



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
J Haigh QC, B Boyd and B Smith for Douglas White
J Rapley for Neville Rockhouse
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, A Rawlings, A Glenie, D MacKenzie, A Gordon for certain
managers, directors and officers of Pike River Coal Limited (in
receivership)
C Stevens and A Holloway for Solid Energy New Zealand
R Buchanan for Fire Service Commission and West Coast Rural Fire
Authority
K McDonald QC, C Mander, 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 Steed for McConnell Dowell Constructors
G Gallaway, J Forsey and E Whiteside for NZ Mines Rescue Service
B Latimour for Coal Services Pty Ltd
N Hampton QC and R Anderson for Amalgamated Engineering, Printing
and Manufacturing Union Inc

**TRANSCRIPT OF PHASE TWO HEARING
HELD ON 16 SEPTEMBER 2011 AT GREYMOUTH**

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COMMISSION RESUMES ON FRIDAY 16 SEPTEMBER 2011 AT 09.01 AM**SEAMUS JOSEPH DEVLIN (ON FORMER OATH)****CROSS-EXAMINATION CONTINUES: MR WILDING**

- 5 Q. Mr Devlin, we were talking last night about training exercises and the involvement of the inspectorate in those. Are you able just to explain some of the benefits of training?
- A. Benefits of training in emergencies in help and preparing if the event does occur. We run simulated emergencies quite regularly involve multiple agencies and it identifies if there are going to be any issues in the interco-operation between the agencies.
- 10 Q. I take it you learn cross-organisation co-operation?
- A. Absolutely, yes.
- Q. And also you would learn what role is performed by each organisation?
- 15 A. That's right.
- Q. And part of that would be learning the expertise of each organisation?
- A. Yes, finding out what they can bring to the table.
- Q. And associated with that, perhaps learning the limitations of each organisation?
- 20 A. Equally as important.
- Q. Are you able to comment about that aspect in the context of the Pike River operation?
- A. Yes. It seemed to me that people didn't know what other people knew, so they didn't know what they didn't know. You need to be able to ask questions of people knowing what their background is and solicit information from them, and it's a bit hard to do that if you don't know the questions you should be asking.
- 25 Q. I presume another advantage of training is building relationships with the various organisations?
- 30 A. Yes, so that when you go into an operation you have an idea of who's who in the room.

Q. And of course the purpose is to help you learn and train for dealing with different types of risks in the situations that might develop in an underground coal mine emergency?

A. That's correct.

5 Q. Do I take it from that that the exercises involve debate about the various risks and how circumstances might develop?

A. That's correct and also the strategies to control them.

Q. And presumably also discussion about the concepts that underlie those?

10 A. That's right.

0904

Q. And does that mean that they help the incident controller develop sufficient knowledge and experience to be able to understand those concepts?

15 A. That's correct.

Q. And they assist the incident controller of being able to meaningfully be involved in assessing those?

A. Yes.

Q. And that's an important attribute of an incident controller?

20 A. I believe it is.

Q. And in your view is practical coalmining experience necessary in order to be able to properly understand and assess those concepts?

A. I believe it's essential.

25 Q. I just want to turn to logistics. Would you agree that Pike River posed significant logistical demands?

A. Yes I would.

Q. And do coal mine emergencies generally have the potential for posing high logistical demands?

A. Very much so.

30 Q. Do you have any view on the police's role in that?

A. I believe they did a magnificent job of controlling the logistics and absolutely displayed their expertise in that area.

Q. Would I take it from that that you would support the police having a logistical role in this type of operation?

A. Essential.

Q. And would that extend to dealing with a political element?

A. Yes, any aspects that don't necessarily have to be dealt with by the mining people. Including that.

5 Q. Including, for example, cordon control?

A. Yes.

Q. Is the consequence of that that there should be a police officer as a member of the IMT?

A. It would be my expectation in New South Wales, yes.

10 Q. Essentially a police liaison officer?

A. Yes.

Q. Would it be correct to infer from some of what you've said that it's important that the members of the IMT had the ability to make decisions on behalf of the organisations that they represent?

15 A. That would be my expectation.

Q. So, if could just try and pull together some principles that might be important and effectively dealing with an underground coalmining emergency. First that the incident controller have understanding and expertise in underground coalmining?

20 A. I would agree.

0907

Q. And in a sufficient level to enable him or her to be involved in assessing the risks?

A. Yes, I believe so, yes.

25 Q. The merits of various potential courses of action?

A. Yes.

Q. And also how a situation might develop?

A. That's right.

30 Q. Next that the incident controller should either have knowledge of the particular mine or alternatively have alongside him or her, someone who has that knowledge?

A. That's right.

Q. Next that the IMT members mainly comprise those with expertise in dealing with underground coal mines and underground coal mine emergencies.

A. That's right.

5 Q. But including a police liaison officer for logistical and resource reasons?

A. Yes, their areas of expertise are invaluable.

Q. Next that the members of the IMT have the authority to make decisions on behalf of the organisations that they represent?

A. That would be my expectation.

10 Q. Next that where it's necessary for them to seek the views of someone higher up the hierarchy and the example was, the coal inspector seeking the view of the chief inspector in relation to sealing and entry that be able to be done swiftly?

A. Yes.

15 Q. But with the decision making power still reposed in that coal mine inspector?

A. That's how I would expect it to work, yes.

Q. Next that the IMT be of a size sufficient to be enable it to debate and make decisions in an effective and timely manner?

20 A. That's right, without becoming overwhelmed by numbers.

Q. Next that the decisions be risk assessed and that there be a review of that risk assessment?

A. That's right.

25 Q. And that both developing the risk assessment and the review of that will involve people who have expertise in underground coal mines and underground coal mine emergencies?

A. That's correct.

Q. And that that risk assessment and review process be able to operate in a timely and urgent manner when the circumstances require it?

30 A. I would expect that.

Q. And I take it particularly during the initial stages of a coal mine emergency there will usually be urgency?

A. Very much so.

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Q. And perhaps finally, that it's important that the people involved in that structure train for emergencies and train together?

A. Yes, some familiarity to be developed, yes.

5 Q. Just turning to training, are you able to tell us just briefly what type of training is required before people work in the coal mine industry in New South Wales?

10 A. Yes, the current general setup for entry into a coal mine in New South Wales for a mine worker is through contract companies. And contract companies are required to send their personnel to the Mines Rescue Service for a four-day training programme that involves safety aspects, safe work aspects, OH&S, particular emphasis on self-escape strategies and escape systems. And they are required to return on a six-monthly basis for refresher training, particularly focused on the self-escape and any changes that have occurred in that previous six months.

15 Q. Is this a legislative requirement or is this how the industry practice has developed?

A. It's an initiative the Mines Rescue Service took some years ago and probably going back five or six years, maybe even longer, that generally has become custom practice and expected of all operators.

20 Q. If I could just take you through some matters referred to in your witness statement, paragraph 52. You have referred to consideration of pre-bored communication, gas monitoring boreholes in strategic locations. Are they required in New South Wales?

A. No they're not.

25 Q. Is that done in mines in New South Wales?

A. No, the backup or alternate boreholes would be using either existing boreholes or the same process as occurred here, actually drilling boreholes.

0913

30 Q. You've referred later on in that same paragraph to the use of a tagging system. How are tagging systems used in New South Wales?

A. There's varying degrees of sophistication of the tagging systems. Some very similar to Pike where you just tag on or tag off as you enter the mine in general. Some more sophisticated ones where there's

communication from underground when someone moves from one area to another so they're changed on the surface. And then in high-risk areas or areas that are restricted by the number of self-escape units in the panel, there's sometimes a tagging board at the entry to that area so that you can't, for instance, if you have a self-escape system set up for 5 10 people and there are already 10 people in that area, then you would have known by the tagging system that you couldn't go into it.

Q. Thank you. If I could just take you to paragraph 60 of your witness statement and you've referred to the vertical exit from the Pike River Mine and your comments is, "Entry and exit would be difficult in normal 10 conditions." Have you got experience with the use of vertical ladders for emergency exits in New South Wales?

A. The only experience I ever had with a ladder for transfer from one seam to another was a long, long time ago and it was probably about 15 20 metres in length, but I wouldn't expect to have to climb a ladder of that extent. I would expect that it would be a mechanical winder.

Q. Why?

A. I think it would be very difficult to climb 100 metres on a regular basis if it was a normal access, and the access and entry to the seam would be 20 by mechanical windup.

Q. In New South Wales are ladders for emergency exits sometimes positioned in vent shafts?

A. No, not that I know of.

Q. Or do they ever form part of the vent shafts?

25 A. Form part of vent shafts?

Q. Yes.

A. No. Other than for repair or maintenance that would that probably be the only thing in small areas, sumps et cetera.

Q. You've referred at paragraph 64, to the distances between exit and 30 working areas and said they should be kept as short as feasibly possible to reduce the time needed to enter and exit and you'll be aware that the main drift at Pike River is about 2.3 kilometres. Does the length of the drift have any implications in terms of rescue equipment or facilities?

A. Yeah, I would expect that in putting in a self-escape system that that would've been taken into account and risk assessed and if it was required cache systems would be put in the drift if they were required, depending on walking distance.

5 Q. And just finally if I could ask you to look at CAC0089/1?

WITNESS REFERRED TO CAC0089/1 - GUIDELINE FOR AGENCY CO-ORDINATION DURING THE BODY RECOVERY AT NEW SOUTH WALES MINES

10 Q. I'm not going to go into this document, but could you just confirm that this is the current guideline for agency co-ordination during the body recovery at New South Wales mines?

A. That's correct.

THE COMMISSION ADDRESSES MR GALLAWAY

CROSS-EXAMINATION: MR GALLAWAY

15 Q. The decision about the Mines Rescue team entering into a mine at any stage, that's the subject I want to explore with you very quickly. The police, and I don't think you were here for their evidence, but they have said that they should have the final say in relation to that, that it's a matter that should be referred to the police. I assume that you disagree with that?

