notice B. Time (24 Hr. Clock) moved and parked	ys Or Restricted Duty terate D. High Check one) Citation Citation/ Order Number	Permanently Disabling D. Number of Persons Affected: E. Reckless Disregar Order Safeguard F. Dated	Fatal 🖉 001 d 🗌 Written Notice 🗌
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Section I-Violation Data		wine Salety and Health	Ruministration	
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8. Condition or Practica		<u></u>	8a. Writ	(Contractor) ten Notice (103g)
The mine Superintend Front End Loader at examination of the v haul trucks. The con previous operator pr was not warranted.	the 600 bench leve ehicle prior to pl mpany contends that	el did not perfor lacing it in oper at since a pre-ch	m a pre-shift ation to load eck was perfor	quarry med by the
was not warranced.		*		1
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9. Violation A. Health B. Sect		Part/Section of	See Continuation Form (MS	SHA Form 7000-3a)
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B. Injury or illness could rea- sonably be expected to be: No	Lost Workdays 🗌 Lost Work	kdays Or Restricted Duty 🗹	Permanently Disabling	Fatal
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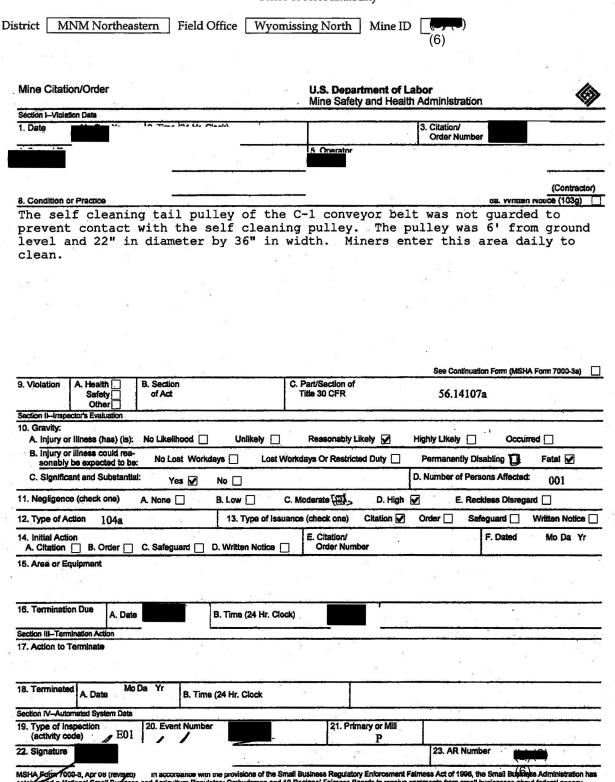
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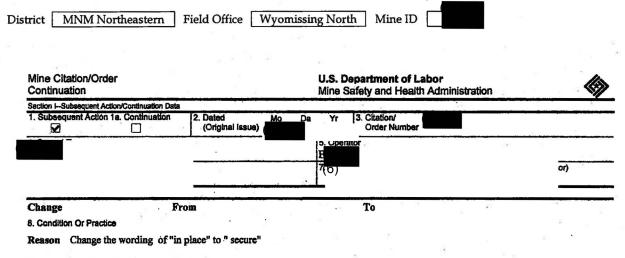


MSHA Form 7009-3, Apr 06 (revised) in accorreance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudisman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the Street, SW MC 2120, Wishington, DC 20416. Please note, however, that your right to file a comment with the Ombudisman at I addition to any other rights you may have, including the right to contest clations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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The bottom of C-1 conveyor was guarded, terminating the citation.

