



Royal Commission on the Pike River Coal Mine Tragedy
Te Komihana a te Karauna mōte Parekura Ana Waro o te Awa o Pike

UNDER

THE COMMISSIONS OF INQUIRY ACT 1908

IN THE MATTER OF

**THE ROYAL COMMISSION ON THE PIKE RIVER COAL
MINE TRAGEDY**

Before:

The Honourable Justice G K Panckhurst
Judge of the High Court of New Zealand

Commissioner D R Henry

Commissioner S L Bell

Commissioner for Mine Safety and Health, Queensland

Appearances:

K Beaton, S Mount and J Wilding as Counsel Assisting

S Moore SC, K Anderson and K Lummis for the New Zealand Police

N Davidson QC, R Raymond and J Mills for the Families of the Deceased

S Shortall, D MacKenzie, R Schmidt-McCleave and P Radich for certain
managers, directors and officers of Pike River Coal Limited (in
receivership)

C Stevens and A Holloway for Solid Energy New Zealand

K McDonald QC, C Mander, A Williams and A Boadita-Cormican for the
Department of Labour, Department of Conservation, Ministry of Economic
Development and Ministry for the Environment

G Nicholson and S Stead for McConnell Dowell Constructors

G Gallaway, J Forsey and E Whiteside for NZ Mines Rescue Service

N Hampton QC and R Anderson for Amalgamated Engineering, Printing
and Manufacturing Union Inc

J Haigh QC and B Smith for Douglas White

J Rapley for Neville Rockhouse

**TRANSCRIPT OF PHASE THREE HEARING
HELD ON 16 NOVEMBER 2011 AT GREYMOUTH**

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**COMMISSION RESUMES ON WEDNESDAY 16 NOVEMBER 2011
AT 10.00 AM**

KEVIN FREDRICK POYNTER (RE-SWORN)

5 CROSS-EXAMINATION CONTINUES: MR WILDING

Q. Mr Poynter, you may recall that we were just going through to get a general overview of your inspections of the Pike River Mine and we were up to 2010 and in your witness statement at paragraph 176, you say that the first visit occurred on 15 January instead of 22 January as recorded in Insite. Ms Basher, if we could just have up please,
10 DOL10001001/141?

WITNESS REFERRED TO DOCUMENT DOL10001001/141

A. Sorry, I'm a little bit lost here.

Q. Paragraph 176 of your witness statement, do you have that in front of
15 you?

A. I'm just getting to it sir. I don't have much room here, I'm just struggling with documents.

Q. No, I realise that.

A. And the date that that actually was?

20 1003

Q. Well in your witness statement you refer to it as occurring on the 15th of January, not the 22nd of January?

A. That would've been correct, 'cos they would've been taken straight from my Insite notes.

25 Q. And my question then is, is that the visit which is recorded as being on the 5th of January 2010 in the schedule shown before you from Professor Gunningham and Dr Neal's report? In other words the date there should be the 15th?

THE COMMISSION:

30 Q. I think it's pretty obvious it is Mr Poynter because if you look at your 178 of your witness statement you record the same items as are noted for the 5th of January?

A. I'm just having trouble finding it but I'm sure it is.

CROSS-EXAMINATION CONTINUES: MR WILDING

Q. Right, thank you. If we could please have Ms Basher DOL300070131/12?

5 **WITNESS REFERRED TO DOCUMENT DOL300070131/12**

Q. Sorry sir, that visit referred to as being on the 5th of January should've been the 22nd of January, Mr Poynter. Is that correct?

A. Yes, correct.

10 Q. And on that visit you picked up on four matters, stone dusting, a lack of chocks under a CM cutter head guarding that a conveyor drive head and a safety issue with gophers, correct?

A. Yes that is correct.

15 Q. And just on the screen is a document DOL3443000070131/1 which is a letter dated 27 January 2010 that you wrote to Pike River Coal in respect of those four matters?

WITNESS REFERRED TO DOCUMENT DOL3443000070131/1

A. That is correct.

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20 Q. I'm going to go through some of these individually later on but at that stage you had concerns about inadequate stone dusting?

A. I raised the issue because I felt the stone dusting standards that I saw were less than what I would've expected to see and there was no evidence to show that they were up to standard because they couldn't provide me with a test.

25 Q. And then you had those three other concerns and I'm just wondering whether at this point you began to have concerns about whether Pike River could be relied on as being able to proactively manage its health and safety?

30 A. In themselves they didn't raise that concern. They were isolated, apart from the stone dusting, the others were like isolated incidents.

Q. Yes but having identified four incidents on the one visit, would that total number of incidents cause you to have concern about Pike River's ability to proactively manage health and safety?

A. At the time it didn't.

5 Q. And you'll see from your letter that you didn't include any timeframe for those matters to be addressed?

A. I didn't include any timeframe, the discussion I had with Mick Lerch at the time was that the cutter head issue was dealt with, it would've been dealt with immediately and the guarding would've taken some time to get completed. I expected that they would've all been completed by the
10 time I returned.

Q. So if we take, for example, the guarding wasn't that a matter that in terms of departmental policy, would've required immediate rectification or prohibition?

15 A. In strict terms the policy around guarding did say that guarding should be corrected immediately. If there was a immediate risk to a person's health and safety, in this case the guarding and the exposed nip points was inappropriately guarded rather than fully open, so I decided that under the general philosophy of how we had been dealing with Pike,
20 that it was appropriate to allow them the time to go ahead and repair them.

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Q. In your witness statement at paragraph 177, you refer to having met with Mick Lerch and Doug White. Did you speak with any of the other
25 workers in relation to those matters?

A. No I didn't.

Q. So you didn't speak to any health and safety representative?

A. Not that I recall. I would've spoken to other people on the visit but I don't know. I don't recall whether they were health and safety reps.

30 Q. We'll come back to this issue but there's reference to you on that date in paragraph 177 of your witness statement to you checking the accident register. Did you check that during that visit?

A. I didn't go through the accident register on that visit per se. I did go and see Adrian Couchman and he brought the accident register up on the computer for me. I observed that they had an accident register. I – he showed me the injury portion of the accident register and I asked him to email a copy of the last three months to me.

5

Q. Right, so you didn't inspect the accident register on site at that stage?

A. I, I looked at what Adrian showed me on the screen. It showed a number of injury incidents. I asked for a copy of it.

Q. Aside from that, was there any occasion when you visited Pike River that you did inspect the accident register?

10

A. Aside from that, no.

Q. I think your next visit is shown on the schedule, Professor Gunningham and Dr Neal, as being on the 9th of February 2010. It reads, "Site inspection by Kevin Poynter and Colleen Myers, HSNO audit," and I take it from that you were accompanying her in the course of her audit?

15

A. It was part of a, like a development process for me to go with an experienced HSNO officer. Carrying out HSNO inspections can be extremely complicated and it was part of trying to assist me understand what to do. We actually carried out a number of audits on that week.

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Q. And your Insite record of the visit, we don't need to call it up, but its DOL300070143/2 refers to the following areas: stores, workshop, amenities yard, ponds and coal processing plant.

WITNESS REFERRED TO DOCUMENT DOL300070143/2

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Q. Were all of those above ground?

A. Yes.

Q. So did that audit involve going underground at all?

A. No, it did not.

Q. And I'm presuming on that occasion you wouldn't have carried out then your usual type of coal inspector inspection?

30

A. No.

Q. And did you speak to any workers on that occasion?

5 A. We would've spoken to some workers in the workshop. There were a couple of areas in the workshop that we highlighted we need to – they needed to have a look at. It was a common theme to find an open – right through the mining industry they have a particular wash bath for cleaning parts, and a lot of the mining operations were using a flammable liquid in them, and they're actually an open container and needed to be separated from ignition sources.

10 Q. And I presume, given it was a HSNO inspection you wouldn't have sought out or spoken to a health and safety representative either. The next visit in the schedule of Professor Gunningham and Dr Neal was described as being on the 14th of February 2010, "Site visit by Kevin Poynter, after trapped foot incident." And I think that was in response to a roof bolting incident involving a worker, Jeremy Daley, is that correct?

A. It was a roof bolting incident and a severely crushed foot.

15 Q. The Daley incident?

A. Sorry?

Q. The incident involving Jeremy Daley?

A. Yes, John

20 Q. John. Now there's reference to you in your Insite record DOL3000070134/3, and we needn't have this up Ms Basher, to you travelling to the face to inspect the machine and I presume that would be a reference to the roof bolting machine?

WITNESS REFERRED TO DOCUMENT DOL3000070134/3

A. It was a roadheader machine that had roof bolting attachments to it.

25 Q. And I take it that that visit didn't involve an underground inspection of the type you've described in your witness statement of 22 June, looking at roof bolts, bolting patterns, gas levels, those sorts of things?

A. It was focussed around the incident and whether, where Mr Daley got his foot trapped.

30 Q. And so, during that visit you didn't follow-up on the four matters that you'd identified during your visit of 22 January?

A. Not specifically, no.

Q. Did you talk to any health and safety representative then?

A. It was – I remember it was a Sunday and there were very few people at the mine. I went down with an operator who went through and who showed me what John would've been doing and where he was on the day that the incident occurred. But no, I didn't talk to any other people other than those that were in the face.

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Q. So at that stage you would for example, you still nodded no and whether the nip points which you'd identified on your 22 January visit had been now made safe?

10 A. I would've driven past them but I haven't made a particular note that I noted that they had been corrected.

Q. In your witness statement at paragraph 191 there's a reference to Mr Lerch telephoning you to advise the nip points that you had identified on a visit of 14 February were now guarded and I'm presuming that should be a reference to the nip points that you identified in your visit of 22 January, would that be right?

15

A. No, it isn't.

Q. So you discovered more nip point problems?

A. In the design of the machine and it was an issue with the machine, there were a couple of areas where I felt a person could get their foot, that could cause a person's foot to be caught and I requested that they look at whether or not there was a way they can actually guard it. It was around the design of the platform that they were using to stand on. It was a manufacture design.

20

25 Q. And that didn't warrant any sort of a notice?

A. I didn't believe so. This was a standard manufactured bolting kit. It wasn't something that was built by Pike River.

Q. This was the visit during which in the course of viewing the machinery you've just described you became aware that there was a dead man lever that had been tied down?

30

A. That's correct.

Q. What's the purpose of a dead man lever?

A. On the bolting machine it's a two lever operation, you must hold one lever down while you operate the other. Somewhere along the line somebody had tied the dead man lever on the opposite bolting the machine down.

5 Q. And what did that mean?

A. It meant that you were able to operate the bolter with one lever.

Q. It was a disabling of a safety device?

A. It was.

Q. A serious matter?

10 A. It was.

Q. You didn't investigate that?

A. No I didn't carry out an investigation on it. I requested that Mr White carry out an investigation and advise me of the outcome of that investigation. I suggested to him that if this type of incident occurred it would likely be that the mine deputy who was in charge of the phase and certainly the foreman would be aware of it and my concern was that was it – could it have been common practice.

15

Q. We might return to disabling safety equipment later on, but did you ever receive from the company a copy of a investigation report in relation to that?

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A. Not a full report but I did receive a number of contacts from Mr White telling me of the actions that they'd taken. I followed up to ensure that there had been in fact team briefings and meetings about the need to, the risks of overriding safety devices.

25

Q. So what were the actions that were taken?

A. The actions that were taken was that the deputy was suspended and ultimately was dismissed.

Q. If we can just turn the Professor Gunningham and Dr Neal schedule again and the - it doesn't refer to a visit of 23 March 2010 but you have referred to a telehandler rollover incident on that day?

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A. Yes.

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Q. Can you recall that?

A. Yes. It occurred on the surface at the wash plant and a telehandler was being used to transport a pump to install into a sump and the process of backing up, he dropped one of his wheels over about a metre high bank, over a drain which caused the machine to topple over.

5 Q. Did you visit the site on that day?

A. I did.

Q. Right, so there should be that visit shown on 23 March 2010. You didn't conduct a coal mine inspection though?

A. I didn't.

10 Q. And so your second coal mine inspection visit in 2010 was on the 8th of April and we'll refer to that or aspects of it later, but am I right that that was the first occasion on which you'd raised the issue of the second means of egress and its adequacy?

A. That is correct.

15 Q. At that stage were you aware for the plans for hydromining to commence later in 2010?

A. I don't believe that I was aware that hydromining would be commencing later that year in 2010, not in April.

20 Q. When do you recall becoming aware that hydromining would commence?

A. Probably in my August visit.

Q. Up until that stage or during that visit did you make any enquiries of Pike River as to when it would start hydromining?

25 A. No I didn't. At the time in April 2010 they had I think almost every face in stone. They had re-established their ventilation circuit and they were then driving what they thought was through coal to an area where they were going to be able to start setting up hydro panels and every face was in stone because of what's known as a graben which was where the coal had been faltered down and they had to drive through the
30 stone. I think in April from memory they weren't aware of what exactly the width of the graben was but it was unexpected event, so that's where all the focus was.

Q. The next visit shown on the schedule is on 11 June 2010 by a Steve Moran, do you know him?

A. I know Steve Moran.

Q. And what's his role?

5 A. He's a construction inspector.

Q. Based where?

A. In Christchurch.

Q. Do you know whether he visited the Pike River site ever?

10 A. I only became aware of his visit after I was putting this evidence together.

Q. So do you know whether he visited the site at all?

A. I don't know whether he visited the site.

Q. And then your third visit that year was on the 12th of August 2010, is that right?

15 A. That is correct.

Q. And you'll see that there's reference to a visit on the 20th of August 2010 in that schedule and it refers to stone dusting pan and monitoring bolts in second egress and they're matters that you dealt with on the 12th of August, so I take it that date should be the 12th?

20 A. That's the 12th.

Q. There's reference then to a site visit by Kevin Poynter, "HSNO follow up on the 9th of September 2010," and in your witness statement at paragraph 254, there's reference to you receiving HSNO emails on that day. Would it be fair to assume that that didn't involve a site visit by you?

25 A. Correct.

1025

Q. So that reference is not right?

A. The Gunningham/Neal reference is incorrect.

30 Q. And your final visit which did involve an underground inspection was on the 2nd of November, is that right?

A. That's correct.

- Q. So does that mean that throughout the time that you were an inspector, including your visit of February 2009 in relation to the ventilation shaft, you conducted seven inspections of Pike River?
- A. Formal proactive underground inspections, that would be correct.
- 5 Q. Including the vent shaft visit?
- A. Yes.
- Q. And how long would they be in terms of time?
- A. I guess they varied, depending on what's happening on any particular day but they could be three to four hours.
- 10 Q. So somewhere between 21 and 28 hours was inspecting the site over the total of that timeframe?
- A. That would be correct.
- Q. And in the course of your inspections, we know that you went underground, did you also inspect the facilities above ground?
- 15 A. In the – can you elaborate what facilities you mean or?
- Q. Well, for example, the administration area or the coal processing plant?
- A. Not the coal processing plant. When you arrive on a, on the site, you generally arrive and have to sign in at the administration area and I usually took all my own mining gear so we would then go over – I'd
- 20 meet the manager or, and he would either take me down or assign someone. We would kit up in the area where the lamp, the lamp room. In the lamp room, there are a number of different things around that you can peruse as you're waiting for everybody to get ready. You pull on your gear and basically head underground.
- 25 Q. Paragraph 22 of the Professor Gunningham and Dr Neal report, they say in part, "The visitors, the inspectors visited the mine only occasionally and so only obtained snapshots of what was going on there." I take it you agree with that?
- A. I do agree with that.
- 30 Q. And would you also accept that even when we add in the other communication you had outside of visits, for example, by telephone or email, the contact that you had with Pike River wouldn't have provided

you with sufficient information to form a view about whether Pike River was a health and safety compliant workplace?

5 A. I think it's very difficult, given the number of, the number of snapshots that we're taking through the process, as to whether or not everything is in order.

Q. What I'm saying is you simply wouldn't have had enough information to make a sound judgement as to whether Pike River Coal complied with health and safety practices?

A. I probably did not have enough information.

10 Q. And would that same comment also apply to the contractors working at the site?

A. It would have, it would have to apply to the contractors.

Q. What's the frequency of visits to gassy mines in Queensland, do you know?

15 A. For the - the inspectors tend to try and visit the mines on a monthly basis. I'm aware of one inspector who is visiting the mine more than month – a particular mine more than monthly at the moment, because of some issues that he's dealing with, and I think the added advantage that we have in Queensland is whilst that inspector may be visiting that mine, so might an electrical inspector or a mechanical inspector as well, so it's covered by a myriad of different people with very specialist skills that actually help, make sure that we've got a much better picture of what's happening.

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25 Q. Ms Basher, could we please have up CAC0117/3?

WITNESS REFERRED TO DOCUMENT CAC0117/3

30 Q. I'm just going to show you a series of four schedules prepared by the Commission staff, Ms Basher in particular showing a range of some of the types of reports generally of a re-occurring nature that were generated by Pike River or its contractors, just to understand what documents you looked at. And the first one is schedule A. Can you please look down that and tell me what, if any, of the documents you would've looked at?

- 5 A. Probably none of those in a way that show that I, it was like a, "I'm going to look at it to determine what I think about it." I would've looked at a deputy production report, most likely in the lamp room. The deputy production reports were in the lamp room, and I may quite - go and have a look at those, have a quick read of them, see what happened on the night before I attended the mine. Work orders, mechanical development, we were aware of the diesel, like the requirement to do the diesel particulate - the diesel fume testing and we had been provided information on that, but - and when they were doing the stone drive, I requested that they calibrate the methane detector on that boomer on a daily basis and I followed up to ensure that that was being done. I was provided some evidence that they'd been doing that, so not many of them.
- 10
- Q. Well, was where we get to that your inspections didn't involve reading these documents?
- 15
- A. It did not.
- Q. If we can have the next page please, Ms Basher ending 4? Are you able once again please, just to look down that list and tell us whether you inspected any of those documents?
- 20
- A. A - incident reports that had been sent to me, yes.
- Q. And that means the incident reports that form part of an accident notification required pursuant to section 25 of the Act?
- A. A serious harm incident, yes.
- Q. None of the other?
- 25
- A. I haven't reviewed them, no.
- Q. Next page please Ms Basher, ending 5, any of those?
- A. Apart from the safety statistic report that was presented to the Board, it was copied to me by Nigel Slonker, no I haven't seen any of those.
- Q. And the final page Ms Basher, ending summation 6. I'd like to just take some time to take you through some of those sorts of documents both to see if you can explain certain matters and also to get a feel for whether they're documents that might've been a benefit to the
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Department. Perhaps if we turn first to the daily electrical inspections, Ms Basher, DAO.004.02414/1.

WITNESS REFERRED TO DOCUMENT DAO.004.02414/1

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5 Q. And this doesn't have a date on it, but the date we have, according to summation, our internal computer system is 15 August 2009 and you'll see it's headed daily electrical inspections development panel and under comments it says, "DB005 still in bypass mode, needs fan interlocks set up." Can you first just tell us what DB005 is?

10 A. I can't tell you what DB0005 is.

Q. Can you tell us what's meant by "still in bypass mode"?

A. I presume that it's bypassing a safety device which is likely to be gas detector.

15 Q. It says, "Needs fan interlocks set up." Can you just describe what fan interlocks are?

A. It'd be an interlock to the fan so that when the gas levels detected are greater than one and a quarter percent it would shut down the fan.

Q. Is this the sort of matter you might've had an interest in if you were an inspector?

20 A. It's, I think it's interesting if I can make a comparison to Queensland. This would be what, in my view, would be called an HPI or an high potential incident and it would be required of the site senior executive to report to an inspector and I'm quite convinced that if that came across an inspector's desk that they would very quickly be visited by an
25 electrical inspector. In fact they probably would be told that they wouldn't be able to operate till we'd been there.