20

A. In my experience, in New South Wales I would be the person that would say whether they would go or not.

0918

Q. Yes, and you wouldn't refer it to the police for final approval?

25 A. No.

Q. No, and if I can suggest to you a system where if the police were part of the incident management team a decision in relation to entering into the mine, the preferable way to do it would be that the decision is made by the incident management team and approved by incident controller. Do you agree with that?

30

A. That's right, with input from myself in that incident management team.

Q. But obviously in New Zealand we're talking about the future in New Zealand, and I'm suggesting to you what might happen in a scenario like this again, that the incident management team has a police officer on it amongst other experts, that the recommendation to enter into the mine is made by the incident management team and approved by the incident controller. Do you agree that that's the appropriate way that that sort of decision should be made?

A. Well that decision would be reached with the New Zealand Mines Rescue input.

10 Q. Exactly.

A. So, yeah, that would be the way, sir.

Q. And finally, do you agree that notwithstanding what the incident controller might say, all the incident management team might recommend that the New Zealand Mines Rescue would still be able to say that they didn't want to go into the mine if they didn't feel that it was safe?

A. That's correct.

Q. So they have the final right of details if you like?

A. That's correct, exactly.

20 **CROSS-EXAMINATION: MS LUMMIS**

Q. Mr Devlin, given what you actually observed during your time at Pike, who do you think should, in fact, have been lead agency from what you observed?

A. It's hard to answer. In the early part, I would have expected the mine manager to be.

Q. Perhaps it's not so much your expectation, but in terms of the way people were doing their roles who in particular, personality even, do you say should have been the incident controller?

A. Again, I would have expected Doug White.

30 Q. You expressed a view in your brief of evidence regarding the rapid death of the men in the mine, and you said at paragraph 46 that you expressed this view to Trevor Watts. Did you ever express that view in any of the incident management team meetings that you attended?

- A. Not directly as an issue in the incident management team, but I did discuss it with other people with mining experience.

CROSS-EXAMINATION: MR RAYMOND

5 Q. Mr Devlin, when you attended the first incident management team meeting at midnight on the 20th of November you raised the question of sealing, correct?

A. That's correct, sir.

10 Q. When police made it clear to you that they would not allow sealing until the survivability of miners was zero, did you then, or at any later point in time, raise the issue of parallel planning for the prospect of sealing?

A. That was raised several times in different arenas and that was my expectation that contingency plans would have been run at the same time.

15 Q. So that first meeting when sealing was effectively shut off by that comment from the senior officer present, did you say well what is being done to plan for sealing in that event that that becomes necessary?

A. Not at that time, but I was involved in looking at contingencies a couple of days later or options for sealing, options for inertising.

20 Q. Now you just arrived, you know, later in the day and were a new member of the incident management team. Did you feel constrained at that first meeting in being able to express your views about how things should pan out?

25 A. Yeah. I wasn't sure what the make-up of the team was when I walked in and it didn't appear to me to be the incident management team. I was a bit thrown with the number of people in there and I was chopped off fairly quickly when I asked the question, "Had sealing been considered," and I really had to gather my thoughts afterwards to figure out was there another incident management team that was looking at the contingencies.

30 0923

Q. Can you remember how many were at that first meeting?

A. I would, it would only be a guess, but there was a fairly large conference table in the middle that was manned exclusively by police. There were

fire brigade in attendance, ambulance officers, some people that I recognised and quite a few people that I didn't recognise, so I'd say somewhere in excess of 20.

5 Q. You just used the expression you "felt chopped off" when you raised the question of sealing. Who did you feel was actually in control of that meeting? Was it the police, Doug White, Mines Rescue? What was your overall impression?

A. Oh, the impression I got was that the police were in charge of that meeting.

10 Q. Paragraph 22 of your evidence, you say that you were asked by the police to prepare a document that would indicate the miners were deceased. In your experience of Mines Rescue in New South Wales, have you ever been asked that question before in your role as a Mines Rescue senior manager?

15 A. I can't remember a particular event with that happening.

Q. You referred to the issue being one really for determination by a forensic expert and an explosion expert. Is that how the question of survivability during a search and rescue operation is considered in New South Wales?

20 A. It would certainly take the input of several people with expertise.

Q. And when you made the suggestion that it was something which should be determined by the experts you referred to, were you aware of that being followed up by the police or others?

25 A. That meeting that you referred to was on the Tuesday, is that right, when the question was put to me?

Q. Yes, I think that's right.

30 A. I think the next time that was raised in an official sense, was on the Thursday when two groups were asked, one to task the inertisation options and another group cut off from there and went to discuss exactly what I said.

Q. Was there a forensic expert or an explosion expert onsite offering their expertise on those issues, do you know?

A. That I'm not aware of.

Q. In your experience is it considered best practise to have the question of survivability in a situation such as that at Pike, under constant review by a separate and specialist team, in order to keep those involved with the rescue efforts focussed on rescue?

5 A. I would think it's essential to determine survivability in parallel with developing other intervention options to decide when the intervention options change to those that don't necessarily enhance survivability.

Q. In parallel, but a separate team, separate people?

A. That could be the way that could be handled, yes.

10 Q. And what's your view on the desirability of that? Is that preferable in your view to have the separate team?

A. If the team required that expertise, I would say yes.

Q. Now, you've been asked about and given evidence of your own view of the timing of death, and you've told us your initial impression. Was that
15 view conveyed to Mr Watts?

A. We discussed that, yes.

Q. Did Mr Watts share his view as to the timing of death from his experience?

A. I believe so, yes.

20 Q. Sorry?

A. I believe so.

Q. And what was that?

A. Sorry?

Q. And what was that? What was his view that he conveyed to you?

25 A. I had the impression that Trevor agreed with my assumption.

Q. And that was your initial impression from arriving at midnight on the Saturday, so did Mr Watts share his view with you at that time?

A. It was my – on travelling over there and thinking about the time that had passed between the incident on Friday to my arrival on the Saturday
30 night, I'd formed a view. That view was consolidated after I observed the explosion after that meeting. Nothing changed my opinion after I'd viewed the explosion.

0928

Q. That's right. And was Mr Watts with you during that first meeting and viewing the video?

A. Yes he was. I don't know whether he was with me to view the video but we were in the meeting together.

5 Q. And was it about that time that he shared his view that he agreed with what you had completed?

A. I believe so.

Q. In paragraph 48 of your evidence you referred to the equipment and resources available to the men and you said there were strategically placed caches of self-rescuers in the mine. Can you elaborate on what you understood the position to be with that?

A. My understanding was that the individuals wore a self-contained self-rescuer and that there was a cache of self-contained self-rescuers in the fresh air base at the bottom of the drift.

15 Q. You weren't suggesting by paragraph 48 that you thought they were somewhere else in the mine as well?

A. No, no, if that was the case that wasn't my understanding.

Q. You mentioned at paragraph 52 of your evidence, at the seventh bullet point, the question of electronic personal locators and in your written brief it says, "But are not commonplace," and when you gave your evidence you said, "But are very much not commonplace," so adding extra emphasis as to the commonality obviously. Why did you add the, "Very much," are they really not used that widely in New South Wales?

A. No, no they're not.

25 Q. And what's your view as to the desirability of their greater use?

A. In a perfect world I'd like them to be in every mine on every coalminer, it gives you the advantage of one, knowing where they are, and two, knowing whether they're moving.

Q. Let's talk in an ideal world for the moment because we're looking forward here and part of the role of this Commission is to make recommendations for the future. What would you say to these Commissioners as to the desirability, or you've expressed that, but the compulsion for widespread use of such equipment in mines in New Zealand as a tool for search and rescue and management?

30

A. I would certainly like to see the implementation of personal location devices.

Q. Is it really just a question of cost or do they become an impediment to efficient working in the mine, are they bulky, are they complex to use?

5 A. There's a lot of theorising of how it can be done. My knowledge of them is they can be typically two ways implanted. One into the miner's helmet, or into the actual battery they carry, so the impediment shouldn't be any greater, and that they work on a system where when a person passes a certain point they're registered or locked into that point.
10 There's several different options to doing it.

Q. We've heard reference from Mr Rockhouse to the Northern Lights system, which was said to, or hoped to be in use at Pike River but was malfunctioning at the time, were you aware of that?

A. Am I aware of the Pike River system or?

15 Q. Yes.

A. No.

Q. So when you're on site you can't remember any discussion about the Northern Lights, system called Northern Lights?

A. No.

20 Q. You've referred at paragraph 56 of your evidence to the dilemma to seal or not to seal and you said that prompt sealing or total inertisation excludes the possibility of survival. And you talk about the dilemma not easily being managed because of the expectations of the public, the families and so-on. We've heard evidence from previous witnesses
25 about the possibility of what's been described as partial sealing, which seems to serve the dual purpose of quelling a fire through controlling ventilation and continuing to allow a source of oxygen into the mine, either by a compressed air line or by leaving the portal open so that the drift still has, I suppose, stagnancy, it's not ventilating, are you able to
30 comment on whether there was scope for that discussion at incident management teams, was discussion on it, or whether it was closed down?

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- A. I certainly never had any discussion on it and I must say I can't get my head around the concept. If you seal the mine, the whole purpose of sealing the mine is to exclude oxygen from the fire, so I can't get my head around the concept of partial sealing where you seal bits of it and,
- 5 it's very hard to control the egress of oxygen if there is a fire underground by partial, I just can't get my head around it.
- Q. So in New South Wales, when you talk about the dilemma of to seal or not, it's a total seal whereby the portal is blocked, vent shafts are blocked, boreholes are blocked, is that right?
- 10 A. That would be my expectation.
- Q. So you've said you can't get your head around it, does that mean that when you were onsite at Pike, you didn't enter into any discussion or dialogue with other Mines Rescue personnel on it?
- A. I don't understand the concept of partial sealing. It didn't arise in any
- 15 conversation I was in.
- Q. As I understand it, it involves sealing the vent shaft and the Slimline shaft but not the portal entrance, so that you have the oxygen remaining in the drift and if the methane would slowly move through the mine there's a wall until it meets the oxygen, leaving oxygen in the drift
- 20 for self-escape if men were able to. What do you say to that?
- A. I can't get my head around that concept and I can't see it working.
- Q. Is that because you would have a fringe where the methane and the oxygen would inevitably mix and may reach the ratio of five to 15% and push over at ignition source?
- 25 A. There's multiple things that could happen. It would have to be totally risk assessed but I just can't see the concept working.
- Q. There's also been discussion that even if the sealing option had been taken, that that may, in itself, lead to a second explosion. What's your comment on that?
- 30 A. There's certainly no guarantee that if you sealed it you would prevent an initial explosion because by sealing it you still trap some oxygen in there. There's still the potential for the methane and air to mix into an explosive mixture and meet a source of ignition. However, if you had

sealed it you probably would've had no more than one more explosion, at the most.