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9. Violation	A. Health Safety	B. Section of Act		C. Part/Section of Title 30 CFR		See Contin 56.120	uation Form (MSH/)18	A Form 7000-Sa)
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United States Department of Labor Mine Safety and Health Administration

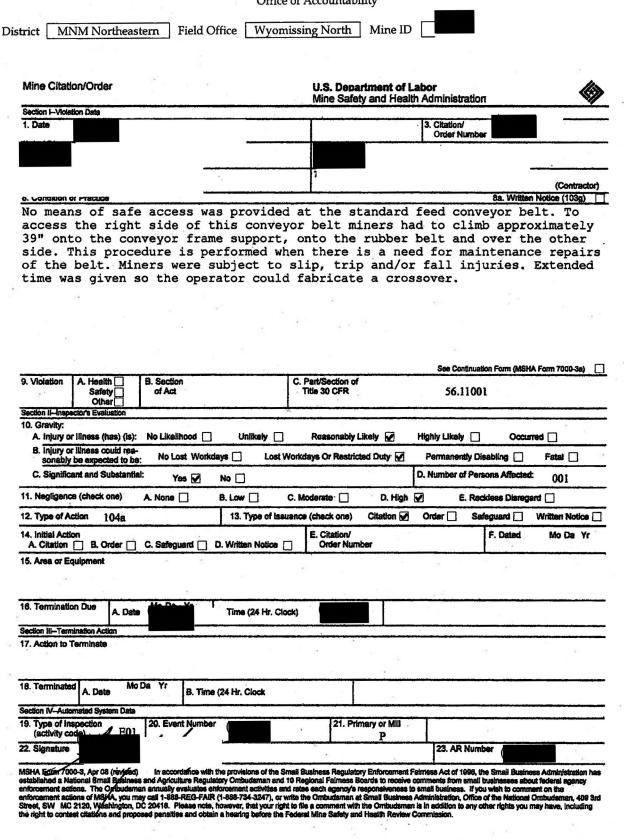
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VIOISTICA	A. Health Safety	ef Act		C. Part/Section o Title 30 CFR		56.14107a		
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Condition or Practice	powered cir	cuit for t	he lighting in	the rat ho	on vericer Notice (1039)
Locked out while company electrici energized with 11 Switch but had no electrician and a	an lad left 0 volts. The ot locked out all personne	the area e electric t the circ l had rece	to take a morn ian stated he uit. The foren ived training	ning break. had turned man stated t	The circuit wa off the contro hat the
locks to perform	this electr	ical task.	-	-	
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				See Continuatio	n Form (MSHA Form 7000-3a)
Violation A. Health Safety Other	B. Section of Act		Part/Section of Title 30 CFR	56.12016	
ection II-Inspector's Evaluation 0. Gravity:					
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A. Injury or lilness (has) (is):	No Likelihood	Unlikely	Reasonably Likely	Highly Likely	Occurred
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			C. PastPasting of		See Conti	inuation Form (MSI-	IA Form 7000-Sa)
	action Act		C. Part/Section of Title 30 CFR		See Conti		IA Form 7000-Sa)
Safety of Other ection IV-Inspector's Evaluation 0. Gravity:	Act		Title 30 CFR		56.14	1110	
Safety of. Other Other O. Gravity: A. Injury or tilness (has) (ia): B. Injury or tilness could reasonably be expected to be: N	Act Ikelihood 🗌 Io Lost Workda	Unlikely []			56.14 Highly Likely Permanenti	1110	rred [] Fatal []
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Safety of Other of Other 0 Other 0 Oth	Act Ikelihood [] Io Lost Workda Yes 🖌	Unlikely [ys] Lost Wo No [Title 30 CFR Reasonably L orkdays Or Restrict Moderate	ed Duty 🗹	56.14 Highly Likely Permanenth D. Number of	1110 Occu y Disabling Persona Affectad	rred [] Fetel [] # 001
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Safety of. Other Other Other No B. Injury or illness could reasonably be expected to be: N C. Significant and Substantial: No 1. Negligence (check one) A. No 2. Type of Action 104a 4. Initial Action B. Order C. Si 5. Area or Equipment A. Date 6. Termination Due A. Date ection IN-Termination Action 7. Action to Terminate 8. Terminated A. Date ection IV-Autometed System Data	Act	Unlikely ysLost Wo No B. Low C. 13. Type of Issuar Written Notice	Title 30 CFR Reasonably L orkdays Or Restrict Moderate 2 noce (check ane) E. Citation/ Order Numi	D. High Citation 2	56.14 Highly Likely Permanenti D. Number of E.	I 110 Cccu y Disabiling Persons Affected Reckless Disreg Safeguard F. Dated	rred [] Fatai [] f: 001 ard [] Written Notice [