Q. Another one please Ms Basher DAO.001.07913/1?

WITNESS REFERRED TO DOCUMENT DAO.001.07913/1

30 Q. It's a document headed daily electrical inspections slurry pump station dated 7 September 2010 and you'll see under the comments it says, "VSDs seem to be bit warmer today." Can you just explain what VSDs are?

A. Are variable speed drives.

Q. Do you know whereabouts they were located at the Pike River Mine?

A. There were a number of variable speed drives within the mine. Clearly they're part of the slurry pump station. They would've been in the – on restricted area.

5 Q. Are they equipment of a type that you would check in your inspections? Are they equipment of a type that a coal inspector with a first class mine manager's certificate would have the expertise to check?

10 A. We have a basic understanding of electrical equipment and clearly we can observe if visual signs of the equipment, for example, if I went past a motor and put my hand on it and it burnt my hand I'd be very concerned. But it's not something that I would normally have a look at.

Q. If we can perhaps turn to a different set of documents. Pike River Coal shift electrical reports and Ms Basher DAO.001.20691/1?

WITNESS REFERRED TO DOCUMENT DAO.001.20691/1

15 1040

Q. And you'll see this is a Pike River Coal shift electrical report dated 24 June 2010 and under the work to be done section it says, "Phones need shifted to faces." And then the last two lines in that section says, "Phones not working at RH place." In your inspections –can you see those?

20

A. You can see the phones, yes.

Q. In your inspections, did you check the location of the phones?

25

A. Not specifically, but you did note when you were walking around where it's best – it's just part of the process. You're looking at how a face is set up. In all workplaces they should have reasonable access to communication and generally you would find that close to the crib room. If the development's gone a long way from the crib room then they should consider moving them up, but it's just part of what your normal knowledge is.

30

Q. Did you check whether the phones were working ever?

A. No I never picked a phone up to see if it was working.

Q. Did you make any enquires into whether the phone system was working?

A. No I didn't.

Q. Did you come across any occasions where you thought the telephones weren't in the right location underground?

5 A. Not that I can recall. Generally also at the same location if it's a crib room, you're also going to find quite a lot of the first aid gear.

Q. Was that a matter, being the location of the phones near the faces, that you ever raised with the workers?

A. No it's not and neither was it raised by any of the workers with me.

10 Q. If we could turn to another document please in the same series Ms Basher, DAO.011.20624/1.

WITNESS REFERRED TO DOCUMENT DAO.011.20624/1

Q. And you'll see that this is another Pike River Coal shift electrical report dated 15 July 2010. Can you see that?

A. Yeah.

15 Q. And the third and fourth to last lines under the column, "Work done/delay cause." Can you see it states, "Gas blowing out of water trap at NO2FAB, inform Lance McKay. Turn valve off, inform Deputy, S Donaldson." You see that?

A. I do.

20 Q. And is your understanding that the number 2FAB would've been the FAB at the bottom of the Slimline?

A. Yes.

Q. Were you aware that there was a methane drainage line approximate to that?

25 A. Yes I was aware there was a methane line approximate to that.

Q. And were you aware that there was a water trap there?

A. I can't specifically say I was aware there was a water trap, but methane drainage lines should have water traps in them.

Q. Were you aware of this particular problem?

30 A. No.

Q. Were you aware of any problems with methane drainage blowing out because of difficulties with water traps?

A. No I wasn't.

Q. Did you question anyone at the mine about any deficiencies with the methane drainage system?

A. No I didn't.

5 Q. We have another document in the same series please Ms Basher,
DAO.011.20631/1

WITNESS REFERRED TO DOCUMENT DAO.011.20631.1

1045

Q. You'll see this is another Pike River Coal shift electrical report, this time dated 17 July 2010. You see that?

10 A. I can.

Q. And the paragraph just at the bottom of the list of paragraphs under, "Work done/delayed cause," says, "Roadway into crusher area is a bloody mess – trip hazards." During your inspection, did you notice any issues with the quality of the roadway?

15 A. It'd be fair to say that the quality of the roadway varied from time to time. There were times when the roadways were generally reasonably good and times when we found that it was quite rough. I've noted following the start of Mr White, that there had been efforts made to improve the roads. I say that this is after Mr White arrived but it could have been
20 that there'd been a lot of work going on at the crusher on that particular day or immediately before it, so the work may have done, caused the mess and it may well have been fixed the next day, so we're taking a snapshot that says that on this particular day, the roadway is a mess, but what we don't know is the amount of activity that went on
25 immediately before the inspection was done and it may have been cleaned the next day, I don't know.

Q. Well, did you ever observe any problems with the roadways that were of such an extent that you might of thought they posed a hazard if people tried to evacuate in an emergency?

30 A. I didn't perceive that, no.

Q. Did you discuss that possibility with anyone at the mine?

A. I didn't.

Q. Did you ever seek the view of the workers as to the quality of the roadway?

5 A. Not directly as a question like that, but I did always try to make the attempt to get myself in a position where I could have a conversation with the employees and that conversation could be quite varied. I tried to give them the opportunity while the manager goes and attends to some issue that comes up, which tends to happen on a regular basis when we're underground but it hadn't been raised and I, specifically I haven't discussed it with any workers.

10 Q. Just another document in the same series please Ms Basher, DAO.011.20810/3.

WITNESS REFERRED TO DOCUMENT DAO.011.20810/3

15 Q. You'll see this is another coal shift electrical report dated 30 August 2010 and under, "Work done, delay cause," it says, "Lots of water and coal running around motor and FLP enclosure causing a build-up of coal around fan of motor." Assuming that FLP enclosure is a reference to a flameproof enclosure, did you ever check the flameproof enclosures around any of the motors underground?

20 A. I never did a physical check of them, no. I might've looked at the installations to see that they were clear of rubbish and debris, but I didn't specifically go.

25 Q. Because you will see under the column, "Work to be done," at the bottom it says, "Something needs to be done. This could happen again any time, causing damage to fan, motor or FLP enclosure." I take it, that wouldn't have been a view you were aware of at any stage?

A. Not a view I was aware of.

Q. Another one in the same series please Ms Basher, DAO.011.20819/1

WITNESS REFERRED TO DOCUMENT DAO.011.20819/1

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30 Q. You'll see that this is a coal shift electrical report for 17 September 2010, and under "work done, delay cause", it says, "DCB's phone out of order. Took phone from transformers and still in a DCB." Are you able to tell us what a DCB is?

A. It's a supply unit for the district control board. It supplies the power into the sections for various pieces of equipment.

Q. You'll see it says under, "work to be done", slightly different issue, "FAB telephone out of order." If we assume FAB is a reference to a fresh air base, were you aware of that issue?

A. No, I wasn't aware of that issue.

Q. Did you ever make any enquiries into the communication system from either of the fresh air bases, so either the McConnell Dowell one as it was known or the number 2 one?

10 A. Not specifically, but I was aware there were phones there.

Q. Perhaps just a final two on this series, DAO.011.20965/1.

WITNESS REFERRED TO DOCUMENT DAO.011.20965/1

Q. You'll see this is a coal shift electrical report dated 28 October 2010, see that?

15 A. Yes.

Q. So this is just shortly before your visit of 2 November 2010, and on three separate occasions it says, "Main fan reset tripped MCB on drive." Are you able to tell us what the MCB is?

A. I'm not sure what the MCB stands for.

20 Q. Right. Were you aware ever of the need for resetting of the main fan?

A. No, I wasn't.

Q. Did you ever inspect that main fan?

A. I never went into that area on my visit in November. It'd been – there was a process to install – it was being, it had been installed in October and it was up and running when I went in, in November.

25 Q. So you never, in short, inspected that fan?

A. I never inspected it, no.

Q. Had you given consideration to whether the Department should have someone for example an electrical inspect that fan?

30 A. I hadn't given consideration to that, no I hadn't.

Q. If we could have just the final document in this series please Ms Basher, DAO.011.20966/1?

WITNESS REFERRED TO DOCUMENT DAO.011.20966/1

Q. You'll see this is a coal shift electrical report dated 28 October 2010?

A. Right.

Q. And you'll see the sixth column down, beside machine number ABM, it says, "Re-calibrate CH₄ sensor on body. There is AL lot of CH₄ around machine." Did you become aware during your visit of 2 November, so just a few days after this, that there were reports of a lot of CH₄ around machinery?

A. No, I did not become aware of that.

Q. Did you speak to workers on that visit of 2 November?

10 A. Yeah, I did, I wanted to have a specific look at the test panels, have a look at how much work had been done, how they were set up and spent quite a lot of time talking to the monitor operator –

1055

Q. Mr Mason?

15 A. No, no, the operator, there was an operator there. I don't recall his name, I'm sorry. There was a monitor operator, Mr Mason, Steve Ellis, Peter O'Neill joined us at some stage and pretty much focussed how they were physically going to operate and cut coal. Following that the only other machinery that was operating on that day as I understood it was the roadheaders so we walked around and up into the roadheaders and there were several crews. I remember one, the roadheader, there'd been a pumping issue and there was water in the face and they were busy trying to get that and we had a discussion about what was going on there. Had a look around at that activity and yes, I did speak to workers, whether any of those were health and safety reps I don't know.

20

25

Q. You've referred to your conversations with various people in relation to the hydromining in your witness statement so I'm not going to cover that right now. But I would like to know is whether, in the course of that inspection you asked the workers whether they had experienced any issues with methane? Was that something that you would ask the workers during your visits?

30

A. Not specifically.

Q. We can move to a different type of document please and these are entitled work orders and please could we have DAO.001.07211/1?

WITNESS REFERRED TO DOCUMENT DAO.001.07211/1

5 Q. And can you see that this is a work order and the bottom of the second to last row says, "Raised 27 September 2010 due start 2 November 2010"?

A. Yes.

Q. And you'll see it says just below work details, "Job description daily electrical inspection continuous miner." You see that?

10 A. I see that.

Q. And then down the bottom in handwriting it has, "12/10" presumably a reference to 12 October, and the phrase, "Not done." Can you see that?

A. I can.

Q. I'd like to show you another one please DAO.001.07114/1?

15 **WITNESS REFERRED TO DOCUMENT DAO.001.07114/1**

Q. And you'll see this is the same type of document but this time the raise date is 19 October 2010 and the due start date is 27 October 2010?

A. Correct.

20 Q. And you'll see the, "Job description, daily electrical inspection, continuous miner." You see that?

A. I can.

Q. And down the bottom it says also, "not done"?

A. It does.

Q. And perhaps if I can take you another DAO.004.05509/1?

25 **WITNESS REFERRED TO DOCUMENT DAO.004.05509/1**

Q. And you'll see that the raise date on this is 26 October to 30 October 2010?

A. Yes.

30 Q. And once again, "Job description daily electrical visual inspections" and down the bottom in handwriting again, "Not done." You see that?

A. I see that.

1100

Q. Now I don't know why they weren't done so I'm not asking you to speculate on that, there could be an explanation. But, had you seen these documents would that have caused you concerns sufficient to justify some sort of an enquiry?

5 A. In short, yes it clearly shows that their systems are failing.

Q. Well depending on whether or not there's a perfectly innocent explanation?

10 A. It might be a - it's a snapshot of a particular document, you know, I'm confused that a daily check that should start on a due date seems an odd sort of work order really. I mean a daily check you'd think is a daily check. It's not something that starts on a due date or unless it was a new activity.

Q. You would've for example wanted to find out whether it was out of service or whether it was a problem with the servicing regime?

15 A. That's right, yes.

Q. If I can take you to another please, DAO.004.07080/1

WITNESS REFERRED TO DOCUMENT DAO.004.07080/1

Q. And you'll see this is another work order and this time the date raised 26 October 2010 with due start 3 November 2010? You see that?

20 A. Yes.

Q. And it says, "Weekly gas sensor calibration checks-diesels." Did you ever see any of those gas sensor calibration checks?

A. No I didn't.

25 Q. If we could please have the document which is attached to that in pages 3 and 4 at the same time Ms Basher please. We'll see that on page 3 there's the heading, "Diesel machine mounted methane sensor calibration checks, week ending 28 October 2010." Do you see that?

A. I do.

30 Q. And if we look at the right-hand page, summation ending 4. You'll see there's a date signature 29 October 2010, you see that?

A. Yes.

Q. And the second to last line says, "Methane sensor head out of date September 2010." You see that?

A. I see that.

Q. Are you able just to explain the significance of for methane sensor head being out of date for us?

5 A. It would likely to be – look I'm sorry, I'm having – I don't know at the moment.

Q. Right.

A. I'm just having a bit of a mental block.

Q. Did you carry out any enquires or checks into whether the methane sensors on any of the equipment were out of their date?

10 A. No I didn't. Just saying the methane sensor calibration test was out of date and hadn't been checked since September is what I'm assuming you're saying, so it's saying that the last time it was calibrated was September, so it hadn't been done since that time and the effect of that is it could be reading wrongly.

15 Q. Well once again, accepting there may or may not be an innocent explanation for this, it's certainly something that had you known as an inspector you would've wanted to conduct some enquiry in relation to?

A. Yes it would.

1105

20 Q. Perhaps if we can go to a different type of document please, being the gas charts. Ms Basher could we have CAC0112/1?

WITNESS REFERRED TO DOCUMENT CAC0112/1

25 Q. Can you see, and its small writing, I'm sorry, up the top, this style of document has a date and in this case it's 30 September 2010 to 1 October 2010?

A. Yes.

Q. And down the bottom left, it says, "CH610 Auxiliary fan shaft methane."

A. Yes.

Q. Do you know where the methane sensor was in the shaft?

30 A. I believe it was at the top of the shaft.

Q. And I just want to take you through some of these. You'll see that there is a spike above 2.5% just after 9.36. We can go to another CAC0112/4.

WITNESS REFERRED TO DOCUMENT CAC0112/4

Q. And you'll see the date at the top, 3 October 2010 to 4 October 2010?

A. Correct.

Q. And you'll see there are two more spikes above 1.25% in this case just
5 before 9.36 and then just after 14.24?

A. Yes.

Q. And same CAC reference, but summation ending 8 please.

WITNESS REFERRED TO DOCUMENT CAC0112/8

Q. And you'll see that the date at the top is 7 October 2010 to 8 October
10 2010?

A. Yes.

Q. And you can see a range of spikes from above 1.25% too, and a couple
of occasions above 2.5%. Were you aware of this?

A. I wasn't.

Q. Given the gas sensor is on your understanding near the top of the
15 methane – sorry, the top of the shaft, that would've indicated to you that
somewhere in the mine there would be an even higher percentage of
methane pre-dilution, is that correct?

A. Absolutely, that's correct.

Q. So this would've been a matter that you would've wanted to have given
20 urgent attention to, is that right?

A. It is. I would argue that they are notifiable events, in that they're
uncontrolled gas incidents. It may be stretching the definition of an
uncontrolled gas accumulation, but very clearly these spikes are not
25 occurring because the gas incidents underground are being controlled.
Each one of those, in my view, should've been notified.

Q. I'll just show you a couple more, same series ending 15 please.

WITNESS REFERRED TO DOCUMENT CAC0112/15

Q. And you'll see that the date on this is 14 October to 15 October?

30 A. Yes.

Q. And there's another spike which reaches just below 2.5%?

A. Yes.

Q. And same series, number 17 please Ms Basher.

WITNESS REFERRED TO DOCUMENT CAC0112/17

1110

Q. And you'll see this time the date is 16 October to 17 October?

A. Yes.

5 Q. And there are six spikes there which touch or exceed the 1.25% range. I am not going to go through all of those for October 2010 but would it be fair to say that to your eye, this would've suggested to you that there might have been an issue with the ventilation system?

10 A. Certainly identify an issue with the ability of the mine to control the gas, and that's a ventilation issue.

Q. Did you conduct enquiries in relation to the ventilation system in the course of your inspections?

A. Not specifically. My inspections were around observing the ventilation system that was in place. I never looked at the overall design.

15 Q. I might turn to the system in a bit more detail later on but would it be fair to assume, given you didn't know about those, that ventilation wasn't an issue that you discussed on your inspection of 2 November 2010?

20 A. When I visited in November 2010, the new fan was operating and there was a considerable amount of air. It was a vast improvement on when I visited in August, so in that respect, the amount of air going through the hydro panel when I visited certainly seemed to be a fairly sizeable amount of air. It was quite cold in there. It was obvious that there was a lot of air movement, so specifically, I didn't raise issues around the ventilation system and I wasn't aware of any particular design work that
25 was done.

Q. Can I take you please to a different series of documents, this time control room daily report sheets and Ms Basher, please could we have DAO.011.22297/1?

WITNESS REFERRED TO DOCUMENT DAO.011.22297/1

30 Q. And you'll see that this is a control room daily report sheet and it's dated in the top right, "24 April 2010"?

A. Yes.

Q. And in the body of it in the section which starts, "AA/1 Mucking," it then reads, "Fan off in drive, no time recorded." Do you see that?

A. Yes, I do.

5 Q. I presume that would be a concern to you on two levels, first, that the fan in the drive would be off, yes?

A. Well, you'd make, you'd certainly, A, yes, the fan was off. Were there people present? What was the process for re-establishing the ventilation and what were the issues, and why was the fan off? You know.

10 Q. That's right.

A. All of those things, yes.

Q. There may be an innocent explanation?

A. That's right.

Q. But you'd want to enquire into it?

15 A. Yes.

Q. And you would be concerned by the reference to, "No time recorded," is that right?

A. Yes, I would, I would.

20 Q. Because as soon as a ventilation system goes off, they should start recording the time so that if need be, the men can be withdrawn after 30 minutes, pursuant to the regulations?

A. Correct.

Q. Did you ever enquire into the system they had for recording when the ventilation system would go off?

25 A. Not specifically, no.

Q. When you say, "Not specifically," does that mean no?

A. I don't recall having a conversation about do you have a recording system, so if that's – the answer is no.

1115

30 Q. If we can go to another one please Ms Basher, same series DAO.011.23236/1?

WITNESS REFERRED TO DOCUMENT DAO.011.23236/1

Q. And you'll see this is another control room daily report sheet, this time dated top left is Thursday May 6th?

A. I can see that.

5 Q. And main delays "CM001 delay with transport SOS no drift runner (120 min) gas trips all shift (45 min)." Do you see that?

A. I do.

Q. And then at the end of the next line below it, "Gas out fan trip (60 minutes)." See that?

A. Yes I do.

10 Q. Were you aware at any stage in your inspections of there being these types of issues with gas trips?

A. Not the frequency that I'm being shown here. I was aware of one scenario where I was rung by a deputy to get a clarification of when it was appropriate to, what the regulation said about exiting the mine but not to this extent.

15

Q. When were you rung, can you recall?

A. Look I'm, I made a note in my evidence about it, I'll have to refer back to it but –

Q. It's the matter in your witness statement?

20

A. It is.

Q. So another document in that same series DAO.011.23233/1?

WITNESS REFERRED TO DOCUMENT DAO.011.23233/1

25 Q. This is, you'll see another control room daily report sheet dated 7 May 2010, so the day after or it could be the shift after? Sorry, you'll need to actually speak so it's recorded?

A. Sorry.

Q. Sorry. Yes?

A. Yes.

30 Q. And you'll see under main delays it says, "CM001 tripping on CH4 even after setting fan up to 21 cube/s and changing vent cans over to RHS of face and setting typhoon fan to max 25 min." Then in the next section under main delays, "75 min fan trip - had to purge box over 2% at face for 30 min while fan down. 30 min gas trips - have reduced due to x.