Q. So you're sort of damned if you do and damned if you don't?

A. In respect of?

5 Q. Sealing. If you seal, it could cause at least one explosion. If you don't seal, oxygen continues to go into the mine, mixes with the methane coming off the coalface and if there's an ignition source there's an inevitable result and that's, as it happened, the second explosion?

A. That's right.

10 Q. This is really the dilemma that you're referring to?

A. Part of it yeah. If you don't seal or fully inertise, the potential for explosion is there all the time, uncontrolled.

Q. That's if you don't seal, and if you do seal there's the risk you just mentioned?

15 A. Yes, but if you do seal you are moving towards control.

Q. With the benefit of hindsight and knowing everything that you now know about the mine and the situation which existed on the days that you were there over the Sunday and the Monday and the Tuesday before the second explosion, do you think that, and with your view of course which you've expressed about survivability, do you think that the mine
20 should've been sealed?

A. Yes.

Q. Just moving onto the last topic, paragraph 64 of your evidence. You have said that, "It is preferable to have two or more entries to working
25 areas." Mr Douglas White, when he gave evidence, was asked about a second means of egress and whether or not in Queensland he would've been able to operate a mine with one means of egress as was the case with Pike and he said, "No, because of the legislative requirements in Queensland are that you must have two means of egress and entry."
30 Can I infer from your use of the word, "Preferable," that that's not the case in New South Wales or is it?

A. No, it certainly is the case in New South Wales, that two entries or exits to a mine are needed. The preferable – there are some instances of

single entry drivage within a mine, but there are rules, risk assessments and, yeah, and different setups to allow that to happen.

0938

5 Q. So, in New Zealand what would be your view going forward as to the requirement to have two entry and exits?

A. I believe that's the way to set up a mine. It would – a mine would not get past the approval process in New South Wales without two designated means of access and exit.

10 Q. So this mine at Pike wouldn't have been able to open in New South Wales?

A. That would have to be put to the approval process and looked at, but I have my doubts that it would've.

15 Q. Finally, in your experience of Mines Rescue and fatalities in New South Wales what has been found to be the case with the use by deceased miners of their self-rescuers? In other words, when the deceased miners have been found, have they been found with their self-rescuers on or not?

20 A. The one that I was most involved with very early on was Appin Colliery and from memory none of the people that were found in the crib room had time to access the self-rescuers. From the coronial report, I believe they died in a heartbeat.

THE COMMISSION:

Q. Sorry, they died?

25 A. Within a heartbeat.

RE-EXAMINATION: MR LATIMOUR

30 Q. Mr Devlin, I just want to clarify. You were asked a moment ago about the IMT and your role. When you arrived and attended IMT meetings, did you understand that you were there as an observer, or were you formally part of the IMT, or didn't you know?

A. My role here was to assist New Zealand Mines Rescue in any way I could.

Q. Secondly, you were asked some questions about electronic location devices. To your knowledge, how reliable are the ones that you are currently familiar with?

5 A. Well they're not in general use, it's still in a development phase. I would – that's probably the best way to put it.

Q. The ones that are currently in existence, do you know whether they are reliable or unreliable?

A. No I don't.

10 Q. Finally, on the question of sealing what are the benefits that are achieved by sealing a mine where there's fire and there's been an explosion inside? What are the benefits of early sealing?

15 A. Well that would be dependent on the particular situation and what you are trying to do, but it's probably the first stage in gaining some control over the atmosphere in the mine with a view to re-entry or recovering the mine so the earlier you can do it, the less damage it will cause, the more likely it is to be able to get back in.

QUESTIONS ARISING - NIL

WITNESS EXCUSED

THE COMMISSION ADDRESSES MR STEVENS – NEXT WITNESS

0943

MR MOORE RE-CALLS**GARY COLIN MITCHELL KNOWLES (RE-SWORN)****5 CROSS-EXAMINATION CONTINUES: MR STEVENS**

Q. Superintendent, I'd just like briefly touch on risk assessments, just a couple of aspects. I presume that – sorry, Ms Basher could you please go to DOL7770020003/13.

WITNESS REFERRED TO DOL7770020003/13

10 Q. Sir, I just want to raise the borehole piercing risk assessment and I'd presume that you didn't understand the terms for a lot of the safety equipment that the rescue crews and the drilling crews had, correct?

A. That's correct, yes.

15 Q. Yes. Can we highlight paragraph 75 please? Were you aware that, and it's the latter portion of that paragraph, and this is, sorry, just so you're aware, this is the brief of Mr Firmin for the Department of Labour. Were you aware that a reason for the rejection of one of the risk assessments done for the borehole piercing, was that it was "too technical?"

A. No, I wasn't sir.

20 Q. Would you be concerned if that was the case?

A. That it was too technical?

Q. Yes.

A. I would hope it would be technical, sir.

Q. I'm sorry?

25 A. I would hope it was technical.

Q. Now if we go to the next – sorry, we don't need to change, I'm sorry. You'll see there that's an instance where a rejected risk assessment was received by the Department of Labour at 4.12 am and it was sent back to the police if you go to the first line of paragraph 76 at 8.54 am?

30 A. That is correct, sir, yes.

Q. And so that had already been prepared at the mine site?

A. That's true.

Q. Gone to Greymouth?

A. That's correct, sir.

Q. Gone to the police in Wellington?

A. Correct.

Q. Gone to the Department of Labour?

5 A. Correct.

Q. Gone back to, then where, to the police in Wellington?

A. Correct, sir, yes.

Q. And then it had to reverse the chain. Would you accept, having heard from Mr Devlin that in New South Wales that would've been completed in two hours, that that shows really an institutional paralysis?

A. In listening to Mr Devlin's evidence, it shows that there was a, in this particular incident, perhaps a delay through lack of knowledge.

Q. And who would you attribute that lack of knowledge to?

A. Reading in paragraph 75 down to 76, it appears from this document it may be a lack of knowledge from the person from Department of Labour.

0948

Q. Can we just go to another example, it's been discussed, and this is in terms of the sealing options. When sealing was raised with you first, and I think that was the Saturday wasn't it?

A. That's correct sir, yes.

Q. Did you understand that an option might include a container where people could self-rescue out of the mine even though it was sealed?

A. I understand there were various options being put forward and that was one of them.

Q. So you did understand that?

A. Yes sir.

Q. Given that you understood that why was debate stifled on it?

A. Well I don't think debate was stifled on it sir. That's over to individual interpretation.

Q. Yes, all right we'll leave that for other witnesses. Superintendent, is it still your position that in such highly technical fields as underground coal mine disasters the police should be the incident controller?

A. I think that we need to learn from the future and hopefully that from this Commission inquiry decisions will be made. And I've listened to the witnesses gone before me that things will change.

5 Q. Sorry, I really don't understand whether that means that in the future the police don't need to be incident controller or that you still think they should be?

A. Well it's a case of I can't predict what's going to happen in the future, and we hope that this doesn't happen again, but I think in the future there needs to be some flexibility as to who is the incident controller.

10 Q. Right.

A. May I explain?

Q. Yes.

A. There obviously will be a role for the future in the police but it may change.

15 Q. Yes. But you understand no one, certainly that so far before the Commission, has suggested there's no role for the police. You understand that don't you?

A. That's correct sir.

20 Q. But is it your understanding that the police have no particular desire to be the lead agency?

A. I can't comment to that sir, I'm not the Commissioner of Police.

25 Q. Would you accept that, for instance, if there were a mine explosion and it was understood people were still alive but the mine was gassing out and you only had a few hours that that's an instance where the police should not be in the incident controller?

A. That may be one occasion sir, yes.

30 Q. Can I please have Ms Basher PIKE.00278. This isn't a criticism superintendent, but you'd said previously that when you got to work you read the incident action plans that had been generated overnight. Is that correct, each day?

A. That's correct sir, yes.

Q. And that this was certainly part of how you kept informed of what was happening 70 kilometres away at the mine, correct?

A. Sir, yes. When I answer that, it's not the only method.

Q. Oh no.

A. Yeah.

Q. But it was certainly one. And I'm correct that it was how you started each day, you checked these plans?

5 A. Yeah, each day I read the IAPs.

Q. Yes.

A. I had handover briefing from the superintendent from nightshift. I spoke to any of the staff that were involved in the changeover who came back to the base to get a briefing who'd been on site. And then any IAPs that came up that I felt needed further clarity, I rang the forward base.

10

0953

Q. And this particular one would've been occurring at the time of your handover, correct?

A. That is correct sir.

15 Q. Could we go please to page 6 of that Ms Basher? Sorry, in all instances and again, it's not a criticism but, these were the notes of the incident management team recorded by a police officer, correct?

A. No, not necessarily sir. On occasions these documents were prepared by Pike River staff as part of the note taking. It each meeting was depending on who was the scribe who took the notes sir.

20

Q. Well, then, at page 8, just to use this one as an example. S O Kibblewhite, who's that?

A. S O Kibblewhite could be a senior member for the fire department, it's not a police officer.

25 Q. It's not a police officer, thank you. And if we can now, sorry, then go back to page 6? Was it typical that in the IAPs that those who attended the meeting were listed as is occurs there at the bottom of that page, in terms of staff at IMT meeting at 11.30?

A. That is correct sir, yes.

30 Q. So the people listed above weren't all at the incident management team meeting at 11.30?

A. No they weren't sir.

Q. And so on the ones that my friend, Mr Moore, took you to earlier, which included a similar list of Mines Rescue personnel, for instance, that didn't mean they were necessarily at the IMT meeting?