District	MNM Northeastern	Field Office	Wyomissing North	Mine ID		
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(Shaded areas indicate apparent discrepancies between narrative, notes, and evaluation)

Mine ID	Violation	Issued	Туре	30 CFR	S&S	Likely	Injury	No. Affected	Neg
)		104(a)	56.14211(c)	Y	RL	Perm	2	Mod

Two employ(e)s were observed in the weld shop, working on a raised component that was not secured to prevent accidental lowering of that component. The two employees were welding on a steel plate that was 2 inches in diameter, 24 inches wide, and 64 1/2 inches in length. The metal plate was located on the lifting forks of a Komatsu FG25-8 forklift (serial#137849) raised 4 feet off of ground level. The Komatsu forklift was not provided with load locking devices. Both feet of both employees were underneath the unsecured plate of steel at the time of the inspection. The steel plate weighed approximately 890 pounds in standard calculations of 81 pounds/square foot per 2 inch diameter steel. The two employees were exposed to a crushing injury shall the forklift be accidentally lowered and/or a hydraulic load line rupture.

Mine ID	Violation	Issued	Туре	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104a	56.14132(a)	N	Unlikely	Fatal	1	High

The automatic reverse alarm did not sound when tested on the Cat 980F loader (Ser# Z*8CJOC385).

The citation and order writing handbook states that "Provide a detailed description of the condition(s) or practice(s) which causes and constitutes a violation or an imminent danger". The condition or practice does not meet the criteria. It does not address location, exam conducted or not, how long this condition existed, negligence, exposure, foot or vehicle traffic, etc. The citation/order should contain a detailed explanation of the hazard and condition cited.

(Does not meet requirements of citation & order writing handbook.pp 9)

Mine ID	Violation	Issued	Туре	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104a	56.20003(a)	N	Unlikely	LWD	1	High

C1-A Conv(§) r walkway had excessive material build-up (more than 12'deep and extending approximately 15-20' long) near the tail section of the conveyor.

What was the material, was it consolidated or unconsolidated, degree exposure, how long has this condition been permitted to exist, was this condition reported, who conducted the examination or was one conducted, was this a repeat violation, negligence of the operator, etc.

(Does not meet requirements of citation & order writing handbook.)

Mine ID	Violation	Issued	Туре	30 CFR	S&S	Likely	Injury	No. Affected	Neg
)	104a	56.14132(a)	N	Unlikely	Perm	1	High
-	atic reverse als		ind when te	sted on the GM	Service		1		

This citation is very vague. Does not identify the degree of exposure, was this vehicle in operation, how long has this condition been permitted to exist, was a pre-operation exam conducted and what were those results, location of the vehicle, etc.

(Does not meet requirements of citation & order writing handbook pp. 9)