Ventilation changed to R-H side as sensors on left. Now pulls fresh air up past sensors and across to tubes.” You see that?

A. I see that.

5 Q. First I take it from your earlier comments that you wouldn't have been aware of this particular incident?

A. I am not aware of this particular incident.

Q. And second, as an inspector would you be concerned by this bit, “Ventilation changed to R-H side as sensors on left, now pulls fresh air up past sensors and across to tubes?”

10 A. Very, I'd be concerned in that what they're doing is they're defeating the purpose of the sensor.

Q. And that's without doubt a matter you would enquire into had you known of it?

A. That's without doubt a matter I would've enquired into.

15 Q. And you would want to look at, amongst other things, the training and experience of the workers?

A. Yes.

Q. To supervision of the workers?

A. Yes.

20 1120

Q. Whether they understood the significance of what they were doing?

A. Correct.

Q. Whether the high level systems in the company had picked up on these sorts of issues?

25 A. Correct.

Q. And how the company was responding to those?

A. Absolutely.

Q. Those are not matters that you looked into though in the course of your inspections?

30 A. They were not.

Q. Perhaps another one please Ms Basher, DAO.011.23172/1

WITNESS REFERRED TO DOCUMENT DAO.011.23172/1

Q. You'll see this is a similar document but we're missing the title. The date at the top left is June '04 2010?

A. Yes.

1121

5 Q. And just the body of it under the main delay section in this case, can you see it says, "MT002 had sparks coming out of scrubber, was found that the shutdown floats were capped off, unable to shut down and no water in scrubber."

A. Sorry, I can't find that.

10 Q. If you look at the section where it says on the left, "Main delays" –

A. Thank you.

Q. You see where it says that?

A. Yes, I do.

Q. "MT002" – are you able to say what that is?

15 A. I can't tell you which machine that is. I – it could be one of their motors, or – I'm not sure.

Q. And what's a "scrubber"?

A. A scrubber's a water reservoir that's used to cool the exhaust fumes and help clean the exhaust fumes.

20 Q. Vital for any machine going underground?

A. Very vital, yes.

Q. And if it's not working first, it can produce a dangerous atmosphere for those working underground?

A. That's correct.

25 Q. And second, to the extent to which it might cause sparking, it is a source of ignition?

A. That's correct.

Q. Were you aware of any of these sorts of issues?

A. I wasn't aware of these sorts of issues.

30 Q. You'll see it says, "Was found that the shutdown floats were capped off, unable to shut down." What are the "shutdown floats"?

A. A set of floats that is a safety device, so as the water level in the scrubbers drop, the floats drop and they trigger a cut-off switch to shut

the motor down. If they were capped off, then the motor can keep going without water.

Q. Are you able to say what "capped off" means then?

5 A. I don't know what they mean by capped off, it might've – I presume somehow or other they've either held them, so that the floats can't respond to the water levels.

Q. Your first blush concern though on reading this as an inspector would be that this is something that would be done deliberately?

A. Yes.

10 1124

Q. So once again you would want to investigate this to see whether that is the case?

A. That is correct.

15 Q. And once again conduct one of those types of investigations that we referred to just before, following how the systems dealt with this?

A. (no audible answer 11:24:26)

Q. Perhaps we can go to another DAO.011.232251/1?

WITNESS REFERRED TO DOCUMENT DAO.011.232251/1

Q. And you'll see this is another report sheet for 23 September 2010?

20 A. Yes.

Q. And down the bottom it says, sorry in the centre block, second line, "Hydro nil -water and power issues all shift. Communication issues - phone in DAC." Were you aware of the workers encountering either of those types of issues?

25 A. Can I add that any of these issues would all meet the determination of a high potential incident and in the interests of thinking about things in the future. With the benefit of hindsight, I look at these and I look at the process that I am now involved in, in Australia where these, in Queensland, where these high potential incidents are coming up and
30 getting dealt with as they happen, it just seems to me that these issues need to be out so we can see them and deal with them.

COMMISSION ADJOURNS: 11.26 AM

COMMISSION RESUMES: 11.47 AM

CROSS-EXAMINATION CONTINUES: MR WILDING

Q. Mr Poynter, perhaps one final control room officer's event book document and this time DAO.001.02091/1 and /2.

5 WITNESS REFERRED TO DOCUMENT DAO.001.02091/1 AND /2

Q. If we can have them on screen at the same time Ms Basher. And you will see that this is a control room officer's event book dated 29 October 2010.

A. I can.

10 Q. And on page 2, 1010 says, "CH4 alarm main fan in the lowest block."

A. Yes.

Q. And then at 1536, "VSD alarm temp getting too high, needs back flush, Sparky on way." Did anyone ever draw to your attention any issues with the VSD?

15 A. No they didn't.

Q. Did they draw to your attention issues with the alarm on the main fan?

A. No they did not, no.

Q. If I can just now turn to the incident accident register and as I understand it, you asked following your visit of 22 January for a copy of that to be sent to you?

20

A. I did.

Q. And if we could just have please DOL3000020014/1

WITNESS REFERRED TO DOL3000020014/1

1150

25 Q. And can you just confirm that that's the email of 22 January 2010 from Mr Couchman to you enclosing those registers?

A. That's the email I received. I never reviewed the document that was sent to me. I got very busy in February following this and then in March and I just never got around to reviewing the document.

30 Q. You were employed as a coal mines inspector and would it be your understanding essentially to go out and conduct physical inspections of the mine?

A. That was the understanding of what I was required to do. There was an emphasis on doing underground visits and visiting the mine. There was no expectation on me to be carrying out audits or inspection of these sites, underground inspections are not audits.

5 Q. And is it fair to say that you also wouldn't have had the time in the course of your inspections to look through this whole range of documentation that we've been talking about this morning?

A. The collection of all this documentation has taken a long time and we would've just not been able to spend the time to do this type of work.

10 There just wasn't enough time. I think you asked me yesterday about, for example, other duties that had been placed upon me. There were several occasions where I was asked to non-mining work in non-mining workplaces such as first response to an accident that occurred on a farm, first response to an incident in a factory and a fish filleting icebox.
15 So in addition we were really busy and we just didn't have the time to be able to sit down and go through these documents.

Q. The Department really needed to have a system for obtaining and analysing those documents?

A. It did. I mean, these documents might be sent to Mike or they might
20 come to me or they might go to the main office, there was no system.

Q. Once again it comes down to an issue of resources or lack thereof, does it?

A. Yes it does.

1153

25 Q. So if we look at why these sorts of issues weren't picked up on, in a nutshell, the reasons would include, one, that the coal mine inspectors were essentially there to focus on the conduct of physical inspection?

A. That's correct.

Q. Second, there doesn't seem to have been a system within the
30 Department for gathering and checking this type of documentation?

A. There isn't.

Q. Third, the inspectors weren't trained in auditing?

A. That's correct.

Q. And fourth, wouldn't have had time to audit?

A. We didn't.

5 Q. And finally in terms of actually inspecting the physical systems which underlie some of these incidents, some of them for example checking the VSD would involve a – or checking the ventilation system design would involve a range of expertise which actually wouldn't be found in one person?

A. No, it wouldn't.

10 Q. And it wouldn't be found in a person whose primary qualification was a first class mine manager's ticket?

A. They may have parts of it, but not all of it. Some people might be strong on ventilation. It might be a strength and a real interest that they proceed with, others may be just generalised.

15 Q. While you were with the Department, are you aware of whether the Department undertook any work to try and identify the nature and the size of the task which would be required in order to properly inspect a complex coal mine like Pike River?

A. No they didn't.

20 Q. Perhaps Ms Basher if we could have please CLO0010012842/50 and /51.

WITNESS REFERRED TO DOCUMENTS CLO0010012842/50 AND /51

1156

25 Q. See this is section 30(b) of the Health and Safety in Employment Act 1992, and it says that, "The functions of an inspector are, (b) to ascertain whether or not this Act has been, is being or is likely to be complied with." The inspectorate wasn't set up and resourced to a level that was going to enable that function to be fulfilled in relation to Pike River, is that a fair comment?

30 A. I think it's a fair comment about Pike River and the mining industry in general.

Q. When you say, "The mining industry in general," can you just explain that point?

A. Well, we've got two inspectors working in the country and those two inspectors were expected to be able to do all of the extractive industries. When I, when John Walrond resigned and I took over doing some of the tunnels and things up there, we were finding things that we believe, as coal mines inspectors going into the tunnels, I think we were adding some real value to the ventilation systems that they were using in the tunnels because they had none basically but we were two inspectors. We were dysfunctional in that we reported to separate managers. We had one advisor who had no coal background, although he was technically very good, but no coal background and there was no co-ordinated approach even, with respect to it, so I don't think we were particularly well – we weren't resourced and we weren't particularly well set up to be able to provide the service that we were expected to provide.

15 Q. Can I please take you to another series of documents? This time, "Toolbox talk safety advisories," Ms Basher, DAO.001.11364/2.

WITNESS REFERRED TO DOCUMENT DAO.001.11364/2

1159

20 Q. And you'll see that this is a safety alert which is part of a sheet of a toolbox talk safety advisory and down the bottom right its issue date is 4 June 2009?

A. Yes.

25 Q. Second paragraph, "Recent incidents involving contraband found underground have included cigarette butts found in the tunnel, aluminium soft drink lids, a vehicle with no scrubber tank was taken into the tunnel and most recently a cigarette lighter was found in the back of a drift runner." Can you just explain the difficulty with aluminium underground?

30 A. Aluminium and steel together have got a very low propensity for sparking. Aluminium is something that's restricted in the underground mines in Australia.

Q. And if we just turn to another one DAO.001.11428/2?

WITNESS REFERRED TO DOCUMENT DAO.001.11428/2

Q. And you'll see this is another safety alert, it's attached to a toolbox talk and down the bottom right issue date 12.15.2009 so perhaps it's the 15th of December?

A. Yes.

5 Q. "There have now been numerous toolbox talks on the subject of contraband items being taken and found underground. The latest reported incident has been that of a plastic cigarette lighter found lying on the floor heading E1-99. No one in the vicinity at the time admitted ownership of the lighter." See that?

10 A. I can see that.

Q. And if you read the last paragraph, you'll see it says that, "As a result of this latest breach of the mine manager's rules, all undermanagers are now being instructed to conduct weekly random searches of personnel for contraband items before going underground." See that?

15 A. I do see that.

Q. And just the final one which is DAO.001.11947/3?

WITNESS REFERRED TO DOCUMENT DAO.001.11947/3

Q. And you'll see this has a date down the bottom right of 4.16.2010 so presumably 16 April?

20 A. It does.

Q. Top, "Recent incident involving contraband found underground, have included an aluminium drink can found in A1 and a glass drink bottle found on the ground near the roadheader. These reoccurring incidents highlight the extreme risk and potential for injury and death if one of these acts had caused an ignition or injury." What's the difficulty with glass underground?

25

A. It provides, it's a hazard for people, I'm not aware of any other issue with glass, it can cause a laceration or a cut.

30

Q. And you'll see that it says at the first line of the bottom paragraph, "As a result of these latest incidents we will be conducting random daily searches for contraband." We'll gather from that series that problems with contraband were reoccurring?

A. That's the way it looks.

1203

Q. Was that issue ever drawn to your attention?

A. No it was not.

5 Q. Having discovered the reoccurrence, what would you have taken by way of steps in response?

A. I'd require the mine to ensure that they carry out a retraining programme, like a re-induction around this particular issue and that there would be random daily, random checks every day, every shift, so people were searched before they went underground.

10 Q. So a response of instituting searches on its own wouldn't be satisfactory?

A. For searches on its own?

Q. Yes.

15 A. Yes – well no, I think people need to understand why the process is doing it, you know, the – if you can get an individual to understand the severity of the issue of taking contraband underground, it goes a long way for ensuring that searches are actually going to find nothing, because the reality is you don't want to be finding anything when you're doing your searches otherwise people haven't understood the risk and a search may miss something.

20

Q. How would that type of issue be responded to by the inspectorate in Australia or Queensland?

A. I'm not sure I can answer that. I haven't become aware of any incident like that or been – read any information on it.

25 Q. Could –

A. Just thinking it through a little bit further, I'm aware of where a mine isn't meeting its obligations, that they have a series of approaches with the mine and they have a series of meetings with the site senior executive and the owners and operators and as – when the severity, if it gets to a certain point where action doesn't appear to be being taken or working, then there's a discussion with the chief inspector of mines and it's, I think it's called a, "Level 4 meeting," where those people are brought in

30

and held to account by the chief inspector. The next step after that would be prosecution.

Q. If I could turn to a different category of documents and this time underground audits conducted by Mr Couchman and Ms Basher, could we please have DAO.001.03548

WITNESS REFERRED TO DOCUMENT DAO.001.03548

Q. Had you been aware that Mr Couchman was undertaking underground audits?

A. No I wasn't.

10 Q. Not something he told you?

A. No.

Q. Because you did have contact with him didn't you?

A. Oh I had contact with Mr Couchman, yes from time to time.

15 Q. Did you ever have a meeting to discuss with him specifically health and safety at the mine?

A. No I didn't.

Q. No. You will see that this is a series of underground audit results dated 29 January 2009, you see that?

A. Yes I can.

20 Q. "Number 12 methane monitor present and working," then off to the right, "Coal face methane detector had had compressed air played upon it and B1 methane gas detector has been removed from ceiling and is hanging from the sidewall." I take it that wasn't an issue that you were aware of?

25 A. It wasn't an issue I was aware of and both incidences in an attempt to defeat the purpose of the sensor.

Q. What the inspectorate would regard as a very serious matter?

A. Correct. I think this might fall into the category of an HBI as well.

Q. High potential incident?

30 A. Absolutely.

1208

Q. Do you think it would fall into the category of an incident that would in other circumstances have caused harm such that it ought to have been notified?

5 A. Under the determination in the underground regs, I don't believe this would be a section 10 notification.

Q. Did the inspectorate ever get notified about these types of matters from any mine within New Zealand?

A. No, we didn't.

10 Q. Assuming you're right that this isn't a notifiable matter under regulation 10, are you aware of whether when you were with the Department it ever considered whether the range of circumstances for which it would be notified was appropriate?

A. No. I'm not aware that we've ever considered that.

Q. Can we please have another document, Ms Basher, DAO.001.03549/1?

15 **WITNESS REFERRED TO DOCUMENT DAO.001.03549/1**

Q. You'll see this is another underground audit of Mr Couchman, dated bottom right 29 July 2010?

A. Yes.

20 Q. You'll see number 7, "Fire hydrant and firehoses". It says, "Very poor, hoses all tangled, lying in the drift, branches missing." Was that an issue that had ever been drawn to your attention?

A. No, it isn't. It may've been something that you might notice when you're driving past in the drift we generally drove into the faces. Sometimes we walked out. If it was something you noticed it would be something you'd raise. Again, and I don't want to beg the question too much about Queensland, there's a requirement in the Queensland legislation to have a fire officer as a set of functions and requirements of a fire officer so – and one of those functions is to make sure all the equipment is in good condition and maintained, so thinking forward, it may be something worth considering.

25

30

Q. I think there's a reference and it's quite unclear, it's just in some of the documents filed with the Commission to the possibility of a kinked

firehose aboveground having been raised by you with Mr Rockhouse.
Do you recall whether you ever –

A. What sort of firehose?

Q. A kinked firehose?

5 A. A kinked?

Q. Yes, did you ever notice a kinked firehose aboveground and raise it with Mr Rockhouse?

A. I don't recall, no.

10 Q. Ms Basher that same document please and if we can have pages 3 and 4? I take it you never saw anything resembling those tangled hoses during your inspections?

A. You're talking about the tags, or the?

Q. Well, the state of the hose?

A. The state?

15 Q. Mmm.

A. I can't recall ever observing anything like that.

Q. That would've been a concern, obviously?

20 A. Would certainly be something you'd be asking to tidy up. I don't want to labour the question, labour the – we had limited time, limited snapshots and we were trying to utilise those to the best of our ability.

Q. I understand and of course, this might not have been in that state when you were present inspecting the mine.

25 A. Yeah. In saying that, there may be places in the mine that I didn't actually see that they would've been in that state, so I can only deal with what I see and what I know.

Q. None of these sorts of issues were raised with you though?

A. No.

30 Q. Were you aware, if we can turn to another category, that Mr David John Stewart in his capacity of being with Minserv International Limited undertook compliance audits of Pike River in 2010?

A. I wasn't until I read Dave Stewart's submission.

Q. If we could please have Ms Basher, STE0004/2 and /3?

WITNESS REFERRED TO DOCUMENT STE0004/2 AND /3

1214

- 5 Q. These are pages 2 and 3 of his audit entitled, "Pike River compliance audit – ventilation 11 February 2010." And you can see that what he's done is assess Pike River against the various regulations?
- A. That's correct.
- Q. Do you see that?
- A. Yes I do.
- 10 Q. I take it that's not a style of approach that was ever required by the Department?
- A. No it wasn't. The style and approach I used was the same that appeared to be used by each coal mine inspector before me.
- Q. Did the Department give you training in relation to the style and approach that you should take when inspecting an underground coal mine?
- 15 A. No they didn't.
- Q. You'll see page 2, second down, "X, so cross-cut 1 stopping, leading to the Alimak raise is badly constructed and leaking hugely, stopping from C-drive to Alimak raise (board construction) is damaged – loosened from shotfiring and not well constructed. It is creating a lot of short-circuited air." First, can you just explain the purpose of a stopping very briefly?
- 20 A. A stopping is either to separate two airways or separate an intake airway from a return airway and it's to direct the air around the path that the mine ventilation system has designed.
- 25 Q. And what's meant by short-circuited air?
- A. When the air short-circuits, it's like water and it'll run to its lowest point of, the easiest direction that it can get to, so instead of the air going to the face, it'll short-circuit through a leaking stopping.
- 30 Q. Did you inspect the stoppings as part of your inspections?
- A. I would look at the stoppings as part of my walk-around in the places, more so in the faces. A plug had, I guess in many respects, typical board and brattice stoppings that I see in most mines that I go to.

Interestingly, from the period of February through to September, there seemed to be an improvement in the standard of stoppings and having read Mr Stewart's brief, it appears that he may have had some impact into that. In New Zealand we have no standards for our stoppings under
5 law. In Queensland there are very defined standards about what each individual stopping, the construction of it must be achieved, in respect to its strength and its purpose.

Q. You'll see on the right-hand page, the bottom of the second column, titled, "Observation," beside Regulation 30 - 31 and 40, it says, "D2 and
10 D1 stoppings are badly constructed with a big hole in D2, which means the contaminated air coming out of the RH (99 section B drive), place the juggernaut is operating in, is being re-circulated back into the haulage route and working place." See that?

A. I can see that.

15 Q. First, in the course of your inspections, did you ever come across any instances where you had concerns about the construction or quality of the stoppings?

A. No, the only issue I've raised while I've been doing my inspections with anything to do with ventilation devices, was the brattice lead in the area
20 where we had the methane levels we talked about yesterday, but I haven't raised the standard of the stoppings with Pike River.

Q. Did you have concerns about the standards of the stoppings?

A. There were, they appeared to be standard brattice and board stoppings and they could've been better.

25 Q. Were you aware of any issues of short-circuited or re-circulating air?

A. Not as such, I mean all stoppings, all board and brattice stoppings will have some small amount of leakage. Recirculation is certainly a concern and reading Mr Stewart's words here, they fixed it immediately. It is a concern if they've got a hole in the stopping and its re-circulating
30 methane to another place.