5 A. No, but if you look at this, take from this document at 11.30, it gives a definitive list of those people who were present. The list above talks about the response commander for that particular period was Superintendent Powell, so he would've been back at Greymouth, but I take from that document at 11.30 in the morning there was police, Red Cross, St John, Mines Rescue Pike, NZF, Army and PRC staff.

10 Q. Thank you and could you just explain what's the purpose of then, the listing of the individuals above that and can you use, perhaps, Mines Rescue as an example?

A. That may've been a list of those people who were on the site during that period and the people below would've been the ones who attended the
15 meetings sir.

Q. Well, I'm not trying to trap you but the evidence from Mr Smith is that he flew out the night before back to Rapahoe, so there's an example of someone listed. Can you explain why he's still listed?

A. No I can't sir.

20 Q. When he wasn't at the mine?

A. No I can't sir.

Q. You at the early stages when you took control never sought any details about the financial strength of Pike River Coal did you?

A. No sir.

25 **THE COMMISSION ADDRESSES COUNSEL**

0958

CROSS-EXAMINATION: MR HAMPTON

Q. I'm not sure, were you present yesterday when a check inspector from Queensland, Mr Timothy Whyte gave evidence?

30 A. No sir, I wasn't.

Q. In that evidence he spoke, he was attached to or part of the crew that came with the GAG machine from Queensland?

A. He was sir, yes.

5 Q. QMRS people. He spoke yesterday in evidence of frustration levels of that crew reaching such a stage on Sunday, 28th November, that in discussions with Inspector Paynter, they indicated that unless things improved they were going to pack up their bags and go home in effect?

A. I understand that sir, yes.

Q. Did that level of frustration get up to you?

A. It did.

10 Q. The expressions of concern that they were indicating to Mr Paynter came to you did they?

A. They did sir, yes.

Q. What was done to remedy those frustrations, which seemed to have been based around inability to get proper information, inability to properly communicate between the various agencies?

15 A. I met with Mr Paynter and had a conversation with him and did my best to rectify the situation.

Q. You didn't speak direct to Mr Hanrahan who was running the QMRS team, the GAG machine?

A. No I didn't sir, no.

20 Q. Must have been of some concern to you to hear that this stage was being reached, that a team and a machine that was seen as essential to inertisation was being – they were threatening to leave. That must have been a concern to you?

A. It was sir, yes.

25 Q. Was that reported up to Wellington?

A. Yes it was, sir.

Q. I haven't seen anything in the briefs of evidence about that particular sort of level of frustration and incident, Mr Knowles. It's not recorded in your brief for example, is it?

30 A. No it's not, sir.

Q. Seems an age ago now, but in re-examination of Mr Nicholls, there is mention of a name David Bellett as being a person from the Department of Labour who was on the Mines Rescue Service Board, and you

mentioned the same name I think a couple of times in your evidence in terms of he being a reviewer of risk assessments?

A. That's correct sir, yes.

Q. He was a health and safety inspector from the Department of Labour?

5 A. That's my understanding sir, yes.

Q. Were you aware that Mr Bellett was a health and safety inspector but with the clear exception that he was not to have any powers in terms of places of work associated with coal mines, mines, quarries and tunnels, construction work and forestry?

10 A. No I wasn't sir, no.

Q. If that in fact is the case, and I seem to have a warrant relating to him in my hands; I'll show it if you want to. If that in fact was the case, he's hardly the most appropriate person with specialised knowledge of mines to be giving views on risk assessments is he?

15 A. In his case sir, no.

Q. Did no one ever point that out to you that this was not an inspector who had mines capability, as it were?

A. No sir, they didn't.

20 Q. Does that sort of signal to you a bit of a problem in terms of the organisation that you were given and had around you?

A. In which particular part, the police or the Department of Labour, sir?

Q. Well you were the incident controller. Doesn't it cause you concern now looking back, that the Department of Labour hadn't given you a person specialised and qualified in mining to give you advice on risk assessments?

25

A. Yes, there appears to be some issues in relation to that.

1003

Q. Just one last topic Mr Knowles, and you've been a long time. Have you got your statement of evidence there?

30 A. I have sir, yes.

Q. I just want to take you to 18/84, paragraph 447. And just preface it so everybody knows what I'm going to be talking about.

A. Sir, what paragraph is it again?

Q. 447. I'm talking generally about what's been talked about as a no-go area in front of the portal. Does it help if put it up for you?

A. Yeah, would you mind sir.

5 Q. Ms Basher I haven't prefaced it sorry, POLICE.BRF18/84. Just highlighting the paragraph itself, if you could highlight it please Ms Basher thank you. And this I should say is on the Saturday the 27th of November this relates to, your activities on that day. See the bottom sentence in that paragraph, "Diagrams were produced showing the safe area around the portal and a barricade was set up to demark the danger or exclusion zone?"

10 A. That's correct sir, yes.

Q. Was that the first time that had been done?

15 A. To that extent to my knowledge sir. I knew that from visiting the site early on that staff were given a full briefing in relation to safety going forward. They were given a full safety briefing, I'd never been to a mine before, they also explained the dangers posed by the portal and direct area around it. And on that particular incident it was marked so that people were definitely clear where they should not go and who should only go forward.

20 Q. Marked in what way?

A. My understanding sir, there was some emergency tape put round and it may have been sprayed on the ground. But also every time I went up there it was made apparent to everyone, including myself, that unless you were trained, unless you had a reason to go to the portal, unless you had the right safety gear, you did not go there. And the Whites River Bridge was the demarcation point where you didn't go forward of that, and no one did unless they were authorised.

Q. Made clear to everyone by whom?

30 A. It was made clear to everyone on site who was involved in the operation. It was made clear by the gentleman who carried out the training, whose name I don't recall, who gave evidence on safety procedures, and we all had to go through that. It was made clear to all my officers that –

Q. Sorry, was that Mr Rockhouse you're talking about?

A. No.

Q. Mr Couchman sorry?

5 A. Thank you sir, yes. And it was also made clear in relation to anyone who visited the site who was part of any phase at that area. And at one stage I do recall that a security guard was employed to stop people going across that bridge because there was some indication that people would try externally.

10 Q. Just come back to this sentence here. Was this barricade set up to demark the danger or exclusion zone, did that concept arrive with the Queenslanders from QMRS?

A. I don't recall sir.

Q. That's what Mr Whyte seemed to be telling us yesterday. And they insisted on proper fences and gates being put up, that happened?

15 A. The gates and fences were put up sir, I'm not sure it was a result of them.

Q. And even to the extent of putting a tag board on the white, White Knight River Bridge?

A. That's correct sir, yes.

Q. That hadn't been done before then?

20 A. No.

Q. And he thought police officer, you say possibly a security officer, someone was put to actively control access from thereon?

A. At one stage, yes sir.

1008

25 Q. Do you think it coincides with this time on 27th November?

A. No, sir, it was later on in the overall operation when information was received that someone possibly was going to attempt to enter the mine, as in a non-rescue person.

30 Q. Before 27 November can you tell us anybody going past the White Knight Bridge, were they, without exception, made to take self-rescuers with them?

A. Yes, it is my understanding sir, like the rest of us, we had to go through training. We had to make sure we knew how the self-rescuer worked. We were given a full briefing by Pike staff so that anyone who went

forward, would have to go through that training, including defence staff or anyone.

Q. And without exception people wore self-rescuers?

A. That's my understanding, sir.

5 Q. Did anybody keep a log or control of people who were going forward passed, so that it was known at any one time who was present in that exclusion blast radius zone?

A. Not that I recall, sir.

10 Q. Isn't that an essential thing if you're going into the danger zone to have some knowledge, in case something does happen, as to who's forward in that area? So we don't have as it happened underground here, uncertainty as to who's in the area of danger?

A. Correct, sir.

Q. Yes, that's something that's got to be looked at in the future, doesn't it?

15 A. Totally agree, sir.

Q. Yes. Just finally then on exclusion zones, was ever exclusion zone imposed around the area of the ventilation shaft and the Slimline shaft where they exit out, the side of the mountain?

A. Correct, sir, there was.

20 Q. Was an exclusion zone put on it?

A. No, might I explain. All movements to and from that area were monitored and only certain person with the right training, the right equipment and the right reason to be, were allowed to go there.

Q. Was that area fenced off or taped off in any way?

25 A. I don't specifically recall it, sir. Bearing in mind that it's an isolated area to get to, so one only could go there by helicopter or walking several kilometres up a track, so it wasn't easily accessible and all air movements to and from that particular part of the mine were monitored and controlled.

30 **CROSS-EXAMINATION: MR DAVIDSON**

Q. I don't expect you were aware as of the 19th of November last year that the Commission of Inquiry into the Strongman disaster, also dealt with the question of who was in control of that disaster after it occurred?

A. No, I wasn't, sir.

Q. Have you read the report of that inquiry since that time?

A. No, I haven't, sir.

5 Q. That report – I just want to refer this to you because it's relevant to the
questions you've been asked and comments made by the witnesses
about the nature of the police involvement in this search and rescue
operation. "The supplementary report made to the Commission of
10 Inquiry was asked to reconsider a passage of their report which
recorded that the factual situation suggests that perhaps the manager
and the senior officials were not in absolute control of the situation of
that mine." And the Commission reported to His Excellency, and made
the point in this report that, "After the explosion in question various
parties involved waited till the arrival of the Acting Manager Mr Leach,
15 the inspectors of mines, Messrs Cowan and Scott, and the Rescue
Station Superintendent Mr A Auld, and on the arrival of these officials,
Mr Auld took control of the operations which can be briefly described as
follows."

1013

20 Q. Now, that was a specific request back to that Commission for advice as
to who in fact took charge and it was the rescue station superintendent
who took charge of that operation and I raise this with you immediately,
because I wonder whether when you received the call to take over this
search and rescue operation, you had any knowledge at all of a search
or rescue operation at any coal mine in New Zealand at all?