Mine ID	Violation	Issued	Туре	30 CFR	S&S	Likely	Injury	No. Affected	Neg
J) (J)			104a	56.20001 ne crushers wa	N	Unlikely	Perm	1	Mod
build up of alling and Vas there a	f approximat I/or other inju a workplace e	elý 3 feet hig ury	jh, 6 feet lo d, what was	ng and 6 feet v	/ide in th	ne travel wa	y. This expo	oses person to	o tripping,
2	147	<u> </u>	-	1		T		No.	
line ID	Violation	Issued	Туре	30 CFR	S&S	Likely	Injury Lost	Affected	Neg
			104a	56.14132(a)	Y	RL	Days	1	High
r other auc ondition. T ucks and 2 erious inju	dible warning o his is required 2 miners were iry could resul	devices provid to warn pers observed afo t if an acciden	led on self-p ons in case o ot. The horr tal collision o	e Caterpillar 988 ropelled mobile e of an emergency was reported to occurred with oth at there was foot	quipmen There w the open er equipm	t as a safety ere other loa ator on a pre- nent and/or fo	feature shall ders operatin shift examin oot traffic.	be maintained i g in the area, c ation the previo ng injury is Los	n functiona ustomer us day.
r other auc ondition. T ucks and 2 erious inju low was th	dible warning o his is required 2 miners were iry could resul	devices provid to warn pers observed afo t if an acciden	led on self-p ons in case o ot. The horr tal collision o	ropelled mobile e of an emergency a was reported to occurred with oth	quipmen There w the open er equipm	t as a safety ere other loa ator on a pre- nent and/or fo	feature shall ders operatin shift examin oot traffic. <u>EL the resulti</u> Injury	be maintained i g in the area, c ation the previo	n functiona ustomer us day.
r other aud ondition. T ucks and 2 erious inju low was th line ID 2(0) (0) he front wi	tible warning of his is required 2 miners were ury could resul <i>is determined</i> Violation	devices provid to warn pers observed afo t if an acciden t to be lost day Issued	led on self-p ons in case of ot. The horr tal collision of <i>s. States th</i> Type 104a J excavator	ropelled mobile e of an emergency was reported to occurred with oth at there was fool 30 CFR 56.14103(b) had multiple cra	quipmen There w the open er equipm <u>traffic – i</u> S&S N cks which	t as a safety ere other load ator on a pre- ment and/or for <i>f struck by Fl</i> Likely Unlikely n obscured th	feature shall ders operatin shift examin- bot traffic. <u>EL the resulting</u> <u>Injury</u> Lost Days e vision of th	be maintained i g in the area, c ation the previo ng injury is Loss No. Affected 1 e operator to op	n functiona ustomer us day. days? Neg High perate the
r other auc ondition. T ucks and 2 berious inju dow was the dime ID 2(0) (0) he front wi hachine sa he miner v reek.	tible warning of his is required 2 miners were iry could resul <i>is determined</i> Violation (Violation (Council) (Counc	devices provid to warn pers observed afo t if an acciden t to be lost day Issued	led on self-p ons in case (ot. The horr tal collision (<i>rs. States th</i> <u>Type</u> <u>104a</u> J excavator operated at e hazard with	ropelled mobile e of an emergency a was reported to occurred with oth at there was foot 30 CFR 56.14103(b)	quipmen There w the oper- er equipm traffic – i S&S N S&S N cks which n and no red. The	t as a safety ere other loa ator on a pre- nent and/or fr <i>f struck by Fl</i> Likely Unlikely Obscured the mally operate broken wind	feature shall ders operatin shift examin bot traffic. <u>EL the resulti</u> <u>Injury</u> Lost Days e vision of th es daily mov ow was noted	be maintained i g in the area, c ation the previo ng injury is Loss No. Affected 1 e operator to op ing material in c d on pre-trip exa	n functiona ustomer us day. <u>days?</u> Neg High Derate the one area. ams for a
r other auc ondition. T ucks and 2 erious inju <i>low was th</i> <u>line ID</u> <u>(D) (D)</u> he front wi bachine sa he miner v reek. <i>Vhat was th</i>	tible warning of his is required 2 miners were ury could resul <i>is determined</i> Violation Indog on the of fely. The mach vas subject to the exposure, to Violation	device's provid to warn pers observed afo t if an acciden <i>to be lost day</i> Issued	led on self-p ons in case of ot. The horr tal collision of <i>ss. States th</i> 104a J excavator operated at e hazard with <i>icle traffic/for</i> 104a 104a	ropelled mobile e of an emergency a was reported to occurred with oth at there was foot 30 CFR 56.14103(b) had multiple cra time of inspection his vision impain ot traffic, injury is	quipmen There w the oper- er equipn traffic – i S&S N cks which n and no red. The question S&S	t as a safety ere other load ator on a pre- ment and/or fit <i>f struck by Fit</i> Likely Unlikely Unlikely obscured ther mally operate broken wind	feature shall ders operatin shift examine bot traffic. EL the resulting linjury Lost Days e vision of the es daily mov ow was noted	be maintained i g in the area, c ation the previo ng injury is Loss No. Affected 1 e operator to op ing material in c d on pre-trip exa pr evaluate as u No.	n functiona ustomer us day. days? Neg High berate the one area. ams for a