Q. How does a inspector detect short-circuiting or re-circuiting air?

A. He can do that with a dust, a smoke tube, or just checking for methane and seeing where the methane's coming from. You could follow a path

of methane and find that the extra methane's coming from a leaking stopping.

1220

Q. Can you just explain the smoke tube?

5 A. A smoke tube is a device that you can fit into a set of Drager tubes and you can actually put some smoke out and you can actually see the smoke floating in the air and you can see what direction the air's going.

Q. Did you take one with you?

A. No I didn't.

10 Q. Do you know if the Department has any?

A. Not sure.

Q. Do I take it that the Department didn't require you to check for re-circulating or short-circuited air?

A. No they didn't.

15 Q. If we can have page 4 of that document please Ms Basher? You'll see that it says at the top, "Regulation 13H (comma 29 and 40) air readings previously taken appear inaccurate in some roadways. Two readings taken during this inspection are different than recorded. There are probably no set procedures for the use of the Kestrel anemometer, ie average air velocity when traversing, hence the discrepancies." Had you looked at the air or ventilation readings of Pike River?

20 A. I did at some stages through the interactions I was having with the various managers where I'd asked for the ventilation readings in faces to satisfy myself that there was enough air getting to the faces. There was, in my evidence, there's some references to documents that were provided by Pike River that showed me various airflows appearing from different fans and in different roadways.

25 Q. And you would have never checked the accuracy of those records, that being in essence an auditing functioning?

30 A. Not as such, no.

Q. In that same block it says, the third paragraph, "There does not appear to be a regime or programme for airflow measurements nor does there appear to be a rigid monitoring/reporting in accordance with regulation

40F and G for atmospheric conditions.” Did you ever make any enquiry in relation to whether there was any regime or programme?

A. No I didn't but I did ask for ventilation results of a ventilation survey which I received and had a look at. I didn't test the accuracy of it.

5 Q. Was there any discussion when you were an inspector of the Department asking a mine to provide evidence of compliance with the regulations and legislation?

A. No there wasn't.

Q. Was that done in Australia?

10 A. I'm not sure.

Q. If we could just turn to another category documents, the safety statistics and Ms Basher could we please have up DOL3000030119/10?

WITNESS REFERRED TO DOCUMENT DOL3000030119/10

Q. I think you may remember you refer to receiving safety statistics?

15 A. I do recall that.

Q. And can you confirm these are the safety statistics which, and I won't go to the email unless you want me to, were sent by email to you?

A. Yes, by – that's correct.

20 Q. And then you in turn sent them to Mr Booyse and Mr Firmin on 20 April 2009 under document DOL3000030119/1?

A. That's correct.

1225

Q. Did you discuss those with Mr Booyse or Mr Firmin?

A. We never had a discussion specifically about them, no.

25 Q. Right, so them having been received and disseminated to three people within the Department, what then happened to them?

A. They were probably looked at behind as being for the purposes of information but not, no one did any review or any particular investigation into what these were. These were a – it's a series of data that showed that they had a system that was looking at incidents and recording them, so...

30

Q. Because you'll see up the top there are categories and they include, “Misuse, malfunction of equipment 6%.”

A. Yes.

Q. "Faulty equipment maintenance, damage to equipment 6% and 1%."
See that?

A. I see that.

5 Q. "Substandard housekeeping 6%."

A. I see that.

Q. We won't go through the rest, but were these the sorts of things that you might've been concerned to enquire in to?

10 A. The document on its own doesn't really tell us anything but a series of data and I didn't look at the document and make a conclusion that it told me anything other than some data – I didn't look it as – in those terms.

Q. Right, so accepting that it doesn't tell you much but it does tell you that there are certain categories of incidents which are occurring?

15 A. It does tell you that there are. It's occurring, I mean in one hand it's a good thing that they are recording them and accepting them. There was nothing in this that said to me, that obviously said nothing obvious in it is said to me that this was any different from any other mine that might provide me the same data.

20 Q. Could I turn please to a different category of documents? Health and safety committee minutes and Ms Basher please, DAO.002.07924/1

WITNESS REFERRED TO DOCUMENT DAO.002.07924/1

Q. And you'll see that these are the minutes of the health and safety committee meeting for 4 May 2009.

A. Correct.

25 Q. Now first, that document sets out the members present and apologies. Mr Couchman, Mr Smith, Mr Knox, Mr McNeish, Ms Bayliss, Mr Buckley, Mr Scott, Mr Hamm, Mr Slonker, Ms Hyslock, Mr Forgenorous with an apology from Mr Campbell and Mr Whittall in attendance. Are you able to say which of those people you have spoken with in the
30 course of your inspections?

A. Adrian Couchman from time to time, Katriona Bayliss, Mike Scott, Nigel Slonker, occasionally Scott Campbell, Peter Whittall. I don't know who Katie Mitchell is.

Q. Were you aware of these meetings and this committee?

A. Oh I was aware they had a health and safety committee, yes.

Q. Did you make enquires or did it ever raise with you the sorts of issues it was dealing with?

5 A. No.

Q. If we look at the next page, page 2 of that, you will see it says and it's the third paragraph down under, "General business. Jos Vegeneris it was stated that the surface controller cannot raise anyone on the phone underground." I'm going to return to that issue later but this is back in 4
10 May 2009. Were you aware of any issue with raising the surface controller?

A. I hadn't been made aware of any issues.

1230

Q. Ms Basher please, DAO.002.07999/1.

15 **WITNESS REFERRED TO DOCUMENT DAO.002.07999/1**

Q. You'll see these are the minutes for 3 November 2009?

A. Yes.

Q. And under the actions column, second from the bottom, "GH to check back to see if we need a changeover station or where the second
20 egress will be." See that?

A. Yes.

Q. I take it you wouldn't have been aware then that that was an issue that the health and safety committee was dealing with?

A. No.

25 Q. Were you aware in 2009 that that was an issue that was being considered by the mine?

A. No, I was not.

Q. Were you aware back then whether it was an issue that was of concern to the workers?

30 A. No, I wasn't.

Q. I take it you wouldn't have seen any email communications between Mr Couchman and others?

A. I haven't.

Q. No. I'll just take you please to another which is the health and safety committee meetings for 11 October 2010, DAO.002.08138/1.

WITNESS REFERRED TO DOCUMENT DAO.002.08138/1

Q. And you can see the date of that meeting there is 11 October?

5 A. I can.

Q. And if we can have page 2 of that? You'll see up the top, "For action 24 SE has taken ownership of this issue and will report to the committee on the plans for providing a second means of egress next month." Do you see that?

10 A. I do.

Q. If we can go to then page 8? Sorry, 6, my mistake. See number 24, "Request from PRCL a firm commitment plan as to when the second means of egress will be installed, Steve Ellis," then the date of, "September 2010" and then beside that, "October." Were you aware of whether the health and safety committee were seemingly pressing the company for "a firm commitment" in relation to the second means of egress?

15

A. I wasn't aware the health and safety committee was pressing for that. I'd been made aware that in April, I think, that it had been raised by the workers, when I first raised it with Mick Lerch and Doug White, but I wasn't aware of any of this.

20

Q. That was April 2010?

A. Yes.

Q. And you became aware of that, how?

25

A. I'm not sure whether it was passed on to me by the manager at the time, or whether someone else told me, but I made a note in my notebook that that was the case.

Q. If we can turn to a different series of documents, this time in relation to hazard management. Would it be right to infer from your earlier evidence that you'd never seen Pike River's hazard management policy?

30

A. No, I haven't.

1235

Q. And just for the record is DAO00108381/1, were you aware of whether or not it had hazard identification teams?

A. Pardon?

Q. Were you aware of whether it had hazard identification teams?

5 A. No.

Q. I take it you're familiar with the standard risk assessment model?

A. Five by five? Yes.

Q. You've had training in relation to that?

10 A. Not just the five by five. Since my time with the Queensland inspectorate I've done the equivalent of the G3 exam which is now was called G-MIRM which Mining Industry Risk Management and that's a course on the development, maintaining and operation of a risk management system and it talks a lot about the different risk management tools in New Zealand, everybody pretty much uses the five
15 by five tool but there are a large number of other methods by which risk management can be done, depending on the task which you are trying to do the risk assessment on.

Q. Did you have training in risk or hazard assessment while you were with the Department?

20 A. No it was something that was raised with the Department. Michael Firmin did get to go on the G3 course and I think at some stage they intended that I might go as well.

Q. One inspector each alternate year, was that what was agreed to?

A. Pretty much, yeah.

25 Q. If we could have CAC0120/1?

WITNESS REFERRED TO DOCUMENT CAC0120/1

Q. It's just to identify, you can see that this is the master significant hazard register for Pike River Coal?

A. I can see that.

30 Q. And I think we know from earlier you never looked at that?

A. No.

Q. Did the Department ever raise with you whether it might be helpful to look at a document such as this so that you could help identify the main hazards or concerns of a company?

A. No.

5 Q. Did they train you in any method to help try and focus your inspections?

A. No.

Q. Perhaps if we can look at CAC0120/5?

WITNESS REFERRED TO DOCUMENT CAC0120/5

10 Q. This is difficult to read so I think I won't bother taking us through more than perhaps one example. You'll see second from the bottom, "66 health and safety policy, poor health and safety practices" which is the significant hazard identified. You see that?

A. I see that.

15 Q. "The mechanism cause of harm is not following procedure" and you'll see that the injury property damage, equipment damage is listed as the impact. It is then given a probability rating of three, a consequent rating of three and a total of nine. Can you see that?

A. I can see that.

1240

20 Q. And nine or three by three equates to a low risk with a low consequence, is that correct?

A. That's what the rating's saying, yes.

Q. Would you agree with that as a rating for something such as not following a procedure?

25 A. I think the consequence to me is clearly low, too low. This is a baseline risk assessment so what they're attempting to do is prioritise the risks on the site into some sort of level of priority so they can address those that have the highest rating. There's a real danger when doing these risk assessments in, if you have a low consequence and then you have
30 a lower score about the probability of it happening because you think you can do the training or whatever to make sure it doesn't happen, you end up with a low risk. The consequence of people not following proper procedures or the health and safety management system is generally

significant, not, "I might hurt myself." Those types of things result in fatality type injuries and/or serious harm, so to have a rating of three for consequence does appear to be low.

5 Q. Right, so given your Australian training, if you viewed that sort of issue, is that something you might raise with the company to see whether it had correctly identified and understood its hazards?

A. You might, yes. You might, you would certainly question the rating I think, if you were doing a review.

10 Q. Could I just turn to a different category of documents, please? "Operations minutes of meetings," DAO.002.14318/1.

WITNESS REFERRED TO DOCUMENT DAO.002.14318/1

Q. Were you aware that there were operation meetings?

A. I wasn't aware of it but I assumed they would be having operations meetings.

15 Q. Sure. You'll see these are the minutes for Wednesday, 3 March 2010, at 10.00 am?

A. Yes.

20 Q. If we can just turn over to page 2 please Ms Basher? You'll see it's under, "Safety update," and it's the big paragraph, "NG noted that currently managers are responsible for following up, 'Required actions,' on the incident report. Managers need to be aware of this so that this is controlled. Although the manager owns the incident, when the report form goes back to H&S there is no control over where assigned tasks are allocated and followed up." I take it that would be of concern to you, as an inspector?

25 A. That would be of concern to me as inspector, yes.

Q. Had anyone raised with you the issue of whether such matters were being followed up?

A. No they hadn't.

30 Q. If we can go to another one please, DAO.002.14402/1, and you'll see that these are the minutes for 21 April 2010?

WITNESS REFERRED TO DOCUMENT DAO.002.14402/1

A. I see that.

Q. Page 2 of those please Ms Basher. And the fifth paragraph down in
"Weekly round-up," "We are beginning to get a large number of open
incidents in various departments. Managers are requested to close
these out and drop them back off to the control room so they can be
5 recorded through the process we have in place for feedback of
information to employees." Would that be of a concern to you?

A. It would depending on the incidents. If you've got a serious incident that
poses a serious risk, it should be completed and closed-out almost
immediately. You might allow a length of time for varying degrees of
10 incidents that need to be closed-out, so the least serious it is, the longer
time you might allow.

1245

Q. Well, absent explanation, the reference to "a large number of open
incidents" would suggest to you as an inspector, there might be a
15 systemic issue there, is that a fair comment?

A. Absolutely.

Q. That wasn't an issue that you were aware of?

A. It wasn't an issue, that I was aware of

Q. No. Just perhaps the final one of these, DAO.002.14871/1.

20 **WITNESS REFERRED TO DOCUMENT DAO.002.14871/1**

Q. And these are the minutes of 15 September 2010, you can see that?

A. I can see that.

Q. If we can have page 6 please. Just to the paragraph immediately below
"Operations". I want to read out the first two and the last bullet point.
25 "Steve Ellis started on Monday. Ventilation network changed for hydro
(some balancing to complete). All stops are being pulled out to get
hydro in a position to start on Monday 20th. A number of irritating
setbacks have been sustained, mainly around arrival of materials." This
is the 15th of September. Were you aware that that ventilation change
30 was occurring at the same time as hydromining was about to
commence?

A. No, I wasn't.

Q. Were you aware that the mine was pulling out “all stops” in relation to hydromining?

A. No, I wasn't.

5 Q. Had you been aware of those two occurring at the same time, would that have been of concern to you?

A. Obviously it would be a concern to be doing something as large as installing a new fan and hydromining at the same time.

Q. Are you just able to explain why that would be of concern?

10 A. The process of cutting coal would be generating more methane than would be normal from just a normal roadway, and in the process of installing a fan, particularly now that they were going to be installing it underground, they would've been – there would've been potential to have loss of airflow, albeit, they had a fan on the surface that automatically kicked in or could be started if the main fan seized. It wasn't in our – it wasn't something that we would normally have spent – we didn't approve plans. It wasn't part of our process. We weren't required to do it. They weren't provided to us.

15

Q. Pike River never provided you anything equivalent to a safety case in respect of hydromining?

20

A. No, they did not.

Q. I presume the Department never asked for it?

A. We didn't. And there's no requirement for them to give us one. If we asked for one, I guess they would have to give us one, but...

25

Q. Would that have to have been given in Queensland, a safety case for the commencement of a new mining technique?

30

A. They would have to undertake a risk assessment. That risk assessment would involve consultation with the workforce of a cross-section of the workforce, and they would have to establish a standard operating procedure for carrying out the task. There'd be involvement of a ventilation officer. That ventilation officer would be on site for the whole time of the process and it would be the controlling it.

1250

- Q. We know from the documents that Pike River did have risk assessments in relation to hydromining. I'm assuming they're matters that the Department never requested or saw?
- A. That's correct.
- 5 Q. Can I now move on to some discreet topics and perhaps the first series of them will deal with the emergency systems and equipment at the mine. What did you understand to be the system that Pike River had for keeping track of those underground?
- A. A tag board.
- 10 Q. Were you aware of a system called, "Northern Lights."
- A. I'm aware of the system called Northern Lights.
- Q. Were you aware of whether Pike River used the system, Northern Lights?
- A. I'm not aware that they were using it.
- 15 Q. And in the time that you were an inspector, where was the tag board located?
- A. Initially it was located at the mine entrance and there was one located at the lamp house and if I remember correctly there was, I think there was also a tag board where we went into the hydrosection, but I'm not a
- 20 hundred percent sure of that.
- Q. There was no tag at the portal though?
- A. There wasn't originally.
- Q. Was there one?
- A. When the tunnel was being driven, that's where the tag board was
- 25 because I recall when we're going in we would stop and put a tag at the portal.
- Q. By 2010 the tag board was in the administration area, is that right?
- A. Correct.
- Q. How far away would that be from the portal just roughly?
- 30 A. A kilometre.
- Q. And there was no sentry or other person near the portal to check those going in or out?
- A. No.

Q. Ms Basher could you please just put up CLO0010012967/15

WITNESS REFERRED TO DOCUMENT CLO0010012967/15

5 Q. If I could just ask you to look at regulation 15C of the Health and Safety in Employment (Mining-Underground) Regulations? “15 Record of employees underground. Every employer must take all practicable steps to ensure that, (b) an accurate record is made of every employee’s entry into and exit from a mine or tunnel and, (c) the record or a copy of it is kept at the entry point.” Had the Department given any consideration to what’s meant by the, “Entry point.”

10 A. No they hadn't, but it's not unusual for the tag board not to be right at the mine mouth. Generally you might find that the tag board's in an area either where the lamps are being gathered and where there's like East Mine for example, the tag boards where the control room is and that's what was set up at Pike River and the entry board at Spring Creek
15 for example is in the lamp room where you pick your lamp up, but not right at the entrance.

Q. Well if we take Spring Creek for example that you're obviously familiar with, to get into the mine you also have to pass by a sentry?

A. From what time did that occur?

20 Q. When were you last at Spring Creek?

A. I visited Spring Creek just after Christmas and they had placed a sentry at the entrance but that was to do with tracker control, as to stop people – potential for collisions in the main drift. That was my understanding.

1255

25 Q. Are you able to describe on your understanding what you have to pass through to get down the mine at Spring Creek?

A. I signed in at the control room, if I was using one of their lamps I would go up and pick up my lamp but generally I had my own. I'd be given a tag which I put on the tag board at the lamp room and then I'd board the
30 vehicle and we would drive from the lamp room into the mine. I think my last visit they had somebody at the surface but I was told that that was to do with traffic control and when we were underground, well

Spring Creek's a much larger mine, when you're entering various, at different sections of mine they may have another tag board.

Q. Had the Department given any consideration to whether the tag system used at Pike River complied with the regulations?

5 A. No it hadn't.

Q. Were you aware of any incidents in relation to that tag system?

A. I hadn't been made aware of any incidents with relation to the tag system.

10 Q. I just want to read you out some parts from a schedule prepared by the Commission of 438 incident reports and you have it there, it's the green, that's correct, summary of the reports of certain incidents and accidents at the Pike River Coal Mine and ask you please to turn to page CAC0114/31?

WITNESS REFERRED TO DOCUMENT CAC0114/31

15 A. Yes.

Q. And you'll see this is headed "Schedule D Emergency Equipment and Facilities - Tag Board?"

A. Yes, yes.

20 Q. I just want to take you through a few of these. "5 October 2010 incident 1083 main fan trip, all men evacuated out of mine, when men came out and removed their tag, person X tag was on the tag board and he was not on site." You'll see some way below that, "24 February 2010 incident 796 person X left his name tag on the tag board at the end of day shift. This caused a 90 minute delay in production trying to locate
25 him before shotfiring could be done."

1258

THE COMMISSION ADDRESSES MR WILDING – INCORRECT DOCUMENTS

CROSS-EXAMINATION CONTINUES: MR WILDING

30 Q. Well just looking at it, it looks like I'm a page out so perhaps if we go to page 30 of yours. I won't read them out aloud again. I'll just ask you to read to yourself the incident 1083 on the 5th of October?

- A. I'm sorry sir, there's no 1083 on page 30.
- Q. 5 October 2010, it's the second one down. Perhaps if you look on the screen in front of you?
- A. "5/10, main fan trip, all men evacuated out of the mine."
- 5 Q. The difficulty we've identified I think is there is a one page difference between the printed schedule and the computer one, so this might be a convenient time sir?

COMMISSION ADJOURNS: 12.59 PM

COMMISSION RESUMES: 2.00 PM**CROSS-EXAMINATION CONTINUES: MR WILDING**

5 Q. Mr Poynter, we were just talking about tag board incidences and we've rectified our technology problem and I've already, I think, referred to two of them, 1083 and 796. You have those in front of you?

A. I do.

10 Q. Now I just want to look at another couple on this page, second-to-last, 19 May 2009, number 362, "In coming out of mine I noticed that my tag had been removed from the tag board. I looked around and could not find it."