25 A. I was in general had an understanding of some of the ones that had
occurred on the west coast, but none specific.

30 Q. Now, that of course contrasts strikingly with the experience you've had
and the training you've had for the other roles described in your
evidence because in your role as area commander, you plainly had
some very significant responsibilities and I note, one in particular, the
critical emergency response, I think, at Wellington Airport, is something
under your control, or was, or has been?

A. That is correct sir, yes.

Q. And that involves, I presume, potentially dealing with, not just a terrorist threat at that airport but a major aircraft accident at that airport?

A. It does, sir, yes.

5 Q. And in trying to look at the parallels, if there are any in your training, and taking the whole range, your search and rescue in an alpine environment would've involved tough decisions about whether people go out to search for someone missing?

A. They do, sir, yes.

10 Q. And the public are familiar with the fact that searches are called off in rough conditions for the protection of the searchers?

A. They are sir.

Q. You are familiar, presumably, with major fires where the police attend in support of the fire service with regard to potential entry into buildings to rescue people?

15 A. I am, sir, yes.

Q. And those decisions there are taken by the fire service?

A. They are sir.

Q. Have you been involved in observation of any of those dramatic incidents, and 9/11 comes to mind of course?

20 A. I have, sir, yes.

Q. But nothing really would've prepared you for dealing with something like this where not just the circumstance, and I put two of those parallels to you, but it's an unknown field for anyone outside to come in to understand the very nature of an underground mine and all the complexities of it, you would agree with that?

25

A. I do, sir, yes.

30 Q. Now, the purpose of my cross-examination, I want to explain to you, the families have really three areas that they want to ask you and put to assist this Commission. First is the question of the men who were involved in the explosion, how they were contacted and dealt with. I'll raise that with you in due course. Secondly, the accuracy and completeness of what they were told throughout, in particular the five day period, 19 to 24 November. And thirdly, the quality of the decision-making taken. And I want to start by referring to your

evidence-in-chief when you told this Royal Commission that you read the evidence of the families and you were gutted when you did so. Now, some of the families have taken, I'll say, umbrage to that, because they may have interpreted this the wrong way. I took it that what you were saying was that having read the very heart-felt expressions of grief and criticisms by some of the families, what you were saying, or attempted to say, was that you were gutted to think they felt this because that left a sense of failure on your part for having let them down, is that right?

5

10 A. That is correct sir, yes.

Q. There wasn't an expression of anger of what they said, as such?

A. Not at all.

Q. Thank you. And to be fair, while there are matters I wish to raise with you which are critical of the way things were handled, you would have noted, I expect, that in the recent evidence from the families, there are also clear expressions of support for the way things were done by you and others, you would've picked those up?

15

A. I have, sir, yes.

Q. And you would've also have picked up the expression from one family member of saying that really, the sense that she had in that case was that you were really out of your depth in dealing with such an enormous crisis with so little knowledge of the things that you had to explain to the families?

20

A. I've heard that, yes.

25 1018

Q. And just starting with that as a proposition, do you recognise that there is some truth in that?

A. No.

Q. Do you acknowledge that you were in difficulty in explaining matters that the families were raising at the meetings with you?

30

A. In the context of those meetings, I saw it my role to explain to the families what was happening in relation to the operation. Beside me was Mr Whittall who could provide an overview of the mine and the mine itself. When the issues were raised of my lack of knowledge of mines

rescue I took that sentiment back to Mines Rescue and requested that Trevor Watts could come and talk to the families. Now, it's been explained that he was busy and he couldn't do that. We also went to the Mines Rescue Trust and asked perhaps someone of that level could come and talk to them, and they chose not to.

5

Q. In terms of your knowledge of things, to be able to explain things yourself from the floor at those meetings, you were surely hampered as we have all been in trying to understand the coal mine over many months now, by your lack of knowledge about what was actually going on and had been going on underground?

10

A. Yes, but as I've previously said sir, standing beside me was Mr Whittall who had in excess of 35 years of mining experience. He was able to give the context as to what the mine was doing and what it involved, and I saw my role as providing an overview of the operation itself.

15

Q. Have you read Mr Whittall's brief?

A. Briefly, sir.

Q. I just want to refer to a passage of his brief. At paragraph 71, he refers to a discussion he had with you on the 22nd after a media conference and he was concerned that you'd asked a number of questions that indicated you did not understand basic concepts of the mine or possible causes and effects of the explosion and so on, and he said the best way to understand this will be to have a full briefing with him, Mr Watts and potentially Mr Brady of SIMTARS. Do you remember that?

20

A. I don't remember that particular conversation but I remember reading it in his brief.

25

Q. Well I'm not trying to set up any dispute between you and Mr Whittall, but he makes that comment more than once, that a concern he held was that you were really trying to grapple with things that were really beyond your knowledge?

30

A. That's his opinion, sir.

Q. I want to now just address the question of your readiness for this. I raised with you the parallels of your previous experience. I want to come to the time of your appointment. Now as - I'm going to do this in hourly blocks. The explosion occurred at 3.44 and the police sequence

of events indicates that the Intercad, that's the inter-emergency services communication isn't it, was received by you, by the police at 4.38. So that is 44 minutes after the explosion. The police comms knew of this by 4.40. It was apparent then that there were 25 to 40 men
5 underground at Pike River. So that's an hour after the explosion, the police have the knowledge of the fact of the explosion and men underground. I'm drawing this largely from your brief, so if there's anything I saw which strikes you as wrong, please tell me. You had no involvement at this stage and it seems from the record that
10 Constable Kimber and Sergeant Cross were despatched at 4.43, that's exactly an hour almost to the minute after the explosion. And you were in fact attempted – they attempted to contact you at 4.51 when there was a message on your cellphone, which you didn't get cleared that day until 5.28, so that is an hour and 44 minutes after the explosion took
15 place. Now by then on the record, Sergeant Cross had set up an incident response base and at 5.26 Sergeant Cross is recorded as having said that Mines Rescue will lead the rescue and recovery operation. That's again in the police record. You, on receiving your message at 5.28, I think, instructed Inspector Canning to take command
20 down here as the area commander?

A. That's correct sir, yes.

1023

Q. You spoke to Deputy Superintendent Commissioner Pope at 5.40, or thereabouts?

25 A. That's correct sir.

Q. And therefore two hours afterwards the police knew this much that there were between something, well in fact your record shows you knew there were 33, or understood 33 at the mine at that time. And at 5.59 you imposed what's called a, "NOTAM," N-O-T-A-M?

30 A. No-fly zone.

Q. No-fly zone. So that seems to be the first step that you actually took in the process. Is that correct, apart from Inspector Canning?

A. Yeah that's correct sir, yes.

Q. So now at say 6 o'clock, 5.59, we're two hours 16 minutes in. You then, we know, drove to Greymouth and got here at 12.20?

A. That's correct sir, yes.

5 Q. Now that, of course, doesn't take that long to drive from Nelson to here and you've explained there was no helicopter available to you, it was presumably no flight?

A. No sir, I would have had to fly from Nelson to Wellington to Christchurch to Greymouth.

10 Q. But you are now going to be the incident controller from the time you're instructed by Deputy Commission Pope?

A. No, I was instructed to go there and be the incident controller, but until I arrived Inspector Canning was instructed to take command sir.

15 Q. Yes, exactly. Now you've explained that on the journey there was an interruption when you turned round after 45 minutes and went back to Nelson, and that was to collect body bags?

A. Correct sir.

Q. Where did that come from, was that your initiative or from somewhere else?

20 A. No, it was a request from the Southern Communication Centre where they had, were possibly required, there was none available on the West Coast. I then returned to Nelson and we had to source those bags.

25 Q. Was it of concern to you that you were spending that much time, at least 90 minutes in the time to source going back when you were going to take control when you got to Greymouth?

30 A. No sir. Logistically I would've had to send a police car, another car all the way there was well, so I was so close to Nelson the logical thing was to go and pick them up and then go there. At the end of the day Inspector Canning was there and I knew he had command and I had faith in him till I arrived.

Q. I'm not suggesting otherwise Mr Knowles. What I'm concerned about, and the families are concerned about, is that it was eight hours 35 minutes after the explosion when you arrived in Greymouth and you plainly then took the lead role for the police at that stage as the incident

controller, and that eight hours 35 is explicable in part by the 90 minutes spent going back to Nelson, 45 minutes back and 45 minutes out, and the time sourcing why you went back. Did anything else happen back in Nelson?

5 A. Not that I recall sir.

Q. And then on the way you had limited cellphone coverage on that journey, Nelson/Greymouth, but you were able to use the police radio at times?

A. I was sir, yes.

10 Q. So how much information did you have by the time you got here at 12.20 am on the 20th of November?

A. It was brief, it was intermittent, and it was available on short bursts what I could pick up.

15 Q. Now for the families the issue really is this, that when you got here you really had firstly no experience in dealing with a coal mine disaster, and secondly in that eight hours obviously things were developing at a certain way in Greymouth up at the mine. And whatever had happened then had to be relayed to you as it were vital immediate response of the police had to be conveyed to you in person when you got here. Do you see the concern the families may hold about that is of any concern to you that that's the way events unfolded?

20 A. No sir I can understand their concerns.

Q. But you do accept that in that period of time you have very little knowledge about what was going on from the mine as you drove down?

25 A. I received briefings where I could from the southern comms and when I did arrive I received a full briefing from Inspector Canning sir.

1028

30 Q. Were you aware that when you got, as you came here, that the gas levels were such that no entry was going to be attempted, as you travelled here?