District [MNM Nort	heastern	Field Office	Wyomissi	ng North	Mine ID			
								2 N-2	
Mine ID	Violation	issued	Туре	30 CFR	S&S	Likely	Injury Lost	No. Affected	Neg
(1097(097 C-9 convey	yor had excess	(6) ive material b	104a uildup on the	56.20003(a) walkway alongs	N side the co	Unlikely onveyor near	Days the tailpulley	1 The material I	High buildup was
to maintain	s deep and cov the tailpulley. of the citation)	line operator:	e walkway foi stated he was	r a distance of a shokaware of it	about 20 fe his conditi	eet. One pers off. (<i>This sta</i>		s area one time appropriate or	

What was the material? Was it consolidated or unconsolidated? How long has it been there? Was this reported in the workplace exam? Does not address negligence, How was this determined to be high negligence?

The citation or order must contain facts sufficient to establish a violation of the standards under the Mine Act and any special circumstances related to the violation, such as "significant and substantial" and "unwarrantable failure" findings.

Mine ID	Violation	Issued	Туре	30 CFR	S&S	Likely	Injury	No. Affected	Neg
	(9)(0)		104a	56.20003(a)	N	Unlikely	Lost Days	1	High
i(Re) waikway	behind #2 De	eister screen had	d excessive	e spillage buildup	. The ma	aterial had ac	cumulated to	o a height 33 i	nches above

T(Ne) warkway behind #2 Deise; screen had excessive spillage buildup. The material had accumulated to a height 33 inches above the floor level and blocked the entire passageway: the evaluation and the problem and the problem. area weekly to perform maintenance. The operator stated he was aware there was some spillage, but did not realize the extent of the problem.

(How long has this condition existed? Apparently the operator knew about this condition. How did the operator know of this condition? Was it documented in the work place exam? What type of material was this? Were miners walking over this material? The statement "there was an alternative travelway available" does not mitigated the violation and should not be included in the condition or practice.

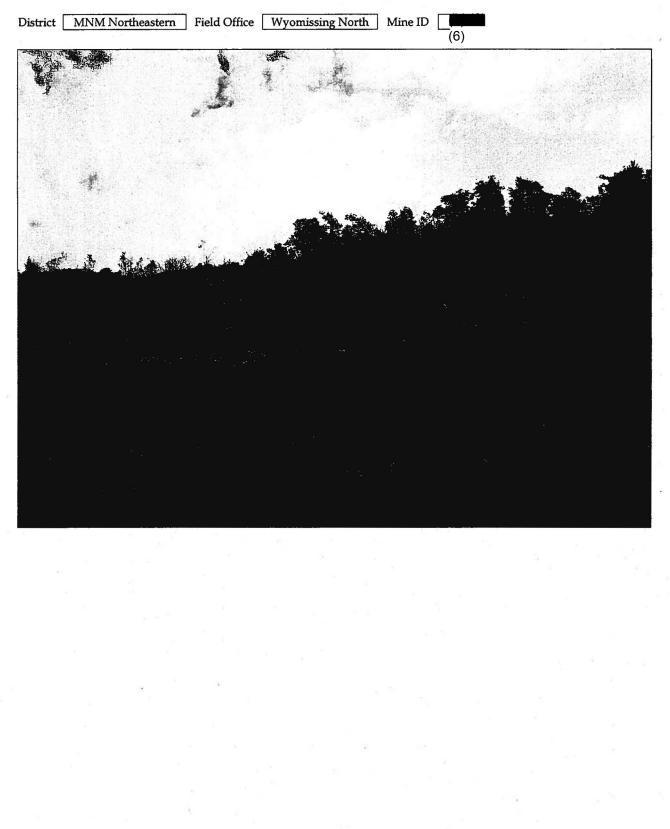
]