A. I see those.

15 Q. And the final one on that page, 7 May 2009, 336, "Three times in a period of a week and a half there has been a number of occasions the tags are left on by people who've gone home, tags of people not on shift and visitors tags left on board and no names written up." You see that?

A. I see that.

Q. Do I take it that none of these types of incidents were drawn to your attention?

A. No, they weren't.

20 Q. So you weren't aware of any issues with the tag board system?

A. I wasn't made aware of any issues with the tag board system.

Q. And I take it the Department never sought any information from Pike River about the efficacy of the tag board system?

A. We didn't.

25 Q. I think you've already said you didn't know about Northern Lights?

A. Well, I knew – I know what Northern Lights are, but I wasn't aware that they were being used as in Pike River.

Q. Could I just take you please to a document DAO.002.03794/1?

WITNESS REFERRED TO DOCUMENT DAO.002.03794/1

30 Q. This is an investigative report in relation to incident 331, which involved a multi-shotfiring incident on 29 April 2009. Do you know whether you were ever provided with a copy of this report?

A. I can't recall it offhand, no.

1403

Q. I just want to take you to part of it and if I can take you please, Ms Basher, to page 15 of that, this is part of the record of an interview in the context of this report with Dean Jamieson, Dick Knapp, Nigel Slonker, Neville Rockhouse, and it occurs on 30 April 2009, summation reference DAO.002.03794/13, and you'll see it at the top, "General discussion next took place around the tag board. DJ reported that the system is flawed with the case in point being that Glen Shaw's tag had been found on the board this morning." I think of those names you mentioned, you at least had contact with Mr Slonker and Mr Rockhouse?

A. That's correct.

Q. I take it none of those discussions involved any issues in relation to the tag board?

A. No, they did not.

Q. Are you able to say what responses might be taken by the Department, had it been aware of that issue?

A. If we were aware that the system was inadequate we would've either issued an improvement notice or entered into a negotiated agreement to fix the system.

Q. If we can look at the recommendations, which is page 9 of that document? You can just have a read through that just to see that those recommendations don't include recommendations in relation to the tag board.

A. There's nothing, there's nothing new in the actions that they're intending taking. It looks to me like they're reviewing the system as it was and entering purely into some re-training.

Q. If you were an inspector would you have been wanting to ensure that they addressed that tag board issue in the context of that investigation?

A. I'd be looking to see that there was some follow-up action at the end to review whether or not the changes they had made are actually occurring.

1406

Q. If we could turn to page 7 of that, causal factors. Two aspects, 4.1
“Miscommunication between the contractors and PRCL employees
contributed towards the perception that a multi-face shot had been
initiated.” Now miscommunication is just touched on lightly here but did
5 anything in the course of your inspections indicate there were problems
with the communication between the contractors and Pike River?

A. Not to this extent. At a lot of mines where you have contractors working
alongside employees you get some friction. But I wasn't aware that it
was creating communication difficulties.

10 Q. I just want to keep that up please Ms Basher and turn another issue
which is communications with the control room from the mine and you'll
see 4.3 of the page. “The inability to confirm that a single point, (control
room not responding to phone calls).” Were you aware ever of any
issues with the control room not responding to phone calls?

15 A. I wasn't aware of it.

Q. I'd take it you'd consider the need for the control room to respond to an
important matter?

A. I would.

20 Q. And also the need for those in the control room to be trained in how to
respond to an important matter?

A. I would. There should be a series of what we terms as TARPs,
target action response plans for various actions that might need to be
taken in the event of a circumstance occurring.

25 Q. If we could just talk about that issue briefly then and Ms Basher could
we please have DAO.002.03730/1?

WITNESS REFERRED TO DOCUMENT DAO.002.03730/1

Q. And you can see that this is an investigative report covering unsafe acts
268 and 271 dated 5 March 2009?

A. I can.

30 1409

Q. And if we can turn to page 3. If you look at 1.4, “268, unsafe act
McDowell Contractors head fitter,” and I won't name the person reported

machine fuel contamination, JUG001 and drift runner MT003 had water in their fuel tanks,” and you'll see that incident 271 is in a similar vein.

A. I can see that.

Q. Were you aware of those matters?

5 A. No, I wasn't aware of those matters.

Q. Did you receive as a matter of course the investigative reports of Pike River?

A. No.

Q. No, you wouldn't have received this?

10 A. I haven't seen it.

Q. Did the Department seek them?

A. Not specifically, no. We might on a particular incident that we become aware of.

15 Q. Well my question's directed at something on page 6 of this please Ms Basher. You can see this is part of the report, 3.3, "The first interview was conducted with the control room officer on the dayshift. As under the production system adopted at PRCL, there is a requirement for minute management for men and machines. This system has a tabbed area at the bottom of each production report that records breakdown
20 type and should record the amount of downtime and if the failure was caused by either electrical or mechanical fault." 3.4, "It was found that the tables for these machines were empty, that the control room officer on the evening shift of 23rd February had in fact received very little if any training and was standing in for another control officer who was
25 attending a gas certificate course at Mines Rescue. In other words, he was really there just to answer the phones." 3.5, "Upon further investigation no role profile could be found through the HR department for that role so there was no evidence the controller had been trained for the work. This PRCL system had failed." Were you aware of any
30 training issues in relation to the control room?

A. I wasn't, no.

Q. And perhaps on page 11, 5.1, "The most obvious conclusion is that there is a systemic failure across several departments at PRCL

including training, HR and production as well as engineering.” I take it you wouldn't have been aware of that?

A. I wasn't.

5 Q. Would the time that you were able to spend at Pike River been sufficient to let you pick up on whether there were systemic failings across departments?

A. No.

1412

Q. Was your training directed at trying to identify such failings?

10 A. No, it is not.

Q. I'll just take you to another document please, DAO.011.00261/1?

WITNESS REFERRED TO DOCUMENT DAO.011.00261/1

15 Q. This is the front page of a report from Glen Campbell, MRS training and safety officer, dated 22 March, titled “Report from the surface controller interviews and training sessions on the emergency preparedness plan at Pike River Coal”. I presume you haven't seen this?

A. I haven't.

20 Q. I don't think in the course of your inspections the Department ever sought or received any documents from Mines Rescue in relation to Pike River?

A. We didn't.

Q. Did you have any contact with Mines Rescue?

A. Not specifically about Pike River. We've had contact about a number of general issues.

25 Q. Under “Issues identified, 1, Control officer sheet action point 3 – active tape recorder to record all communications. This has not been shown to the controllers. Is there a recorder? Recommendation, this system needs to be reviewed for ease of use in an emergency.” Were you aware of whether there was any system for recording calls?

30 A. I wasn't, no, I wasn't.

Q. Would it be of concern to you if there wasn't such a system?

A. I think it's an important additive to the control room to be able to go back and follow those up. There's certainly no requirement in our legislation for such a device to be put in, but it, in my view, would be good practice.

5 Q. Because, "Number 2, Communication system has been identified as being inadequate and a possible major failing point in regards to emergency response." I take it you weren't aware of that?

A. I wasn't aware of that.

Q. Did you ever discuss the issue of emergency response with Pike River?

10 A. Other than in the process during our inspections where we might go and look at the self-rescuer cache or look in the fresh air base, I guess we were discussing whether or not they had a system in place and I wasn't checking physically to see that there were these things that existed, but as far as their system is concerned, we never had a discussion exactly around their system.

15 1416

Q. I take it for example then you wouldn't have requested to see or seeing their emergency response plan?

A. I didn't, no.

Q. If I could just ask you Ms Basher to show up DOL3000060039/1?

20 **WITNESS REFERRED TO DOCUMENT DOL3000060039/1**

Q. And is this your handwritten record of your visit on the 8th of April?

A. Its a few jot notes that I took while I was walking around underground.

Q. And you'll see there it refers to safety lines being installed?

A. Correct.

25 Q. What was your understanding of the position with safety lines at Pike River as at that date?

A. As at that date there were some safety lines being installed back to the fresh air base.

Q. By safety lines we mean smoke lines?

30 A. Smoke lines.

Q. Were you aware of whether they had been installed prior to then?

A. No I wasn't but my visit prior to this was January, I think and I don't recall seeing or discussing safety lines at that point. There were, I don't

know whether there were safety lines prior to that point but they were definitely being installed on that day.

Q. It wasn't a matter that you checked in the course of usual inspections?

5 A. It wasn't something that I physically looked at every time I went down, no.

Q. So if we could have Ms Basher please DAO.001.03546?

WITNESS REFERRED TO DOCUMENT DAO.001.03546

10 Q. And you'll see this is an audit, underground audit results of Mr Couchman and you'll see the date at the top in the middle, 27 August 2009. Do you see that?

A. Yes.

15 Q. Number 23, so almost at the bottom, "Condition of smoke line" and then it's got a tick under the un-smiley face, "Smoke line starts at 2106, needs to be close to face. It was caught up under the CM parked at B2, lying in the mud at B1, broken at stub 3." Do you see that?

A. I see that.

Q. Ms Basher could we please have another document DAO.001.03547?

WITNESS REFERRED TO DOCUMENT DAO.001.03547

20 Q. It's another audit you'll see of Mr Couchman and at the top in the middle dated 27 October 2009?

A. I see that.

Q. "23. Condition of smoke line only extent from changeover STN to portal." Do you see that?

A. I do.

25 1420

Q. And perhaps one more Ms Basher, DAO.001.03542

WITNESS REFERRED TO DOCUMENT DAO.001.03542

Q. And you'll see this is dated 5 May 2010?

A. 4th May 2010, yes.

30 Q. Sorry, there's a handwritten date down the bottom which is inconsistent as well.

A. Oh I'm sorry, I was looking at the top.

Q. Yes, 4th at the top and 5th down the bottom.

A. Yes I see that.

Q. Twenty-three, "Condition of smoke line, a tick under the un-smiley face not present." You see that?

A. I do.

5 Q. And also these cover a range of dates from 27 August '09 to 4 May '10. Do I take it that in that time you weren't aware of the condition of the smoke lines?

A. I wasn't, apart from the inspection I did in April when I noted that there was work being done in installing them.

10 Q. Had you then discussed things such as smoke lines with the workers during any of your inspections?

A. I don't recall doing that, no.

Q. The Commission has a brief of evidence of Mines Rescue of 5 May, which attaches a document of Pike River emergency equipment and self-escape audit and at MRS0005/3 it notes that, "The lifeline appears to finish some distance from the working faces and I could not see one that led to the second means of egress, the return shaft." You obviously wouldn't have been aware of that?

15

A. I wasn't made aware of that, no.

20 Q. Now you – if could have please DOL3000010009/1.

WITNESS REFERRED TO DOCUMENT DOL 3000010009/1

Q. Now in your inspection of 8 April 2010 you did request a copy of the programme of Pike River for installing the second intake in emergency lines and the safety chamber, is that correct?

25 A. I did.

Q. And you'll see that you got then sent this email on 12 April from Neville Rockhouse to you, "Attachments emergency evacuation of underground mine actual plan final," do you recall that?

A. I recall that.

30 Q. If we could please turn Ms Basher to page 3 of that. It deals with several issues, but the second bullet point under, "Core issue," the general heading, "Escape via primary egress, unable to find primary egress in a low visibility atmosphere, action smoke line installed to get

standard. Consider streamers, sound devices, bungy droppers from overhead conveyor.” Those would all be sensible things to have for emergency preparedness?

A. They are.

5 Q. And you'll see when, 30 April, “Installation by trainees and MRS by end of June. You see that?

A. I do see that.

Q. On receiving this on 12 April did you give any consideration to whether or not installation by end of June was sufficiently timely?

10 A. No, I didn't give particular consideration to that other than to satisfy myself that the work was ongoing and that I did that when I visited in April.

1425

Q. Well, this was sent to you on the 12th of April, did you –

15 A. No this is, no, sorry. I'm confused. I didn't give consideration to this sir.

Q. So this was sent to you on the 12th of April, did you follow this issue up?

A. No I did not.

Q. I was going to touch on the issue of placement of fire hoses underground but I think we've already covered that you weren't aware of issues in that regard, is that right?

20

A. That's correct.

Q. If we could perhaps then move to the issue of the fresh air base. When did you first become aware that the fresh air base was going to be at the bottom of the Slimline?

25 A. It would've been on a, on one of my mine visits. I don't recall exactly what time that was.

Q. Would you perhaps have a look at DOL3000060039/1? This is your, one of your handwritten notes of your visit of 8 April, to which we've referred and we can see that the fourth from the bottom says, “Place of safety?”

30

WITNESS REFERRED TO DOCUMENT DOL3000060039/1

A. Yes.

Q. Is that a reference to the fresh air base?

A. It will be a reference to the fresh air base.

Q. Can you recall what discussion, if any, occurred on that visit?

5 A. There wasn't a lot of discussion. I had a look at the fresh air base, looked at the space and what was intended to be there. I don't recall what was in it at that time, nothing specific.

Q. Was that the first time you'd been in it?

10 A. No, I'd been in there before when it had other equipment in there. They'd had a fan in there which was, when they were having the ventilation issues, they had a fan in there drawing air down the Slimline shaft.

Q. Did you check or make any enquiries as to whether the method of closing the fresh air base was going to be airtight?

A. No I didn't.

15 Q. Were you aware that the method of closure was by way of a brattice roller?

A. I am aware of that.

Q. Were you at the time?

A. Most likely, because that's probably what was there at the time.

20 Q. Were you aware that its method of ventilation was the drawing of fresh air down the Slimline hole?

A. Down the Slimline hole, yes.

Q. Did you know that it didn't have a fan?

A. I knew that it didn't have a fan at that point.

25 Q. And that would mean that where the fresh air was drawn down would depend upon things such as the main ventilation system working?

A. Correct.

Q. And perhaps the barometric pressure?

A. Yes.

Q. The natural cycle of the mine?

30 A. Yes. I understood they had compressed air in there as well, but I can't confirm that.

Q. Was consideration given to whether it would act as a chimney in the event of an emergency causing smoke or fire?

A. Consideration by me?

Q. By you or the Department?

A. Neither by me or the Department.

5 Q. I take it you would accept that changing over from one self-contained rescue device to another in an irrespirable atmosphere is a risky activity?

A. It is a risky activity, but it certainly isn't the only place in New Zealand where that is expected to be done.

1430

10 Q. Having regard to all of those concerns, would it have been appropriate to have raised the issue of the adequacy of the fresh air base?

A. It's very difficult with the benefit of hindsight, sir, but with the benefit of hindsight, I would have to say yes.

15 Q. You may remember that one of the documents I took you to this morning, DAO.011.20624/1 was a report which showed gas coming out of the water trap near the fresh air base?

WITNESS REFERRED TO DOCUMENT DAO.011.20624/1

Q. Were you ever concerned about the proximity of that drainage line and water trap to the fresh air base?

20 A. It certainly wasn't desirable, so - I never raised any concerns, but again, things - as a result of being part of the investigation team, things get a little muddled as a result of learning things after the fact, but it certainly wasn't desirable, but I never raised it with Pike or the Department never raised it.

25 Q. So was there consideration given to the size of the fresh air base and whether it was sufficient?

A. It appeared to be a reasonable sized space for the size of the mine, and whilst it was called the fresh air base I think generally it was looked as a changeover station.

30 Q. Mr Rockhouse gave evidence at 1343 to 4 of the transcript that the fresh air base number 2 was approximately 10 by 5.3 and he thought it could fit about 20 to 30 men. Does that sound about right?

A. It would be about that size.

Q. In the course of your inspections, did you ever ask how many people might be underground at any time?

A. No, I didn't.

Q. And I think you didn't check the communication from the fresh air base?

5 A. I didn't, I didn't go with the phone and check to see if it was working.

Q. Did you check the equipment in there?

A. I know that there were self-rescuers, a self-rescuer cache, I'm not sure, but I didn't go and do a physical check of all the equipment.

Q. If I could, please Ms Basher, ask you to go to DOL00001009/5?

10 **WITNESS REFERRED TO DOCUMENT DOL00001009/5**

Q. And this is part of the emergency evacuation of underground mine plan, final, sent to you on 12 April 2010?

A. Correct.

15 Q. Up the top, "Core issue, safety of changeover station. Action, clearly define changeover station purpose, built of substantial construction in a secure location. Self-rescuers stored appropriately. Responsibility fresh air base to be designer/constructor project manager, Terry M. When, by end of June." Had you read this document?

A. I had a look at the document.

20 1435

Q. Was this a matter that you thought should be followed up?

25 A. It's really difficult for me as one individual to be able to be responsible for the follow-up of every action that is sitting in front of us. I mean I'm one person of two who's trying to do a job right across the country and there are a lot of people in Pike River that were aware of this information and a lot of people who have responsibility for making sure these happen. As an inspector I look, I see, I respond. I can't do the job or be expected to do a job that a mine, when it's got a whole raft of management structure, they've got ventilation engineers, they've got geotech, they've got designers, they've got consultants and I'm there on
30 my own, trying to do the whole lot and it's really a difficult job. So I didn't have a check list that said Kevin, go back and check this.

Q. I suppose this in some ways can be seen as a graphic example of the problems with under-resourcing within the Department?

A. I believe so. Not only under-resourcing, the structure. You know, to have, to have the sort of support that I feel that I've got now in Queensland where you can go to your district manager or you can go to a fellow inspector or you can go, you can go to the chief inspector, you know, you've got this raft of support that allows you to be able to become or do your job as, to the best of your ability. I mean, and even in Queensland we're still only getting snapshots. You know, it's the regulators only gets a small portion and it's the, all the people that are managing this have the prime responsibility. We can't be everything, Sorry.

Q. Were your managers within the Department aware or made aware by you of the extent to which you weren't able to cover all these things?

A. I raised the issues on more than one occasion. I don't know the issue about reporting to a chief inspector, I raised I don't know maybe six times. The last time was in September and it finally made it into the steering group minutes and the dysfunctional structure. I don't think there is an understanding of the difference between such a technically complex operation and general workplace inspection and you know we're one person trying to get information from a series of absolute so called experts and then we, as an regulator are being set up and I know it's appropriate you look at our role and we're now looking and saying well, you know, should the regulator be able to see all this and make a decision and it's almost an impossible task. Our responsibility but most of the stuff you've showed me today clearly lies with the people who had the information that had the control of the workplace, that were there 24-hours a day, seven days a week. As an inspector, you've made the point, I had seven inspections here over two and a half years and it's just impossible to see all this.

Q. Well I'll try not to take too long on some of these topics?

A. Yeah, that's fine.

Q. But you understand that's it's still important to get a picture of what was and wasn't looked at?

A. I understand, I understand.

5 Q. Just perhaps without taking you through the rest of the documents on that topic, would you agree then that (1) the fresh air base from the perspective of an inspector wasn't sufficient?

A. I would accept that.

Q. And (2) that that wasn't an issue that was pursued by the Department?

A. It wasn't an issue that was pursued by the Department.

10 Q. If we could turn please to the issue of the second means of egress.
1440

MS MCDONALD ADDRESSES THE COMMISSION – BREAK

15 **THE COMMISSION ADDRESSES WITNESS – BREAK**

COMMISSION ADJOURNS: 2.41 PM

COMMISSION RESUMES: 2.47 PM**CROSS-EXAMINATION CONTINUES: MR WILDING**

5 Q. I think we're just going to turn to the second means of egress Mr Poynter and in your witness statement at paragraph 221 you're referring to a visit of 8 April 2010 and a request for a copy of Pike River's programme for the additional walkout egress emergency lines and safety chamber. Was that the first occasion on which you'd raised with Pike, the issue of the second means of egress?