A. No, sir, I received briefings on that when I arrived from Inspector Canning, sir.

- Q. Did you understand that Mr Smith had explained at 7.40 that the gas sampling indicated no entry could be undertaken by Mines Rescue, did you know that?
- A. No. I received that briefing when I arrived, sir.
- 5 Q. Who did brief you?
- A. Inspector Canning gave an overview of what was taking place when I arrived and he filled in the hours that I wasn't present. I had a briefing from Sergeant Judd and then I attended the meetings until I left that environment, till about three in the morning, where I listened to what
- 10 was going on.
- Q. Did you understand when you arrived that the crucial issue was, how could they get the gas samples to make the decision about entry?
- A. That was plainly obvious, sir.
- Q. What was your understanding about how they were sampling at that
- 15 stage?
- A. My understanding that prior to my arrival they had been sampling by flying to the shaft, holding plastic bags or similar item in front of the shaft, taking samples and then flying them to Mines Rescue to be analysed.
- 20 Q. So you'd have been aware immediately that there was both a problem in getting the samples and then time involved in processing of them?
- A. Yes, it became very apparent when I arrived, sir, that this was extremely difficult. It was challenging and there was lateral thinking of other methods how it could be sped up.
- 25 Q. Well at that stage, correct me if I'm wrong, but your understanding would've been they were holding bags over the top of the vent shaft?
- A. That's my understanding, sir, yes.
- Q. They were flying up to the vent shaft, if they could fly?
- A. That is correct, sir, yes.
- 30 Q. Was there an issue at that stage about whether flying was going to remain possible?
- A. Yes, the weather was closing in and it was night.

Q. So, in essence, from that time, you recognise that, one, they had to fly, two, they were using a fairly simplistic, almost primitive form of gas sampling. The samples had to get to Rapahoe?

A. That is correct, sir, yes.

5 Q. And they then had to come back to inform the rescue team involving the police as to whether re-entry was possible?

A. That is correct, sir.

10 Q. Is it reasonable to suggest to you that even at that stage you would realise that everything was intensely problematic, because the key issue of re-entry depended on gas sampling which in itself was fraught?

A. That is correct, sir, yes.

15 Q. Now, in the sequence of events, and I'll just refer to the document. I don't need it brought up on the screen. It's SOE.014.00118/13. There's a reference at 22.05 and this is in the ordinary time, so it's a fixed time, that "Following a briefing to the police response co-ordinator," – this is before you get there. "Acting Assistant Commissioner Christian is advised by Jim Stuart-Black of the fire service that the current gas reading of 700 ppm carbon monoxide would be lethal after half an hour exposure and the current situation, impossible location of those missing in the mine was also discussed." Then goes on to make a comment that, "Many of the people involved may have been near the seat of the explosion." When you got there, at 12.20 am on the 20th, were you briefed on where those at the frontline believed the seat of the explosion to be?

25 A. No, at that stage there was some difficulty in identifying that, where the actual seat of the explosion was.

Q. But what were you told without that comment, with regard to where those at the frontline believe the seat of explosion may be?

30 A. I was told that there'd been a significant explosion underground. That there was some difficulty in establishing where it was, but it had been significant and there was also some difficulty in identifying where in the mine the men possibly were when it took place.

Q. Did you have a mine map given you?

A. It was on the wall, sir, and it was well displayed.

Q. And it was current?

A. It was my understanding. It was as current as it was when it was displayed on that day.

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5 Q. Were you aware from the time that you arrived that one of the major issues which everyone on the frontline had to address was whether there was a fire in the mine?

A. That was discussed sir.

Q. What was said to you?

10 A. It was said that there was a heating or some type of heat source underground and that they were trying to establish what it was and where it was. Was it part of a fire that was burning or could it possibly have been as a result of the initial explosion. There was a lot of confusion around that.

15 Q. But from the time you arrived, you would've recognised that this was a huge question mark hanging over rescue, not just gas sampling, but whether there was a fire in the mine?

A. One of many questions sir.

20 Q. Well I don't want to lose it in the midst of many questions, I'm putting it to you, Mr Knowles, that this was identified to you, or not, as a very significant issue along with the gas sampling. Was there a fire in the mine?

A. Yes sir.

25 Q. And looking at the sequence of events, and again this is at page 13, at 22.50 and so it's before you get there, there's a briefing information from Daniel Rockhouse and Russell Smith, discussed at forward command where this is noted in the police record, "It is thought that the explosion, possibly methane, has ignited the coal dust. If this is what happened, then it's believed there may be a fire within the mine which is an ignition source and Doug White advised of an incident three weeks earlier when the ventilation failed and a build-up of methane occurred in the mine." So, the reason I'm raising this with you, we need to, as it were, nail it down, is that I'm putting to you that when you arrived the crucial information you needed was firstly, as best could be done, where the

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me were. Secondly, what the gas was like, it was very adverse at that time?

A. That is correct sir.

5 Q. The possibility of rescue turned on sampling for one, gas sampling which produced the right results?

A. At that stage, sir, there was only one sampling point and it turned on that.

10 Q. Yes. But the position depend upon the gas sampling coming back and telling you, telling someone, Mines Rescue in particular, that it would be safe to enter the mine?

A. Mines Rescue, yes sir.

Q. And again, that the question of whether there was an ignition source in the mine was a fundamental question associated with that gas evaluation?

15 A. It was, sir, yes.

Q. Now, you had to get to grips with this immediately didn't you as the incident controller?

A. I did, sir, yes.

20 Q. And you also had to, I presume, like all of us, get some understanding, or try to get some understanding of the gases themselves, what we were talking about, methane, carbon monoxide, carbon dioxide, to get a feeling for whether there was any possibility of life underground?

A. That is correct sir, yes.

25 Q. And when you arrived you had one certain piece of information which was that Daniel Rockhouse and Russell Smith had walked out?

A. And survived, yes.

Q. Did you know that where Daniel Rockhouse had walked from in the mine?

A. No, not at that stage sir.

30 Q. You know now he walked from 1900 metres?

A. I do now, sir, yes.

Q. So it's a long way into the drift, we call the drift 2.4?

A. It certainly is sir.

Q. That would've told you, immediately, "Well, if someone survived the blast and could walk out from there, then a very real question existed as to whether there were other men in the vicinity of that area from 1900?" Had you understood the point?"

5 A. Yes sir.

Q. Because I'm really raising this with you to, it's not in anyway a criticism, Mr Knowles, it's just to get to grips with these issues at 12.20 when you arrived required absorbing a vast amount of information in a foreign environment for you?

10 A. It does, sir, it's not dissimilar in relation to, if you take the environment out of it, it's not dissimilar to any other operation when you first attend. You have to get to grips with it.

Q. Yes, but, again this is not a criticism, you can't just dismiss it saying, "Take the environment out of it."

15 A. Sir, I'm not trying to dismiss it, not that at all.

Q. You're trained in other areas. Let me finish. You're trained in other areas to be familiar with the aircraft, with the airport, with the prison, where I see one of your principal roles has been in cases of riot and problems at Mount Crawford over the years, has been. You're trained in all that, but you're not trained in this to understand the terms that are being used, the people involved. This is my point and for the families. You are stuck into a position, you didn't put your hand up, it was just your role to do what you were instructed to do, and I'm trying to have you acknowledge that the difficulties that you faced were immense in getting to grips with it all when we're in a life and death situation. Do you accept that now?

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A. I accept sir it was complex and challenging;

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Q. Mines Rescue Service was not known to you then, you hadn't worked with them before as I understood your evidence earlier?

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A. Not personally sir, no.

Q. So unlike again any situation you're put into, for example, Wellington Airport emergency where you know the go-to people, the ones who are familiar with dealing with these situation as technical experts, you didn't

have the knowledge of the people involved down here. For example, Trevor Watts?

5 A. No, but I knew sir that my local staff did, they are trained with them and work with them, that when I arrived that they informed me that they were present and what their skills were and that they were preparing.

Q. I understand that, but that requires being relayed to you for you to absorb as well, doesn't it?

A. It does sir, yes.

10 Q. Whereas you go to Wellington Airport after a major disaster and you know the key people in emergency response there, your training would tell you this?

A. I think sir what you're trying to say is that when I arrived I had faith in Inspector Canning who knew these people to fully brief me.

15 Q. I understand that, but I'm putting to you that your distance from the action people, the people who really know their stuff, you don't know them, you've got to meet them, gauge them, listen to them absorb what they're telling you?

A. Correct sir, yes.

20 Q. Now in this sequence of events, at page 14 there is this reference on the 19th of November very close to the time you arrive, John Dow, Pike River chairman, this is at 2318, 1118 said, "All the miners still underground are equipped with portable rescuers which they are trained to use in pitch dark and they also carry lamps." He said, "A gas build-up is the principal hazard at the moment but the miners all know where additional air is stored in the mine." Was that what you were told when you arrived at 12.20 am?

A. Not in those words sir, no.

Q. What did you understand from the briefing you received as to the prospects of men having survived the blast?

30 A. I was informed from Inspector Canning and from listening to Doug White give his briefing that an explosion had occurred, that two men had self-rescue and walked out, that there was a belief that anyone underground possibly could be injured and that there was still a

possibility they were alive and could also come out, or could be recovered.

Q. What did you know about how they could have protected themselves, or been protected, in the mine?

5 A. I didn't know that at that point sir.

Q. Did anyone talk to you about a fresh air base or a refuge?

A. It was mentioned during one of the IMT briefings when I first arrived.

Q. Well did anyone say to you, 'The men have air underground if they've survived this explosion?'

10 A. Yeah, there was discussion that there was a fresh air line going into the mine. It was mentioned that when Dan Rockhouse walked out he turned the taps on. And in the early briefings at which I attended in the morning and also when Peter Whittall arrived he informed me that that was possible, they could still be alive, there will be fresh air going in there, if they were knocked over or hurt they could be laying there injured and they could be rescued.

Q. And where did you understand from that briefing that they would get their fresh air from?

20 A. Sir, from either the fresh air base or the line that was running into the mine that Rockhouse had used on the way out.

Q. And did you know when you arrived how he had managed to use the airline. Can you please tell us?

A. Not at that specific time sir, no.

25 Q. Well I mean did you think there was a breathing apparatus on it, is that what you're told?

A. No sir, I didn't know.

Q. You just didn't know, there was just air?

A. Yeah.

Q. That's all?

30 A. Sir, when you go to a site like that and you have Pike River staff who are involved in that mine and they inform you of these things, they are the subject experts and you believe them.

Q. Yes, well you've got no basis to do otherwise, have you, at the start because they're conveying information to you?

A. Correct sir. You've got to understand that when I first arrived I was dealing with Doug White and then later Peter Whittall who had been involved in the design and build of the mine, so he had a knowledge of what was available and like any situation you are dependent on an expert such as that to inform you.