District MNM Northeastern Field Office Wyomissing North Mine ID

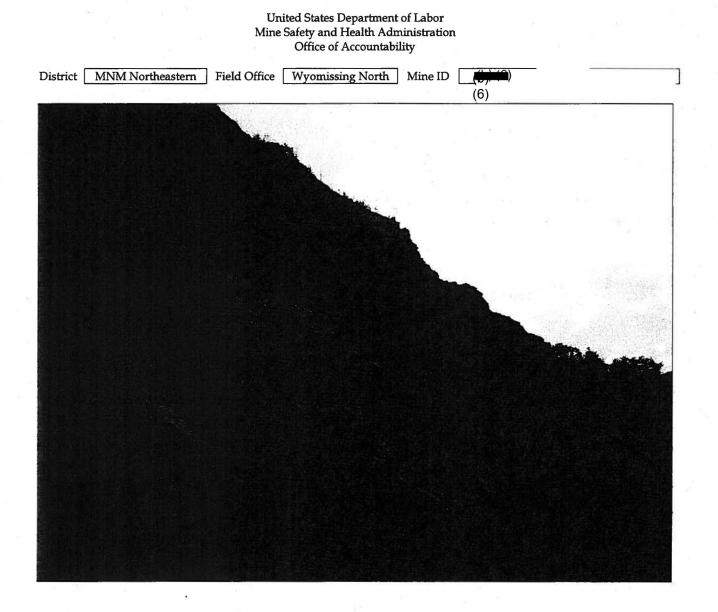


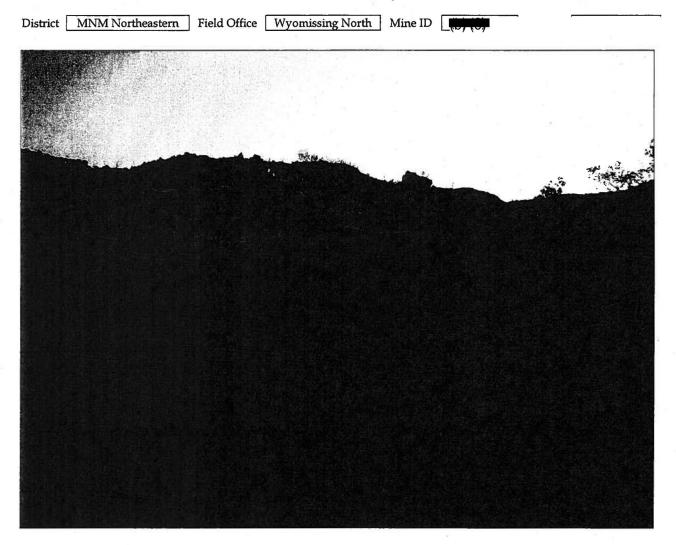
United States Department of Labor Mine Safety and Health Administration Office of Accountability District MNM Northeastern Field Office Wyomissing North Mine ID (6)