A. It was the first occasion I think that I'd raised it.

10 Q. Had anyone within Pike or its contractors expressed concern to you prior to then about the second means of egress?

A. Not that I recall. I make a note in my notebook that, about workers that had raised the issue and I'm not sure whether – who told me that.

15 Q. Yes I suppose the query is whether that was told to you directly by workers or told to you by, for example, Mr White?

A. Yeah, that's what I say, I can't recall whether it was Mr White or whether I'd talked to one of the workers.

Q. What was the result of your discussion with Mr White in relation to the second means of egress?

20 A. I had a number of discussions with Mr White about the second egress and each discussion – maybe I'll just rephrase that a little bit. When I raised the issue in April with Mr White we had quite a discussion on it. We had the discussion at the base of the Alimak. As part of that discussion the conversation turned about whether what they had was acceptable or not because Mr White said this was their second means of egress. I expressed the view that whilst somebody could technically climb out of here and therefore that constituted that it was an egress, that in my view given the plans that Pike had, that it wasn't going to be suitable. There was no dispute at any stage by Mr White and I think Mr
25
30
30 Lerch was there at the same time or did they express to the contrary. It was some surprise later on that I heard that I had supposedly approved it.

1450

Q. Well, I should give you the opportunity to comment on what Mr White said in his evidence, page 1219, Question, "And is it the case that mines inspector Mr Poynter thought the Alimak rise was an adequate means of escape as a second means of egress?" Answer, "Kevin and I had the discussion at the base of the Alimak. I can't remember the exact day of that discussion but we had been inspecting a number of things around the mine and we ended up inspecting the new fan installation that had been put in place and whilst we were there, we discussed the suitability of the ladder with the Alimak as a second means of egress." Question, "Is it the case that you learnt from Mr Poynter that he regarded it as an adequate means of egress, second egress?" Answer, "He did confirm that, yes." The first issue is can you recall whether or when the date of that was, particularly given the reference to inspection of the new fan installation?

A. I can't recall ever going to the new fan with Mr White.

Q. Right.

A. I presume he's referring to the new big fan and not another fan, but...

Q. I might be able to help you. If we could have, Ms Basher, DOL2000010004/5?

WITNESS REFERRED TO DOCUMENT DOL2000010004/5

Q. You see, this is your Insite note for your visit on the 12th of August 2010?

A. Correct.

Q. And you'll see it starts off by, "Travel to Pike River and meet with manager. Doug White," and then number 4 refers to the second means of egress and says, "4. The existing second egress is through the shaft. This allows the evacuation of employees one at a time up the ladderway and while this meets the minimum requirement, it is agreed that a new egress should be established as soon as possible." So although Mr White couldn't recall the date, would it seem that that discussion was on 12 August?

5 A. That's correct. We had a similar discussion in April that ended the same way. Can I add that this is an Insite work note and I have in my evidence talked about the word, "Minimum." There is actually no minimum standard set for the egress and if my recollection of the discussion was I believe I said, I believed that if Pike River progressed an argument on a technical basis, that they had a second means of egress, that that might be the case but that wasn't suitable.

1453

10 Q. I'll turn to your understanding in a minute but if we could just have DOL3000070170/1?

WITNESS REFERRED TO DOCUMENT DOL3000070170/1

Q. That's your letter of 31 August 2010 to Pike River in relation to that inspection of 12 August?

A. That's correct.

15 Q. And I presume that the reference to site inspection 20 August, the date is just a typing error?

A. That's right, yeah, I'm doing my own typing.

20 Q. You say in paragraph 4, "Given the plans for the commencement of coal extraction and the increased mine personnel population underground, it is agreed that the existing second egress should be enhanced by the completion of another egress as soon as possible. Please provide a plan and timeline for this work." How would you describe the approach that you have taken to that issue?

25 A. The approach I took was consistent with the approach that I'd been taken with Pike, virtually from day one and that was I want them to do voluntary compliance. In this instance I've asked our team to search. I believe I also wrote a similar letter in April saying that we'd agreed that they were to just go ahead and plan and develop a second egress but that hasn't been able to be found but this is about saying, well okay, I want a time, I want a timeline and I want to see a plan. I want something that I can actually hold Pike River too, because I hadn't seen a lot of evidence that things were moving forward.

30 Q. If we could have please summation number DOL3000010009/7?

WITNESS REFERRED TO DOCUMENT DOL3000010009/7

Q. And this is part of the emergency evacuation of underground mine action plan sent to you in the email of 12 April 2010 and Mr Rockhouse?

A. Yes.

5 1456

Q. And you can see it says, "7, escape via second egress, the primary egress route becomes unstable during escape and personnel re-routed to second egress." Under "Action" it sets out a series of actions.

A. I can see that sir.

10 Q. And then under "Responsibility, see above, decision made not to use Alimak rise as second means of egress, unless another full risk assessment is completed." Were you aware that Pike River seeming if this documentation is right, had decided not to use the Alimak shaft as a second means of egress until there was another risk assessment?

15 A. Obviously, I received this document, but I don't recall reading that they had decided that it wasn't a means of egress.

Q. Could we please have Ms Basher, DOL3000070172/1?

WITNESS REFERRED TO DOCUMENT DOL3000070172/1

20 Q. Now in your witness statement at paragraph 280, you refer to your visit of 2 November 2010 and say, "I was provided with a copy of the Pike River Coal technical services department memorandum dated 29 October 2010, which discussed the proposed additional walk out egress intake and fan location." I take it that's the document that you were provided with?

25 A. It is the document that I was provided with.

30 Q. And you will see under "Discussion", the first sentence says, "As part of the mine design for the three year planning review beginning in May 2010, mine management requested that the second egress be given priority in terms of timing and development." Were you aware that that was the approach that Pike River stated that it was taking, i.e. giving priority to the second egress?

A. I was aware that there was a lot of work being done on trying to determine what was going to make the best second egress and I guess

it was also looking at, was there an alternative to 700 metres of stone drivage that might provide a better outcome.

5 Q. And if we look down the bottom of that page, "Proposed second egress, second intake, second fan location. The surface location of the site is located 250m northwest of the current one west mains. The surface location is at a natural point of low cover to main Brunner seam near the intersection of the Pike Creek with egress stream. While this general location has been previously identified for possible egress, underground access to the site and suitability of the surface site was not well understood." Did that suggest to you that there might not have been a comprehensive plan developed by that stage for the placing in of a second means of egress?

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15 A. Not necessarily, there's clearly been quite a lot of work and there was still quite a lot of work to do between myself and Mr White to fully understand this and get an appropriate plan with very serious deadlines attached to it for the construction.

20 Q. If we could please have page 2 of that same document Ms Basher. Down the bottom, "This suggests second egress can be established by June to September 2011 subject to the extent of faulting encountered, DOC approvals in construction windows. See attached mine planning schedule." Had you read this before the tragedy?

A. I had read this and it was my intention at some point to go back and see Mr White and work through and get a defined plan.

25 Q. The Department was aware at this stage that the company had started hydromining?

A. We were, because they were doing – working in the test panel when I visited on the 2nd of November.

30 Q. When we look at the total of the issues that we've discussed and focussing primarily on the state of the fresh air base and the second means of egress, didn't the Department have to take some enforcement action at this stage instead of allowing Pike to continue to produce?

A. The only options available I guess for enforcement would either be stepping a negotiated agreement up to either an improvement notice or our second option would be, another option would be a prohibition notice. A prohibition notice would likely have to be approved by someone other than myself. A prohibition notice when you issue it, you need to identify, you need to link the hazard to the prohibition notice and one of the difficulties we discussed as mines inspectors was when you've got a situation like this, what do you actually prohibit, you know, and no matter what we did there was going to have to be a period of time which might've been 'til June next year or whatever the quickest time was, but you would have to allow them to continue to operate to put the second means of egress in. So a prohibition for a – that stopped a mine producing coal would – that's a decision that would have to have asked from higher above and I guess I was focussed on the outcome, which was to try and get the second means of egress underway and it completed as quickly as possible. So we could've done, potentially either of those. I think it would be quite difficult to have linked the prohibition of just the coal extraction test panel and I did believe from what I had been told and what I saw that they were actually using as a test panelling, albeit they were extracting coal. You then consider that the driveage that they're doing, which is taking them further and further and further away from the main entrance, do you have to then consider that you have to stop that as well. So it became quite a difficult task to determine exactly what it was you might prohibit to get action and at no stage at any conversation that I had with Mr White or any of the senior management, did they suggest to me that this was not a priority for Pike.

1505

A. So that's my reasons for continuing with the same approach to Pike. I think the outcome that they were suggesting in this little study or synopsis of the study that they'd done was probably a preferable outcome to the original plan which was to drive another return roadway. If this plan could've been put in place and completed it would've provided another intake airway which meant the second means of

egress would be in fresh air which is what's required in Queensland. I also found, and we had considerable discussion around second egresses, I also found that in those discussions all the inspectors found clause 23 to be slightly confusing and we did actually take time out prior to the action we took at a gold mine in the North Island, we did take time out to try and get a legal opinion as to whether clause 23 actually said you have to have two egresses or can you have one and take a whole lot of practicable steps and that is acceptable. The result of that was actually they told us we had to make the decision on all practicable steps so it didn't define it for us. If I'd been an inspector in Queensland, it's very simple. You must have two means of egress, they must be in fresh air and if you're down to one, the specific regulations around what you're allowed to do and what you're not allowed to do and -

5
10
15 Q. Can I just turn to your understanding of that second means of egress up the ventilation shaft. You'd never climbed it?

A. No I hadn't.

Q. Had you spoken with anyone who had climbed it?

A. No I hadn't.

Q. Are you aware of the evidence before this Commission from people who have?

20 A. I am aware of the evidence.

Q. You're aware that it would focus or potentially be a chimney in the event of an underground event causing smoke and fumes?

A. I'm absolutely aware of that and we have other mines in New Zealand that have their second means of egress in a return.

25 Q. Underground coal mines?

A. Underground coal mines that have their second means of egress in a return and whilst it may not be a shaft and it might not be as difficult to get up, in the event of a fire or an explosion that occurred like, happened at Pike River, the return egress becomes unusable and it also has things like, you know, like conveyors so if in the event of an explosion, they're going to get moved as well so I think there's a flaw in

30

a law that says two means of egress when it allows one means of egress to be in a return, particularly in an underground coal mine.

Q. Did you check whether there were rings or, sorry, rest platforms going up the ladder?

5 A. No I didn't.

Q. Did you check the number of people who could exit the ladder at any time?

A. No I didn't.

10 Q. Was consideration given to whether the self-rescuers would have sufficient capacity for people under stress to get up to the top in time?

15 A. I understood that the only reason that the second means of egress could ever have been used would've been in the event that there was some blockage in the main egress which is trafficable by road. If they were in the return, if they were trying to exit the mine as a result of an event that required them to wear a self-rescuer they would've been better to go to the fresh air base or when it was finally constructed, the refuge and wait for that particular event to be repaired. Just lastly, the only reason I could think of that you would even try to escape via that egress would be if there was a blockage, a fall or something that
20 precluded you from going out the main egress.

Q. Ms Basher could we please have DAO.002.03924/13?

WITNESS REFERRED TO DOCUMENT DAO.002.03924/13

1510

25 Q. This is part of an investigative report for an incident number 700, dated 11 January 2010, where there were issues with the ancillary fan and it talks of the geography at the top of the fan, at the top of the shaft and says, "4.2, A failure in having a second means of gaining access in a vent shaft site in extremes of weather, such access should not require people to use the river as a track in adverse weather conditions. Large
30 volumes of water pour into the Pike River from its extensive catchment area, as evidenced by the high levels in flow rates downstream of the mine site." Had anyone from Pike River discussed with you exactly

what would happen in an emergency if people did get to the top of that vent shaft?

A. No they didn't.

Q. Could I please have up, Ms Basher, CLO0010012967/18?

5 **WITNESS REFERRED TO DOCUMENT CLO0010012967/18**

Q. Now this is regulation 23, which deals with the second means of egress. Am I right in my recollection from yesterday that you were not given training in relation to the meaning of the regulations by the Department?

A. No.

10 Q. What did you understand to be meant by, "Every employer must take all practicable steps to ensure that every mine has suitable and sufficient outlets," and then the reference in 2C, "The factors are the need to have at least two outlets that are separate from each other but that interconnect"?

15 A. What did I think it meant? I thought it meant that you should have two outlets.

Q. Right.

A. However, I think it's a confusing legislation. At the end of the day, if that's what we mean, why didn't we say, "You will have two outlets and they will be in fresh air or they, whatever"? I mean, it's, there should be two outlets and it should be clear. It shouldn't be, "In all practicable steps."

20 Q. You referred to a legal opinion. That wasn't a legal opinion in relation to Pike River?

25 A. Not specifically. We asked for a legal opinion around this clause because we're saying, "If we take action, serious action against a mine, you know, what are the chances that this clause won't stand up?" If we say, "You've got to put in two egresses, for example, and end up being in a, putting a prohibition notice on that mine, shutting the mine down 'til they get it in, we wanted to know if it would stand up in a Court of law. So that's what we're asking. Does it actually say you have to have two egresses or can you have one and take a lot of practicable steps like putting in a refuge and –

30

Q. Can you describe the characteristics of the mine in relation to which you did get that opinion?

A. It was a gold mine, and it had a long single entry and absolutely no other way out.

5 Q. And no legal opinion was ever sought in relation to Pike River?

A. Not specifically, no. This process was ongoing at the same time as I was having discussions with Pike River.

Q. That other mine was the subject of an improvement or prohibition notice?

10 A. An improvement notice was issued, I think in August and it was immediately challenged, on the basis that the owner believed he had taken all practicable steps I think, and there was quite a lot of work going on between the Department and that owner that I was watching with some interest.

15 1515

Q. Well, I'll just ask you two questions, because we've got some time constraints. First, that challenge was withdrawn?

A. It was ultimately.

20 Q. Second, how long had that issue of the single egress been before the Department before it reached the point of issuing an improvement notice?

A. Probably 10 years. I was the first inspector to ever raise it.

Q. I think we've covered that you didn't look at the emergency response plan for the company?

25 A. We have.

Q. Was consideration given to how Pike River was going to monitor the atmosphere in the event of a fire or explosion underground?

A. By me or the Department?

30 Q. Well by you or the Department to your knowledge in relation to Pike River?

A. I was aware that there was a process in place that was, that had the, some real-time monitoring already installed, once from about August – sorry, from April, I think they had real-time monitoring operational and in

a discussion with Doug White, I understood that it was his intention to have a Maihak system operational prior to the seal of the test panel, and that appeared to be the programme for getting the Maihak up and running.

5 Q. By "Maihak" you mean a tube-bundle system?

A. Sorry, a tube-bundle system.

Q. Right, had the Department ever given you training in CIMS?

A. No.

Q. Had you had training in CIMS?

10 A. No.

Q. Had the Department ever discussed with you the role that you would have in the event of an emergency at Pike River?

A. No, they didn't and approximately two months prior to the event happening at Pike River, I had a phone call with my team leader saying that I wanted to put an item on the steering group agenda and that was about what is our role in the event of a major accident and that was partially prompted out of a conversation I was having with a consultant for Solid Energy who was doing some crisis management plans –

15

Q. Well, I don't want to go into that. Just to sum up is it fair to say, that the Department didn't have a proper understanding of what was going to happen if there was an emergency underground at Pike River?

20

A. That's correct.

Q. If I could turn to a different topic please, that of some of these mine systems and first ventilation. How did you go about assessing the ventilation system at Pike River?

25

A. Visually, I'd look at the setup. I'd look to see where the auxiliary fans might've been sited. There is a requirement to have them at least five metres from an intersection. I didn't necessarily take with me my little Kestrel, so the, I guess the – and my multi-gas detector to check that the faces were actually being kept clear of noxious inflammable gases with the auxiliary ventilation that was installed. So the condition of the bags, the vent cans and looking at the general installation of where the fans were.

30

- 5 Q. You'll be familiar with regulation 21 of the Health and Safety in Employment (Mining-Underground) Regulations '99, which require the employer to take all practicable steps to ensure that employees withdraw from the mine if the flammable gas in the general of body exceeds 2%?
- A. Withdraw to a place of safety.
1520
- 10 Q. Did you take any steps to assess whether that regulation was being complied with?
- A. Not specifically but as a result of a call I had from Dean Murphy, I did whilst even though Dean said to me, "Don't," he didn't want me to pursue it any further, I did talk to Doug White and subsequently he put out an email or a note saying that what was required. Dean rang me with a dispute and he wanted to just clarify the regulations and I did that with him. Dean's recollection of the call is slightly different to mine but I did, I do believe that where disputes are occurring of the nature that he was talking about and sometimes they are better resolved between the manager, it can be quicker if it is resolved between the manager and myself –
- 20 Q. I wonder if we need to just try and answer the questions as precisely as we can in the interests of time.
- A. Oh sorry.
- Q. Did you ever gain information about the reliability of the ventilation fans that were being used underground?
- 25 A. No I didn't.
- Q. Did you ever check the location of the booster or auxiliary fans to ensure that they weren't for example re-circulating air?
- A. I checked for their position, I didn't do any specific checks to see if the two fans were – where the fans were actually circulating.
- 30 Q. Did you take any steps to ascertain the knowledge and experience of the people underground who were responsible for moving those booster or auxiliary fans?
- A. No I didn't.

Q. If I could ask please Ms Basher the DOL3000020030/1

WITNESS REFERRED TO DOCUMENT DOL3000020030/1

Q. And you'll see this is an email of 29 January 2009 from Mr Louw to you in relation to ignitions on the roadheader. Do you recall receiving that?

5 A. I do.

Q. Ms Basher, page 2 of that. You see that's his memo of 29 January 2008, but I presume the eight should be nine, would that fit in with when you received it?

A. That's correct.

10 1523

Q. Second paragraph, "As a result of a series of methane ignitions Pike River Coal stopped productions with the roadheader and felt that the major contributory factor was insufficient ventilation?"

A. That's correct.

15 Q. As a result of that had you considered whether the ventilation system at Pike River needed to be subject to close scrutiny?

A. As a result of that ignition?

Q. Mmm, well as a result of that acknowledgement that there was insufficient ventilation?

20 A. Yeah, the major issue at that point in time was the forcing ventilation from the face, from outside the tunnel all the way into the mine. At this point in time the shaft had been completed and they then had sufficient air at the face, they weren't reliant on the force in ventilation.

Q. There's no need to call this up but David John Stewart in his witness
25 statement of 3 November 2011 sets out matters he identified in relation to the ventilation system. At page 7 of STE0001 paragraph 27.1, "The main fan was located at the shaft collar but did not meet compliance with regard to instrumentation as specified in the regulations." Is that a matter you're aware of?

30 A. It wasn't until I read Mr Stewart's brief of evidence.

Q. Are you familiar with his brief of evidence?

A. I have read his brief of evidence.

Q. Do you recall the section where he raises issues in relation to the ventilation system?

A. No, not specifically but I have read it.

5 Q. 27.2 “There was no remote gas monitoring sensor system in the mine at all or any display in the surface room which meant they had no idea of what methane concentrations were in the main returns and shaft.” This is going back to the time of his audits in early 2010. Was that an issue that you were aware of back then?

A. No it wasn't.

10 **COMMISSION ADJOURNS: 3.26 PM**

COMMISSION RESUMES: 3.43 PM

CROSS-EXAMINATION CONTINUES: MR WILDING

Q. I just want to turn to some ventilation issues identified in the incident report and CAC0114/12.

5 **WITNESS REFERRED TO DOCUMENT CAC0114/12**

Q. You'll see second from the bottom 16 August 2009 number 520, "SOS inspection discovered the ventilation duct damaged and broken in a number of places resulting in accumulation of gas flammable-explosive." Were you aware of any issues with the ventilation ducting?