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Q. All right, well, I just want to now talk about, I'm going to come back to the days in question in a few minutes, but talk about the way things were set up and I don't need to go into any of the detail of this, except to pick up from your evidence what you say about the incident action plans. They're drawn up by someone else and you would receive and review them. That's how you've described in your evidence, Mr Knowles. You are here in Greymouth and these plans are being drawn up, what, here or up at the forward command?

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15 A. Forward command, sir.

Q. And they're coming back to you in a written form for you to evaluate?

A. They are, sir, yes.

Q. And before they come back to you, is there a discussion about what they contain and what you're going to be asked to consider?

20 A. No, sir, they were a living document that would come back. I'd also receive verbal briefings from the forward command team. I would visit the site in the early days and also receive a briefing from my team when they were changing shifts, so they were part of a whole picture.

Q. Yes, I just want to understand the actual dealings, because this is relevant to what the families query now. You were here in Greymouth. How often in the first, for example, two days did you go to the mine?

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A. Three or four times.

Q. Over the two days?

A. Yes, sir.

30 Q. So most of the time you're here in Greymouth at headquarters?

A. Yes, we – the decision was made that we would appoint a forward commander at a senior level to stay at the mine site, that I would return to Greymouth and then start collating the necessary equipment, resources and staffing to service the operation.

Q. Yes, now that really is it, isn't it? That, I mean, you are not the person at the frontline addressing the actual response up there. You're not the person communicating with the large group of people assembling there, SIMTARS and so forth, you are receiving information that's relayed to you from the mine site back to Greymouth?

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A. From my forward commander, sir, yes.

Q. Yes. So, it's a briefing process really on a continuing basis and you evaluate from those briefings?

A. Yes, it was a briefing process, sir, but also a communication process, a two-way communication.

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Q. What I'm getting at, and again the families are concerned about this, is that you weren't part of the living, breathing environment at the mine site where really tough decisions were being taken and impressions formed by a whole lot of expert groups of people, SIMTARS, Mines Rescue for example. You weren't part of that scene. You were removed from it, here in Greymouth?

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A. That's correct, sir.

Q. And in the immediacy and urgency of this crisis, wouldn't it have been far better that you had been positioned, had received knowledge directly from those people rather than indirectly in the way you've described?

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A. No, no I don't. For the simple reason that, on occasions, when I did go to the mine you could tell that it was a highly emotionally charged environment. Decisions were being made that were crucial, that you had to step out of that environment and make them with some clarity and with a clear head, and you could tell in the early days that because of the fact that a lot of the staff up there were miners themselves and there were friends underground and relatives, that some of those decisions need to be made, and someone had to step back and make them with, based on evidence, as opposed to rumour and speculation, and to be honest, like I had considered being at the front-end and then when I looked at it in the first two days, I could see that even a lot of my own staff were emotionally charged and being drained that you needed someone to step back and make those decisions based on what was occurring. I don't see any risk in what took place, and hindsight's a fine

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thing, but anything that was needed of urgency, I facilitated and got and any decisions that were crucial, I escalated.

Q. So who, as you sat in Greymouth and the incident action plans came to you and the risk assessments came to you, who was your right hand, or right hands here? Who were they?

A. Did you see, sir, the chart I put up?

Q. Yes, I've seen that. I just want to know, when you see a chart of names, but I want to know who it was that was giving you, or helping you come to the decisions you had to take?

10 A. I had Inspector Dave White, Inspector Paul Carpenter, Inspector Mark O'Connor, Inspector Mark Harrison. I had a legal advisor. I had a number of defence staff. I had fire staff. I had ambulance staff. And it was a command environment where I also had a team of people doing logistics, staff welfare and a whole group of people.

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Q. Yes, you had 17 people working under you directly as I understand you evidence?

A. That is correct, sir, yes.

20 Q. Did you have anyone who was an expert in underground mining with you?

A. No sir.

Q. And therefore, no one with underground mining rescue and recovery experience?

25 A. No sir. Those people, as I previously said, were based at the forward command.

Q. Yes. It would have been an enormous aid for you to have had someone beside you of the kind I've just described?

A. Look, I have no doubt, if I could re-do it again, it would, certainly sir, yes.

30 Q. Thank you. Now, you were working to a decision-making model, as I understand it, which was called, approach to decision-making?

A. Evidence-based decision-making sir.

Q. Yes, and that was drawn up by who?

A. Assistant Commissioner Nicholls.

Q. Yes. And is this because it was going outside the general decision-making processes that you followed?

5 A. No. If I might explain, as an ex-detective inspector with a long experience in homicide and operational environment, it's not unusual to have these things drawn up to put some rigour around the processes that are involved. And, for example, that particular document was designed so that it gave some clarity to my commanders at the forward base, myself and those people at a strategic level, how the process would work.

10 Q. But I'm just really querying, why did you need this thing drawn up on this occasion as opposed to using the decision-making model that you would always use?

A. I personally didn't need it sir.

Q. But obviously, a higher in command, someone thought you did?

15 A. I felt someone in higher command probably thought it was an aid to me.

Q. I want to refer to a passage in the evidence of, then relieving, assistant commissioner, I'm sorry, I'm not sure what his current title is or rank, Superintendent Christian, and on the 22nd, three days later at paragraph 107 of his evidence, he tasked Inspector McKenzie, the police liaison officer, to provide a list of the officials onsite who were involved in the decision-making as to actions and decisions and to provide a risk assessment criteria as to what they were basing their decisions on to enter the mine and what level of knowledge and experience there was for making decisions. Were you in on that concern held by Mr Christian?

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A. No I wasn't sir.

Q. You don't know anything about that?

A. No I don't sir.

Q. How much contact were you having with National Headquarters?

30 A. With AC Nicholls it was constant.

Q. But he was relieved by other officers wasn't he?

A. Yes. What you've got to understand, sir, that whilst I may have had contact with the assistant commissioners or the person in that role, they'd appointed also their own liaison person in my base.

Q. Yes, all right. Now, one area that doesn't seem to be covered yet in the evidence, at least as given in this hearing, indicates that a decision with regard to closure of the mine, closing or sealing of the mine, was in fact elevated to Deputy Commissioner Pope, is that right?

5 A. That is correct, sir, yes.

Q. And I'm taking it from Mr Christian's brief at paragraph 70, and for the record it's POLICE.BRF.12/16, where he says, "That on the 20th due to Superintendent Knowles' report of 8.23 pm, I also advised Inspector McGurk of the risk of any decision to close the mine and this decision was to be elevated to Deputy Commissioner Pope. Inspector McGurk stated that he was aware of the risk and would advise." So, if we look at the full chain of command here, we work from, on that issue, Deputy Commissioner Pope down through the project co-ordinators and then down to you, that's the sequence, that's the command structure?

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A. That is correct, sir, yes.

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Q. You and your alternate? Now just to be quite clear and others have given this a good amount of attention in this hearing. The risk assessment separately from the incident and action plans that you dealt with, did you take responsibility for the risk assessment analysis?

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A. In what context do you mean sir?

Q. Well when a risk assessment was received, and we have many documents here indicating concern about the speed with which risk assessments were being completed. I can take you to them if we need to do so?

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A. That's fine sir.

Q. But there was a concern about the risk assessments being signed off, was there not?

30 A. There was sir yes.

Q. We'll come back to it. What was your actual role, what did you do with them?

A. Once a decision was made that all those key points in the RA process were to be escalated to Police National Headquarters, I did everything I

could to facilitate that as quickly as I could, and as I previously stated, on some occasions I was the meat in the sandwich. If those RA documents arrived on my desk and I felt that they needed further review, I would go back to the forward command and say, guys we need to sort this out quickly before it's escalated. If any decisions came back via Police National Headquarters, where they need to be improved. If I could do that I would to take the pressure off the front-end, but when the RA process went to where Police National Headquarters decided that they would sign off most of them, I saw my key role as making sure that they were composed in a timely manner, they reached the required standards and they were forwarded as quickly as possible.

Q. You see, I'm looking at a document, it's PIKE00144/7?

WITNESS REFERRED TO PIKE.00144/7

Q. And this is of - at 1600 hours on the 23rd of November, and one of the issues identified there two lines from the bottom is "delay on risk assessments," and above that, "quicken risk assessment process". So this is the 23rd, dated before the second explosion. And just go back a page, thank you Ms Basher, to page – we'll go back to page 5 of that document. And seven bullet points from the bottom of the page is "Reference to operations being slow by risk assessment rejections from the Department of Labour?"

A. I read that sir, yes.

Q. Now, would they be risk assessments that you had been involved with in the process?

A. They're the ones I would have forwarded up the chain sir.

Q. You would have looked at them and sent them on to Wellington?

A. As quickly as I could, sir.

Q. But clearly from your evidence earlier this week, on some occasions you looked at risk assessments and thought they, I think you used an expression like "you could drive a car through them" or –

A. A bulldozer sir.

Q. Pardon?

A. A bulldozer.

Q. A bulldozer through them. Mr Raymond says it was a tractor but –

A. Sorry.

Q. But whatever it was, the risk assessments that you were getting you regarded as inadequate, for what reason? They're just not done properly?

5 A. When you receive a risk assessment for Pike Mine and the supporting documentation is for a risk of Australian mine, even I could see as a layman that the two weren't the same, and there were occasions where I looked at the documents came forward and thought even as a police officer there's safety holes I could identify in my simple layman's terms that needed to be rectified. So I would ring them and say, "Team, we need to look at this. What's going on here?"

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Q. So that team is what, your forward command?

A. That's all the people that were involved in the IMT process. All those people that signed the RA documents either from Mines Rescue, Pike River, emergency services, New Zealand Police, fire and all those people in the IMT process.

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Q. See, the reason I'm raising it is that if you look at the top of this page, well, one, two, three, four, five, six bullet points down, we've got, "Risk assessment and delay in responses after having left the mine site is an issue and continues to be an issue." So, and there's a whole lot of these and I can take you to them all, but was that one reason they were pushed off up to Wellington?

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A. No, sir, they were not, that's not the reason.