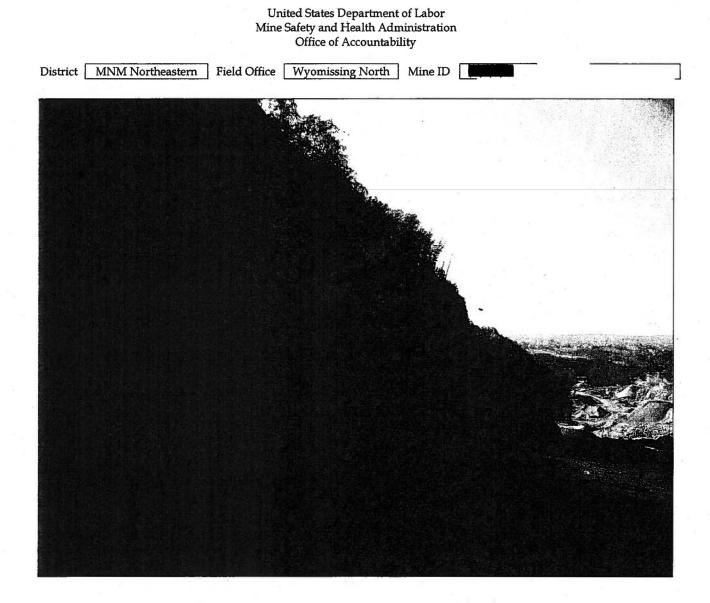


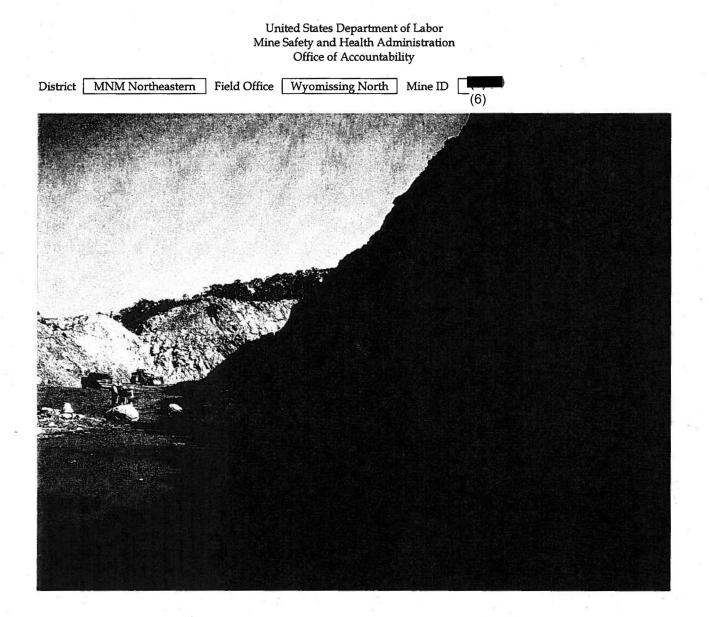


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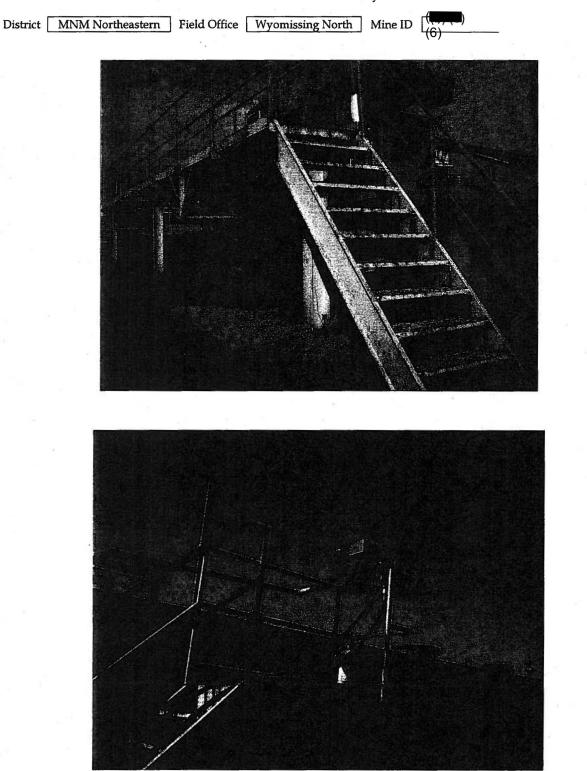












Attachment D