10 Q. I've had no notification of anything like this. It is – if they had accumulation of gas, again it's an uncontrolled gas and it should've been notified.

Q. You'll see that under the stated causes for this incident it lists amongst other things, "Lack of knowledge/training, lack of skill/inexperience, 15 inadequate leadership/supervision, safety rules not enforced." Were you aware that the workers were raising these sorts of issues in the incident reports?

A. No sir I was not.

Q. Did the workers raise those sorts of issues with you at all?

20 A. Not when I was carrying out my inspections, no. Not at any stage.

1545

Q. You were referred earlier to an incident, 700, which is the one where I referred to the access to the vent shaft in extremes of weather, and I wonder if, Ms Basher, we can just have that document up, 25 DAO.002.03924/13?

WITNESS REFERRED TO DOCUMENT DAO.002.03924/13

Q. We seem to have another technology issue so I'm just going to read you it. It was an issue where there was a fault with the auxillary fan and cause or contributory factors, 4.1, "Continuing issues with the auxillary fan have now identified it has a fault with its generators when these are 30 used to restart the fan after a trip. Reportedly, the back-up generators would not synchronise to produce enough power to restart the fan."

This is the 11 January 2010 report. Were you aware of that type of issue?

A. I wasn't aware of that type of issue.

5 Q. I take it you weren't aware of any issues affecting the reliability of the ventilation fans, including the main fan?

A. I wasn't aware, other than the fan blade that came off the fan not long after it had been purchased and then later there was another incident of a similar thing through vibration. The vibration monitoring they had wasn't set low enough and as a result of the discussion I had with Mr
10 White, they did reset the vibration monitoring so that it would detect future problems.

Q. This is on 11 January 2010. You're talking about incidents with the fan system in October 2010?

A. Yes.

15 Q. Right. 4.5, "There was no formal SOP developed on the system that trades personnel could have followed to get the fan operational again within an hour of the trip." I take it you wouldn't have been aware of what systems Pike River had in place to ensure that its contractors could get equipment such as this operational?

20 A. That is correct. I was not aware.

Q. If I could take you please to CAC0115/18?

Q. Sir this is a different document.

Q. If we have it on the screen, it is a summary of Pike River Coal Mine deputy statutory reports. And this is a summary of the deputy statutory
25 reports for October 2010 compiled by the Commission and you'll see, 14 October 2010, third one down, "Flammable gas in general body of air, 4% A heading, east/west. Fans tripped. Place gassed, reset fans and degassed. Specific safety issues, 13 m² to ventilate four headings is not enough. Place is getting gassy. No Kestrel available to take air
30 measurement. Stood place down. Got Kestrel monitor deputy pulling 12 metres." See that?

A. I do see that.

1550

- Q. And then second from the bottom for example, "13 October 2010, Flammable gas and general body of air 1.4%. Action taken, fenced off, ventilated with typhoon fan and exhaust, vent inadequate to ventilate faces, fenced off. Specific safety issues, ventilation inadequate to ventilate headings, ventilating four times headings on 13 metres cubed." Were you aware of any issues with there being insufficient airflow for the number of faces being worked?
- 5
- A. No, I was not. Again sir, these are notifiable, unaccumulated gases.
- Q. But not matters that you're notified of to your knowledge?
- 10 A. No.
- Q. And you'll see it says, "Got Kestrel by the 14 October 2010. Got Kestrel for monitor deputy pulling 12 metres cubed." Were you aware of the extent to which those working underground had devices to enable them to measure the airflow?
- 15 A. I'm not aware exactly the equipment they had, but I was aware that the deputies are required to record the amount of air through their fan, each shift.
- Q. Do I take it that the issue of ventilation flow wasn't one that was looked at closely by the Department?
- 20 A. It was not.
- Q. And I think we've already discussed that you didn't inspect the main ventilation fan after commissioning, is that correct?
- A. Sorry, could you repeat that question?
- Q. You didn't inspect the main ventilation fan after it had been commissioned?
- 25
- A. No, I didn't.
- Q. Did you seek any data as to its airflow?
- A. I did receive some data about the amount of air that was, after its commissioning was travelling through the mine. I'm not sure, it might've been when I was there on the 2nd.
- 30
- Q. A slightly ventilation related matter that you were notified, according to your witness statement paragraphs 255 to 260 was, "A circumstance

where a Mr Vorster got hit by a falling ventilation ducting cap.” Do you recall that?

A. I do.

5 Q. And do you recall that, by way of letter of 5 October 2010, summation DOL3000070177/1 you were sent a copy of the investigation report?

A. I’m aware of that.

Q. Had you had the opportunity to read that report before the tragedy?

A. I can’t actually recall whether I read it before the tragedy or post the tragedy.

10 Q. Could we please have DOL3000070178/8, Ms Basher?

WITNESS REFERRED TO DOCUMENT DOL3000070178/8

15 Q. And this is the report that was sent to you and you’ll see under the heading, “Conclusions, one, failure to investigate what caused the end caps to fall twice since its installation of 3 September ’10, iii, failure to identify previous incidences, hazards and to notify management. iv, failure to report previous incidents of end caps falling off to the superintendent and the QSE engineer.” Can you recall now looking at that, whether you might’ve read it before the tragedy?

20 A. I have read the report, but there was – so much has happened since this time, I don’t know whether it was before or after, I’m sorry.

25 Q. You’ll see the recommendations include, “ii, need to retrain all crew members to stop and consider work activities and incidents. iii, conduct an anonymous survey with the wage staff to gauge their attitude to safety and their perception of current company safety culture.” And “ix, need to re-train crews?”

1555

30 A. It’s possible I have read this, sir, I do recall having a conversation onsite post this incident when I visited the mine on the 2nd but whether it was specifically about the report or whether it was just about the incident, I can’t recall.

Q. Because wouldn’t those matters warrant an urgent investigation?

A. On their own not necessarily.

Q. I think you say in paragraph 260 of your witness statement, that the matter was never resolved?

A. It wasn't because I hadn't done a review and determined what I was going to do and the events at Pike River overtook the issue.

5 Q. Did you ever receive any expert reports in relation to the ventilation?

A. No I did not.

Q. I take it the Department wouldn't normally ask for those sorts of reports?

A. We wouldn't normally ask for them unless we were dealing with a specific issue that we felt we had to resolve. But it's not a, it wasn't our normal process.

10

Q. If we can turn to a different topic then which is the gas drainage system. Were you aware that Pike River Coal was undertaking coal seam gas exploration during 2008 to 2010?

A. I was aware that they were doing in-seam drilling and I was advised that the purpose of the in-seam drilling was to identify structure and that was due to the fact the geological holes that they had in place weren't, was not providing enough information on what the structure of the seam was. The outcome of that was that they then had long holes in the coal that required drainage and control of the gas. So it's a long way off answering your question I know but, yes, I was aware there was gas drainage occurring.

20

Q. Were you aware that Pike River provided reports about its exploration to the Ministry of Economic Development?

A. No I wasn't.

25 Q. I take it you wouldn't have ever seen any report from the Ministry of Economic Development?

A. No I haven't.

Q. Could I ask Ms Basher please could we have MED0010070105/1?

WITNESS REFERRED TO DOCUMENT MED0010070105/1

30 Q. And you'll see this is a petroleum report series PR4227, title monitoring report on in-seam gas levels and flow rates, Pike River Coal Mine date 2010?

A. I can see that, sir.

Q. And you wouldn't have seen that?

A. I haven't.

5 Q. No, I can tell you from the inside that it's one of two reports and this one's dated 14 October 2010. Can we please have summation page ending six, Ms Basher? You'll see this is a chart of the gas drainage system and can you see the third from the bottom, "Gas drainage line at full capacity?"

A. I can.

10 Q. And can you see from the blue bar that that gas drainage line appears to have started being at full capacity sometime around February/March 2010?

A. I can see that, sir.

Q. Was that a matter that you were aware of?

A. It is not a matter I was aware of.

15 Q. Then if we look at it just below that, "Initiating free venting of drill holes into return for pre-drainage," and you can see from sometime around June 2010 there's a bar showing that there was free venting of drill holes into the return?

A. I can see that sir.

20 1600

Q. Are you aware that Pike River was free venting those holes into the return?

A. I wasn't.

25 Q. Had consideration been given by the Department to whether Pike River had the need for a suction or vacuum pump on the methane drainage system?

A. No it was not.

Q. Was it aware of whether or not Pike River had any system to measure the flow rates in the methane drainage system?

30 A. No, the Department wasn't aware whether they had a system to measure the flow rates.

Q. Did the Department either seek or obtain any expertise reports of Pike River in relation to the drainage system?

A. No sir.

Q. If I could ask you please to turn to the deputy statutory reports schedule, "the Commission's document CAC0115/9."

WITNESS REFERRED TO DOCUMENT CAC0115/9

5 Q. And you'll see there, fifth from the top 18 March 2010 under, "Actions taken," 'Are having to continually drain water out of CH4 drainage system as it is blocking the riser to the surface and building up back-pressure.'" Not aware of that?

A. Not aware of that.

10 Q. And the page preceding page 8, fourth from the top, 24 March 2010, "Blown gas drainage line found on inspection. Replace pipe with two inch fittings and two inch air and water hoses tied to the rib. Its specific safety issues, a huge amount of gas coming from VLD that is going up the main fan. Control person needs to keep vigilant eye on any gas
15 spikes that go up the shaft. Those two matters may be unconnected." Were you aware of any issues with the gas drainage system pipes blowing?

A. Never been told or heard of the pipe lines ever being blown.

20 Q. I'm not going to continue through these schedules, but would it be fair to say the Department didn't have a proper understanding of whether or not Pike River's methane drainage system met health and safety standards?

A. That would be fair to say that.

25 Q. Just turning to another issue, that of stone dusting. I think you had raised the issue of stone dusting in an inspection of 22 January 2010?

A. Correct.

30 Q. And in that letter DOL3000070131/1 which is a letter of 27 January 2010 by you to Pike River, you say, "Stone dust, it was noted and agreed that the stone dust in some of the faces was not up to standard. I understand from our discussion that Pike River Coal Limited is in the process of developing stone dusting plans in a testing regime. This needs to be completed and implemented with some urgency. It would

be helpful if you could share the plan once completed.” A stone dusting plan is fairly fundamental isn't it to an underground coal mine?

5 A. It is fundamental. In saying that, the mine is in the early phases of its development but one would've thought that they would've had one already in place.

1605

10 Q. And can you recall that Mr Lerch wrote to you on the 2nd of February 2010, DOL3000020053/1 and advised in that email, “We're in the process of purchasing a bulk duster to better administer stone dust to areas of the mine. The stone dusting plans are being developed as a priority as is the testing regime. I will send this information through, once completed.”

WITNESS REFERRED TO DOCUMENT DOL3000020053/1

A. I recall that.

15 Q. Did you ever receive those plans?

A. Not until, not sure whether it was August or November. I think it was November. There were a number of changes of personnel through that period and they went through quite a long period of stone drivage and during that period of stone drivage, there would've been no need to do any stone dusting in the stone areas.

20

Q. Ms Basher, if we could have DOL3000070170/1.

WITNESS REFERRED TO DOCUMENT DOL3000070170/1

Q. In your inspection of 8 August 2010, you identified that same issue?

A. I did.

25 Q. And paragraph 1 of a letter you wrote of 31 August 2010 to Pike River, you say, “1. The stone dusting standard observed appears to be below the standard required under regulation 36 of the Health and Safety (Underground-Mining) Regulations. The company needs to establish a stone dusting plan and monitoring programme to validate that they meet the standard required.”

30

A. That's correct.

Q. This is the second time now in eight months that you've identified that same issue and the lack of a plan, is that correct?

A. That is correct.

Q. This did require some enforcement action, didn't it?

A. Under our policy, it is likely that it should've required some enforcement action at this time. I still believe that Pike at this point were prepared to do what I was asking without that enforcement, so a general philosophy of voluntary enforcement probably, I probably gave Doug White the benefit of the doubt.

Q. Could we please have, Ms Basher, DAO.001.00534, pages 13 and 14?

WITNESS REFERRED TO DOCUMENT DAO.001.00534

10 Q. You will see that this is an incident report 1140, dated 18 November 2010. Can you see that?

A. I can, sir.

Q. And on the second page on the right-hand side, "ABM not stone dusted at least 15 to 20 metres of roadway." Can you see that?

15 A. I can see that.

Q. So it seems that despite the approach that you've taken, that was an issue right through to at least the 18th of November and my question is this, in hindsight and having regard to all the information we've had today, you would have to accept that the enforcement approach taken by the Department in this case wasn't the right one?

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1610

A. With the benefit of hindsight and everything you've shown me here today I would have to accept that, that a negotiated agreement in that instance was not the appropriate one.

25 Q. If I turn to another topic please, hydromining. Am I right in understanding from your witness statement that your only involvement in or inspection of the hydromining area was on the 2nd of November 2010?

A. It was.

30 Q. Have you had any personal experience with hydromining?

A. Low pressure mining in my very early days as a young man at a number of hydromines, a low pressure hydromining in Terrace and the Sullivan Mine which is in Denniston and a very small stint at Strongman No 2

when they were doing a bit of hydromining there but no major exposure to the sorts of mining that was being planned at Pike.

Q. Were you actually involved in hydromining when you were at for example, Terrace?

5 A. Not personally involved but as manager I had some involvement.

Q. Have you had personal involvement with hydromining?

A. No.

Q. And so when was your last involvement with an operation that involved hydromining?

10 A. You mean physically involved?

Q. Yes.

A. Well it would've been 20 years ago.

Q. Have you read the witness statement of Mr Smith of Solid Energy in relation to hydromining?

15 A. Not in its entirety, there are an awful lot of attachments.

Q. Have you read the body of the witness statement though?

A. I have.

Q. Until you read that were you familiar with the various series of controls that are used by Solid Energy in relation to hydromining?

20 A. I was aware of some of the controls because I had carried inspections of the Spring Creek Mine so I was aware of some of them.

Q. Just in relation to the hydromining then, did you look at any documents related to it?

A. No I didn't.

25 Q. I take it from then there was no request for any documentation for example, in relation to strata control ventilation insofar as they relate to hydromining?

A. It's not something that we would do.

30 Q. Did you check when you inspected it whether there were any dilution doors?

A. I had a discussion with Mr Ellis about dilution doors and he advised me that a dilution door was installed but they had not connected it on the basis that it would take air away from potentially, yeah, away from the

faces further inbye. The thing with dilution doors is you need distance and space for them to work. It's much easier for larger mines like Spring Creek and that, at Spring Creek that had primary, tertiary and secondary doors and they had a long distance where each door can come into play over a period of time to dilute the gases. The distance from the hydro section to the return was quite short.

5

Q. So your understanding was that they had them but weren't connecting them?

A. They didn't, they weren't connected them, that's correct.

10

Q. Did you check whether there were any pre-seals to seal off that area once the panel had been finished?

A. No, I didn't check that but in a discussion with Mr White he advised me that he was going to follow the Queensland plan and send me a sealing plan prior to sealing and I said to him, that's fine but it's not required under our law.

15

1615

Q. Right, so they were able to start hydromining that commissioning panel without pre-seals being installed.

A. We had – there's no legislation that says they can't.

20

Q. Were you concerned about whether there should be tube-bundle monitoring where there was that commissioning panel so that there could be monitoring of the atmosphere once the hydromining had finished in that area?

25

A. Once the hydromining had been completed, I would've been definitely concerned if there hadn't been a tube-bundle system in because they had no way of monitoring the atmosphere behind the seals and in discussion with Mr White, he said to me that they would have the tube-bundle system installed, prior to the seal of that panel.

30

Q. Was there any check of whether there was an overpressure device to measure if there had been a goaf fall and then turn off the electrical system.

A. I never checked to see if there was an overpressure device.

Q. You talked to a number of people in relation to hydromining during that visit. Who were they?

A. That's correct. I don't recall the name of the operator but there was an operator, Steve Ellis, George Mason and Peter O'Neill.

5 Q. Right.

A. I often sought Peter out. Peter worked for me for a large number of years and I always found him a - found time to try and catch him if he was on shift.

10 Q. Did you ascertain what training or experience Mr Mason or the hydro-mine operators had in hydromining?

A. No, I didn't.

Q. Right.

15 A. But I did have a discussion with the operator to see what his understanding of what his responsibilities were and how he thought he was going to control the gas make in the goaf.

Q. Mr Mason in his witness statement, paragraphs 43 to 46 gives evidence of a partial rock fall in the goaf on the 29th of October 2010. Were you aware of that?

20 A. I wasn't aware of the rock fall per se, although on inspecting the goaf, I could see that there were some slabs of stone that had come down, not that unusual in a normal hydromining sense.

Q. When you inspected the goaf, were you aware of whether the edges of the goaf were more or less straight?

25 A. Can you just expand on that a little bit because often there's not a lot of stuff that's straight? Are you talking about where the cut, where the hydro-monitor had been cutting?

Q. Yes, where it was cut out. Whether it was being left in a highly irregular pattern or else –

30 A. As best as I can remember, there was a cutting, a stump, which is a small pillar of coal that hadn't been cut. It was relatively straight and there was a little bit of – it looked, from memory, there was a little bit of cut on the right-hand side as well, so they'd, looked like they'd cut a, rubbed a little bit off the right-hand rim.

Q. Would you accept that the enquiries you made weren't sufficient for the Department to know whether the hydromining complied with the all practicable steps requirement in section 6 of the Health and Safety in Employment Act?

5 A. In that we didn't have all the information?

Q. In that you didn't have enough information to assess whether it was safe?

A. To make the assessment.

Q. Whether it was safe?

10 A. That's probably a fair statement.

1620

Q. I just want to turn to another topic which is strata control and I think in your witness statement paragraph 241 you refer to being coming aware during a visit of 12 August 2010 that there was no pull testing system for the roof bolts?

15

A. They weren't able to provide me any information to show there was.

Q. And you sought for them to write to you in relation to that and Ms Basher could we please have DOL3000070171/1

WITNESS REFERRED TO DOCUMENT DOL3000070171/1

20 Q. Now your view as I understand it was that roof bolt testing was a practicable step for an employer to take to make sure that the strata was sufficiently controlled?

A. Correct.

25 Q. And this is the email of 16 August from Mr Parker of Pike to you, copied to Doug White and he says, "Apologies for the delayed response. The last set of pull tests were completed late last year. The tests where completed are by a bolt supplier, unfortunately we have only ever received field's notes from the supplier." The language isn't quite right there but you became aware at that stage that there hadn't been bolt testing for at least about eight months, correct?

30

A. Correct.

Q. And I know you later on in November received some pull test data but didn't this require some enforcement action?

A. Certainly if I had been aware that there had been a number of previous issues including what I've heard and read in Michael's evidence right back to the day the mine was commenced, it may have changed the way I approach this.

5 Q. But you weren't aware of that?

A. I wasn't, no.

Q. If we could please have Ms Basher CAC0114/18

WITNESS REFERRED TO DOCUMENT CAC0114/18

10 Q. And we're back to the summary of the reports of certain incidents and accidents prepared by the Commission and this is titled, "Schedule A Mine Environment Roof and Wall Issues," and you'll see fourth from the bottom 27 July 2009 number 465, "Found ribs unsupported for six M both left and right in 2/C-B." See that?

A. I can see that.

15 Q. And then the stated causes, "Inadequate work standards, substandard work practice." Yes?

A. Yes.

20 Q. And you'll see above that 15 January 2010 the number 716. "Ribs and roof in C99 intersection not supported to standard prior to floor brushing. This has left 7-8 metre high rib with no support in it and poorly supported edge roof." Then off to the right, "Stated causes, failure to secure, not following procedure." You see that?

A. I can see that.

25 Q. Perhaps just the final one on this, 17 second from the top, 17 February 2010 number 777, "When I entered section at beginning of shift I saw that the ribs were unsupported. 72 roof bolts were required to bolt up ribs. How did D/S cut with ribs in that condition? Stated causes, not following procedure, misconduct, inadequate leadership/supervision, inadequate work standards, safety rules not enforced, substandard work practice. I have no idea why someone would cut when ribs in that condition." I take it that you were unaware of these types of issues?

30

A. Sir, I was unaware of these types of issues.

1625

Q. And they weren't ones that had ever been raised by any of the workers with you?

A. No.

5 Q. Am I right that health and safety representatives have the ability to issue a hazard notice?

A. That is correct.

Q. And to whom does that go?

A. It goes to the manager.

Q. Right, and does the Department receive a copy of it?

10 A. I can't recall.

Q. Are you aware of any worker in the time that you were inspecting, whether Pike Mine or any other mine, ever issuing a hazard notice pursuant to the Act?

15 A. I have - in my two and a half years as inspector I have not heard of a hazard notice being issued.

Q. And I presume that when we look at these stated causes that I have just read, they would cause serious concern for an inspector?

A. Unsupported ribs, not following procedure, on more than one occasion, would cause us to have some concerns.

20 Q. And if I can ask you, just while we're on that page, to look in the second-to- right most column, "Final assessment and department manager signoff." And you can see that the first two on that page for example, "25 February 2010, incident 789 and 17 February 2010, incident 777" had no signoff, can you see that?

25 A. I can see that.

Q. Were you aware that incident reports weren't always being signed off?

A. No, I wasn't aware.

Q. Once again, a matter that would've been of concern to an inspector?

A. It would've been a concern.

30 Q. If we can turn to a different topic please, that of equipment, maintenance and guarding. Now I think we've already covered yesterday that during your visit of 22 January, you picked up on two guarding issues with the conveyor?

A. That's correct.

Q. And you asked for those to be rectified but didn't enter into any negotiated agreement, correct?

A. That's correct.

5 Q. And you weren't aware at that stage that Mr Firmin had encountered any such guarding issues?

A. I wasn't.

10 Q. Am I right in inferring that having been advised by Pike River that that guarding issue had been addressed, you didn't then go back and check the conveyor?

A. I never made a specific check to see the guarding that had been completed. On my visit, in and out of the mine, I would've passed the conveyor and if I'd noted that it hadn't been, I'm sure I would've raised it, but not a specific check.

15 Q. Can we please have Ms Basher DAO.001.01663/1?

WITNESS REFERRED TO DOCUMENT DAO.001.01663/1

Q. You'll see this is an audit report titled, "Contractor machinery guarding on conveyor system in PRCL drift" and down the bottom right, dated "19 August 2010"?

20 A. I can see that, sir.

Q. Have you seen this before?

A. No, I haven't.

1630

25 Q. If we could turn to page 4 please Ms Basher. I'm going to read a section from the fifth line down, "Currently the conveyor system at Pike River Coal Limited does not conform to the minimum standards and requires extensive work to bring it back up to an acceptable level of conformance. It was found that there are areas that could draw a person into moving machinery, potential entanglement areas with non-effective or unsecured guarding that permits access. There are protrusions that could cause injury in areas where flying particles or falling material could cause harms. In areas there are limited handrails and protective canopies and holes cut into existing guards to give better

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maintenance, access but after such work these have been left unprotected. Additionally it was found that in places there is damage to and ineffective guarding on head pulley and drive units.” These weren't matters that you were aware of?

5 A. The importance about any maintenance system with respect to guarding is that when you do an inspection it's a shot in time and things can change and if they're not, if you don't continue to check these issues, they can get into disrepair. Now did I look at the conveyor every time I went in, when I looked at the conveyor on that day I, we stopped by the drive head and I, the day that I notified them of the issues that I'd seen and I observed it and I addressed and I believed it was fixed at that time. So in some respects it's about targeted inspections.

10 Q. Did you ever ask Pike River or its contractors whether they were obtaining audits or expert reports in relation to the adequacy of the systems and equipment at Pike River?

15 A. No I didn't.

Q. A submitter, Mr Wastney has filed a submission in relation to the chassis failure of a drift runner vehicle. If we could have please Ms Basher WAS0001/3?

20 **WITNESS REFERRED TO DOCUMENT WAS0001/3**

Q. And Mr Wastney says that the conclusions, this is page 3 of his report, well his witness statement at least of 27 May 2011 paragraph 3, “That the conclusions that I drew from observation of this failure was that Pike River will not have an operation or regular inspection of the vehicle as there was evidence of the vehicle having been operated for some time in this condition and that the fracture had developed over a period of time from a crack in the chassis.” Presuming you probably weren't aware of that issue?

25 A. I wasn't aware of...

30 Q. What steps did you take to enquire about the adequacy of the maintenance regime at Pike River?

A. I didn't take any specific checks to check the adequacy of the Pike River maintenance programme and I think I would've, given my skill and

background, I don't know whether I would've been capable of auditing or deciding whether the adequacy of the programme was sufficient.

5 Q. Just on another issue to do with machinery. I think in January 2010 you were concerned about there not having been certain safety steps taken in relation to gophers?

A. It was a small item, yes. We had a number of finger injuries that had occurred throughout the industry at other mines and I just raised the issue for them to consider and what the solution was, that it was actually put in place.

10 1635

Q. And am I correct in understanding that there had been a serious injury at another mine in 2009 and as a result of that, a safety bulletin was sent around to all mines, including Pike River, to the effect that there should be a certain rectification taken to the gophers?

15 A. I'm not sure. Who did that come from?

Q. Well, the Department. Are you aware of that?

A. I can't, I can't recall it sorry.

Q. Were you aware of any news flashes from Pike River in relation to the gopher incident?

20 A. No, I wasn't.

Q. There's an incident report which is on Schedule F of the Commission schedule, CAC0114/52, and the fourth down, 11 December 2009, number 692, "Several months ago we received a news flash regarding injury to a gopher operator in Spring Creek. We were told that the solution was a strengthened frame that surrounds the drill head. We have yet to see this modification. The operator lost a finger and I wouldn't want that to happen to one of our employees." I take it you weren't aware of an employee of Pike River having raised that issue?

25

A. I wasn't.

30 Q. Although when you raised the issue of gophers with Pike River on 22 January 2010, am I right in saying its response was that it wasn't going to carry out the required modification?

A. They just determined that they had another way that they could manage the hazard. I don't think this newsflash came from the Department of Labour, Mr Wilding. I think it might have been something that Solid Energy may have shared. I'm not aware of it. And by the bye, the employee didn't lose his finger.

5

Q. The approach that Pike River took when you raised the issue of the modification was to initially not do it, is that right?

A. When we suggest a way of controlling the hazard, the way the employer finally chooses to control that hazard is his responsibility. In most cases, we might make a suggestion on how they can control the hazard, but if they determine that there is a better way that they can control the hazard, it is their responsibility to make that decision.

10

Q. Could I turn perhaps to a different matter, which is an incident involving Mr Daley and that's a crush incident that I think you investigated, is that right?

15

A. I did.

Q. And that was an incident on the 14th of February 2010?

A. It is.

Q. And a drill rig had moved unexpectedly, resulting in the crushing of his foot. Is that a fair bullet point summary?

20

A. The drill motor, yes.

Q. If I could please ask you, Ms Basher to turn to DOL3000070137/2?

WITNESS REFERRED TO DOCUMENT DOL3000070137/2

Q. And you'll see that this is the front page of a report and I presume this is the report you undertook?

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A. It's a report I undertook.

Q. When did you complete that?

A. The final completion I think was in September.

1640

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Q. Outside the timeframe in which Pike River could've been charged?

A. It was outside the six month timeframe. That's correct.

Q. Ms Basher could we please have page 12? Your conclusions include 6.2, "The faulty drill rig was known about by the company and the

officials and they allowed the machine to keep operating. This may have been a breach of section 6 of the Health and Safety in Employment Act 1992 by failing to maintain equipment in a safe condition. 6.4, There was a failure to adequately supervise employees and that the supervisor allowed unsafe acts to take place during the mining operation. This may have been a breach by the company of section 13 of the Health and Safety in Employment Act 1992, a breach by the mine official of section 19(b) of the Health and Safety in Employment Act 1992.” See that?

5

10 A. I see that.

Q. If we could turn to page 13 please Ms Basher. You advised according to 8.4 that no further action would be taken?

A. That's correct.

Q. Was that subject to peer review?

15 A. It was.

Q. You include in your recommendations the following, 8.2 first bullet point. “There has been deliberate attempt to obtain economic advantage by the failure to comply.”

A. Sir that's an error. It's certainly in the document and that's the document that exists. It should've said, “There was no deliberate attempt.” What I did was went through our policy and I looked at each one of those criteria to help me determine, now it wasn't 'til the documentation was reviewed following the accident that the – myself or my reviewer did not pick up that it didn't say, “There has been no deliberate attempt.” I didn't find a deliberate attempt to gain economic advantage.

20

25

Q. Thank you for that clarification. Is the second bullet point correct? “Actions of employees or other persons with duties have shown deliberate or careless disregard for the safety and health of other people.”

30

A. I believe that, yes.

Q. Didn't this matter, particularly coming as it was only short after you'd identified a range of four different problems including guarding and

gophers on 22 January 2010, have to be met by enforcement action of some sort?

A. I didn't link them as a systematic set of failures. This was quite a separate event, that in my view did not warrant prosecution and my reviewer agreed with me.

Q. Who is your reviewer?

A. My reviewer is my team leader?

Q. Who was that?

A. Irene Campbell.

Q. The net result of this though is that Pike River didn't even get a warning?

A. No that is correct.

Q. So not even anything that could've justified prior notice for the issue of a infringement notice if there was some problem subsequently discovered?

A. That is correct.

Q. We touched on this earlier but this is the matter in which you discovered on 14 February 2010 that there was a dead man lever that had been bolted down and we know that you didn't investigate that.

A. No I didn't.

Q. If we could please have Ms Basher CAC0114/23
1645

WITNESS REFERRED TO DOCUMENT CAC0114/23

Q. This is back to this incident schedule, this time "Schedule B, detection of hazards safety features, including bypassing." The second one down, "26 June 2009, drift runners MT001 and MT003, the air pressure regulation on safety system was wound all the way in. This resulted in no safety shutdown working." See that?

A. I see that.

Q. Down the bottom, "19 May 2009, number 355, there is not enough deputies' locks on roadheader in the DCB's. The new DCB's have been powered up with the methane sensor in bypass and found that methane sensor is faulty." See that?

A. I see that.

Q. I'm not going to go through all of these in the interest of time, but were you aware of overriding of safety equipment at Pike River, aside from this one occasion in relation to the dead bolt lever of the John Daley incident?

5

A. Aside from the one occasion, I wasn't aware of any other overriding of equipment.

Q. You will remember yesterday we touched briefly on a frictional ignition, at the end of November 2008?

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A. Yes.

Q. And I referred to some email correspondence of Mr Louw and said we might come back to it?

A. Yes.

Q. Could I just show you that correspondence, DOL300020035/1?

15

WITNESS REFERRED TO DOCUMENT DOL300020035/1

Q. Just by way of background, there'd been frictional ignitions and that was a matter that was drawn to your attention and you in turn drew it to the attention of Mr Booyse, is that right?

A. Yes, I did.

20

Q. And you'd had a report I think from Mr Bell that there had been more than 10?

A. Mr Bell rang me and said that he'd heard that was the case.

Q. Now, you see this email from 27 December 2008 from Mr Louw to you?

A. I haven't got that up in front of me at the moment.

25

Q. Yes, just up the top.

A. 24 December?

Q. Yes, 2008, from Mr Louw to you. And when you've queried him about those potentially unreported ignitions, he says, "Hi Kevin. Don't know who fed you information, but there was a few ignitions on four shifts that I know of and that you should have the information, including the one at Hawera Fault. If there is more, then supervisors chose not to report them, hence I don't know of them and is not been investigated." You

30

didn't investigate those further in relation to the issue of potential unreporting?

A. I didn't.

5 Q. And the company was saying that it wasn't going to investigate those further. That's what that email conveys, isn't it?

A. Yes, it does.

Q. Didn't that cause you to have concern about how committed Pike River was at that stage at least to ensuring health and safety?

10 A. On its own, it looks like you could argue that Mr Louw didn't have a commitment to health and safety. I, in interactions with him, did not find that. In this particular instance, there are quite a lot of issues around it and I believed that we had at least dealt with the major issue which was removing the men from the hazard. Mr Louw was quite quick and willing to voluntarily prohibit his roadheader from operating as a result of these
15 incidences.

1650

Q. I want to just turn to a different topic which is a traffic management plan in the mine. Would you accept it's desirable for a mine to have a traffic management plan for underground?

20 A. It's something that is certainly more common today than it used to be.

Q. Well it's a practicable step to take?

A. It's a practicable step.

Q. Did you ever conduct any enquiry in relation to whether Pike River had one or the extent of it?

25 A. I didn't.

Q. In the interests of time I shan't take you through all the examples in the schedule but are you aware that there have been a number of incidences of traffic accidents?

A. Yeah.

30 Q. Could we please have Ms Basher DAO.002.03958/8?

WITNESS REFERRED TO DOCUMENT DAO.002.03958/8

Q. And you'll see that this is an incident report. Same technology problem out by one page I'm sorry Commissioners. You'll see that that's an incident report number 723 dated 20 January 2010?

A. I can.

5 Q. And if we can go to page 9, it will be for your system Ms Basher? You see it's an incident report where someone's written, "Ram car wheeling coal from continuous miner working in B heading and returning to continuous miner. Vehicle interactions (ram car, juggernaut, drift runner, personnel) at intersection McDow staff and/or equipment at
10 intersection and overcast. Suggest traffic management plan be put into place." I take it you weren't aware of whether the staff thought that the traffic management plan was sufficient?

A. No I wasn't aware.

Q. Not a matter ever raised with you?

15 A. No.

1653

Q. Had you ever given consideration –

A. Can I just add, earlier when you asked me if I was aware of traffic management plans and the need for them, I thought you'd actually said,
20 entrapment plan and I misheard you, but it's fine. I'm with – right.

Q. I take it, you'd accept that a traffic management plan though is desirable?

A. Yes, yes, yes.

Q. So it doesn't change the substance of your answer?

25 A. It doesn't, no.

Q. Had you given consideration to the height of the gas drainage in the compressed air line in the drift?

A. No I hadn't.

Q. Whether, for example, it was at such a height that it might be hit by
30 vehicles?

A. Given that I've been involved in some of the investigation post-19 November, I'm aware that the height has issues.

Q. Well, we'd better not go into that.

A. Okay.

5 Q. Just a few more topics before I finish, "Supervision and training." Did you or the Department to your knowledge take any steps to assess compliance with the section 13 Health and Safety in Employment Act requirement that employers take all practicable steps to ensure that employees are either adequately supervised or have adequate knowledge and training and experience?

A. No, we never reviewed the Pike River training plan.

10 Q. In the course of your inspections, did you seek to identify the various contractors who were working at the Pike River site?

A. When I was doing a mine visit, I didn't distinguish between contractors or mine workers. If I went to a face. I might distinguish who I am talking to at that point, but from my point of view everybody who worked underground were ultimately Pike River's responsibility.

15 Q. So if I run through a list of some of the contractors, can you please tell me whether you know whether you spoke to employers from any of them, Boyd Kilkelly Builders?

A. Yes.

Q. Chris Yeates Builders?

20 A. I don't recall.

Q. O'Hara Plasterers?

A. No.

Q. Pizzato Contracting?

A. No.

25 Q. Skevington Contractors Limited?

A. No.

Q. Subtech Contracting?

A. No.

Q. McConnell Dowell?

30 A. Yes.

1656

Q. Valley Longwall?

A. Yes.

Q. I presume you didn't seek to inspect any of the records of any of the contractor companies?

A. No I didn't.

5 Q. I take it the Department wasn't in a position then to say whether those companies complied with the requirements of the Health and Safety in Employment Act while working at the Pike River site?

A. It would be fair to say that.

Q. Could I just clarify the level of people within Pike River that you spoke with? Perhaps Ms Basher if we could have please DAO.003.06725

10 **WITNESS REFERRED TO DOCUMENT DAO.003.06725**

Q. Once again, this is just to get a bit of a flavour for who can and can't be spoken with.

A. Yeah.

15 Q. See at the top we have, "Chief Executive," and I'm presuming you didn't speak to him?

A. Gordon Ward?

Q. Yes.

A. Maybe once.

Q. Right, what sort of contact?

20 A. It would've been at a minerals West Coast meeting I think.

Q. Did you ever have a meeting with for example Dick Knapp the human resources manager in relation to staff?

A. No I didn't.

Q. The environmental manager?

25 A. No.

Q. I'm not just talking about these people listed here.

A. Yeah.

Q. But the people who fulfilled the role of environmental manager?

A. No.

30 Q. Technical services manager?

A. Technical services manager, possibly, quite possibly.

Q. Planning manager?

A. No.

Q. You would've with the underground mine manager?

A. Yes.

Q. Engineering manager?

A. No.

5 Q. Coal processing plant manager?

A. Yes.

Q. And obviously safety and training manager you did?

A. Neville?

Q. Mhm.

10 A. Yes.

1659

Q. Did you ever conduct any individual interviews with any of the deputies, or their crew, except in the course of your formal investigations?

15 A. If I was in a face, like either the ABM or on one of the continuous miners, or a roadheader, I would talk to everybody that was there. I didn't distinguish between them. I found – I always found them a source of information that could be useful to me.

Q. If we could have please CAC0119/4?

WITNESS REFERRED TO DOCUMENT CAC0119/4

20 Q. This is a schedule, once again prepared internally within the Commission and it just lists various changes in mine manager and acting mine manager, and you will see that the changes from October 2008 in mine manager, include Mr Louw, Mr Whittall, Mr Bevan, then Mr Slonker, then Mr Whittall, then Mr Lerch, then Mr White, then
25 Mr Ellis. Did the Department give any training focussing on whether frequent changes in senior personnel can make management of health and safety more difficult?

A. No, they didn't.

Q. You were aware of those changes, I take it?

30 A. I was aware of the changes, because they had to notify me of who the new manager was. In fact, after Mr Slonker left, because I knew Mr Slonker, I rang him on the basis I wanted to know, was he leaving, what was the reason he was leaving? He gave me his explanation, but I

was, one of the reasons I rang him was to determine whether or not there was something fundamental that was driving him to leave.

1702

Q. Was there?

5 A. He indicated that that wasn't the case. He said he was leaving for personal reasons because he was spending so much time away from home.

Q. Did you make a point of meeting with each new mine manager to discuss health and safety?

10 A. Not specifically, no.

Q. And perhaps just finally on electrical safety. I am presuming after the electrical safety visit of Mr Davenport and you on 26 November 2008 there was no check by the Department of electrical safety at Pike River?

15 A. There wasn't and both myself and Michael raised the issue about us taking on that responsibility and that we weren't qualified or able to do the sort of inspection that an electrical engineer might do.

**THE COMMISSION ADDRESSES COUNSEL – APPLICATIONS FOR
CROSS-EXAMINATION OF WITNESS**

COMMISSION ADJOURNS: 5.12 PM

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