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Q. I'm just – okay. But to what extent did it hamper what was going on, by the sound of it from these documents it became a real operational issue?

A. No, it didn't become an operational issue. I think that as previous witnesses have said, these documents needed to be peer review and with some independence, to make sure that the risks that we identify were minimised or mitigated where possible and that's, a rigour was put round the process.

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- A. To give you an example, when we went through the RA for the capping of the main shaft which required that large, as someone described it, the frisbee, to be put on top of the shaft, there was some indication that they were going to use a helicopter that didn't have the capability to lift that thing. There was a risk posed by putting a helicopter over an open vent shaft spewing out toxic flames. And there was a risk posed by that helicopter could've been sucked into that hole and blow up the mine. A lot of those things weren't discussed in the original document and they had to be sent back then, and that particular occasion when I spoke to NZDF their pilots and senior members said well, "That's a real risk superintendent, that you need to either mitigate or identify how you're going to do it." Now beyond that process sir, with a lot of these risk documents, because it was a privately owned mine, not only did the risk have to be looked at, there was a whole lot of issues around the legality if we introduced something into the mine and it blew up who was going to pay. And my colleagues from Western Australia, and when they brought the robot across, were quite adamant that those things needed to be dealt with before they'd even land on the ground. So not only in parallel to the risk assessment process you were having to put rigour around it, around a whole lot of commercial things that had to be dealt with in the background.
- Q. My concern was only the delay factor Mr Knowles and it's not my primary issue, I'll move on to the next topics for concern of the family.

THE COMMISSION ADDRESSES MR DAVIDSON

25 **COMMISSION ADJOURNS: 11.00 AM**

COMMISSION RESUMES: 11.16 AM**CROSS-EXAMINATION CONTINUES: MR DAVIDSON**

5 Q. Mr Knowles, I just want to talk very briefly with you about determining the number of men who were missing. And although I'm not going to bring up the page, the Upper Big Branch report made to the governor of that mine disaster last year, have you read that before?

A. No sir, I haven't.

10 Q. I just want to make an observation from it that is maybe so trite that you can simply agree with it, I hope you can, that the most fundamental thing in a rescue operation like this is to know how many people are involved, how many people are missing?

A. Correct sir, yes.

Q. And then you've got to try and work out where and the means of accessing them?

15 A. True sir, yes.

Q. One of the points that comes out so strongly in the evidence as a whole and in particular when reading the sequence of events, is the astonishing number of changes in the number of people you were advised were missing underground. As an observation, you accept you agree with that?

20 A. I do sir, yes.

25 Q. Because even just reading your brief and combining that with the sequence of events. I'm working just now from 5.20 pm on the 19th. We have a figure of 36 advised by Doug White, at 5.55, 33 advised by Doug White. From the sequence of events at page 8 there is a count of the tags which comes up with 32. At 6.45 there is reference to 36 tags on the board in a media release. At 8.42 the police are told 28. At 1.30 am in a discussion with Mr Whittall, your brief refers to a different list of people who were missing than the police had to that point. At 4:30:29 families were advised to that effect. Families were communicated on that basis for a meeting at seven. At 6.30 am it's revised to 28. At 8 o'clock Mr Whittall says it's 29. And then your evidence continues, and I'm going to just put this into the record. From paragraph 142, there

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were real difficulties in knowing the nationalities of the men involved. And Pike - paragraph 264 – “Had great difficulty determining who was underground and the next of kin information was often out of date. The fluctuation in the number was between 28 and 33.” This is your
5 evidence, but I just put to you in fact it was 36, that’s in the record of the sequence of events, right?

A. That's correct sir, yes.

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10 Q. Now whose responsibility is it in a search and rescue of this scale, or any search and rescue, to make the contacts with next of kin?

A. In a situation like this, when we arrived it was decided on the night in a conversation, in think prior to my arrival and also confirmed when I spoke to Mr Whittall, that we need to establish the identity of the men quite quickly, we needed to establish the numbers underground, we
15 needed to establish their names, their nationalities and their next of kin. And that was obviously a priority. As a senior police officer at any emergency is to get that clarity clear, correct and timely.

Q. One of the problems you faced here was that you had, first of all, the media all over this and wanting obviously to name names as soon as
20 they could do so?

A. Correct.

Q. And you also had the fact that this is an area where people know who was up at the mine, and very quickly they’re putting a jigsaw together as to who in fact was missing?

25 A. Correct.

Q. And yet, of course, not everyone is part of that jigsaw in this neighbourhood, there are people well removed from Greymouth whose men were down that mine?

A. Correct.

30 Q. And communicating with those people was vital in terms of the goal of making sure they found out before they learned of it through the media?

A. Correct.

Q. Now this is not put in any way as a criticism, so please do not take it as this, but if you’ve read the accounts of the families who have filed

statements you'll realise how badly awry that communication process went, and there are many reasons for that. You'd have seen the multiple reasons why things went wrong in the communications. One of them that you identify is the fact that the next of kin lists were not up to date?

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A. Correct sir, yes.

Q. Now that's not your fault, it's not the police fault, but it's a primary concern for this industry and any industry where men, or people may be lost?

10 A. Yes it was and it was an embarrassing situation when you're contacting the next of kin list and found out they weren't the next of kin anymore, and that someone had a new partner or no longer were in a relationship with that person.

Q. And that whole question of sometimes estrangement or dislocation from people, change in relationships permeates the briefs of evidence that you've read from the families doesn't it?

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A. It does sir, yes.

Q. And because not all their voices will be heard I just want to take you to one of those accounts to demonstrate how things can go wrong, particularly with regard to next of kin. And by that I'm referring to those who are blood-related next of kin as opposed to partners. And this is a brief, and I'm going to read this into the record and you'll know who this is, I'm not going to identify this person, there's no need to do so.

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25 Q. This is someone who had no contact with his family member for some time, quite some time, and it relates to a young miner, or a young contractor, and on the 20th of November, his parents in Australia saw a picture of this young man on television. The person whose brief I'm reading from did not receive any calls at all on that day apart from that, from his parents. On Sunday the 21st of November he checked his voicemails and received the message to call his father. He rang the Christchurch Police and asked if they could help. He was put on hold and the officer said there was no information, to call Greymouth. He rang Greymouth and was told they could not confirm if his son was at

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Pike River or not. This man was sitting at Christchurch Airport, in his own words, "feeling overwhelmed and fearful and in tears." An airport employee approached and asked if she could help and he asked her to take him to the security, to the police, or airport security, someone who could help. They were taken to an airport phone, a direct line to the Airport Police and then an officer approached and took this man into a private room. He rang someone and then told him his son was trapped in the mine. Now that, for many reasons why that circumstance arose in the background to that particular family, but it vividly demonstrates the imperative of chasing down those who have the reason to be vitally concerned in a situation like this, doesn't it?

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A. It does, sir, and I can understand that frustration and that's not a good situation, but when you're dealing with 29 men trapped underground and the only document you have for next of kin or relatives is a company document, you go on what you've got, sir.

Q. Yes, and I agree and it's not here to criticise the police, as I said.

A. No, sir.

Q. But, this Commission needs to hear the vividness of the tragedy of people who find out in this way.

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A. Oh, look I totally agree and might I also comment and perhaps pre-empt some of your next questions, is that for me a major focus was making sure that I got the names right. That we got the next of kin details right, and that when those names were released publicly, there was still some conjecture and some families did not want their next of kin details released and I can understand that and I think by that stage there was a great deal of intrusiveness by the media, who were trawling Facebook pages and we had to quickly make sure that that information was accurate and the right people knew, and I think for the learnings for the future is in, in the mining industry which can be extremely risky that next of kin details need to be living documents and constantly updated.

Q. Yes, they need to be updated and they also need to include more than simply one name as next of kin, quite often, don't they?

A. Sir, if I could perhaps give an example in my own life that the New Zealand Police run a very rigorous next of kin process, which includes

my life partner, my parents, but also someone else in my life that will get to those people if I'm killed.

5 Q. Yes. So the lesson in your view is learned, it's a matter of getting this across to the employers or the people in control of the settings where someone may in fact be missing?

A. Totally agree, sir.

10 Q. Organisationally, and I'm reading from FAM00024 – I don't need it brought up Ms Basher. The evidence of one partner of a man who is lost in the mine is rather different. This is how she describes the events. "She didn't receive any contact from anyone at Pike River or the police, so about 8.30 pm she drove to the mine with two girlfriends. They got to the Moonlight Fall. There was nothing there, not a light. They drove up the road towards the mine and stopped at a roadblock. Couldn't understand why the roadblock was so far away. They were distraught family members driving all that way in the dark. We got so close, had to turn around and drove all the way back to town. The police officer at the cordon told us to go to the Karoro Learning Centre, so we did so. We ran into civil defence staff outside the police station. They'd been denied access to the mine site. They couldn't get information. They said, 'Go to Red Cross, not Karoro'. The information was confusing, so we went to Red Cross. It was about midnight. There were a number of people there. Names were taken." I'm paraphrasing. "The mayor was there.

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25 Q. No information came. We left there about 1.30 am. I eventually arrived home at about 3.00 am. I got a call at 5.30 am saying, 'Go to Red Cross at 7.30.' Now, organisationally, this was a partner of a man who was lost in the mine. No communication at all with her in that tragic, tragic night. Nor next of kin issue, she was his partner but no communication came. It vividly exemplifies the need for the organisation around where someone is known to be a next of kin does it not?

30

A. It does sir, yes. I think that what you've highlighted is that in the context of this, next of kin needs to be extended beyond family members and also include partners.

5 Q. And as you say perhaps, you know, a best friend, close contact, as you've described in your own case?

A. Totally agree, sir.

10 Q. Now I'm quickly going to move through the days in question, and beginning with the 20th which in fact was when you arrived at 12.20 am. I have introduced with you already your knowledge of the key issues and I put it to you that gas sampling and fire and the men being holed up were key issues for you to address right at the start when you arrived, and you agreed with that?

A. I agree sir, but I think that in this particular case there was experts providing that to me, that information.

15 Q. Yes. I'm talking about its implication of the key issues, that's all at this stage.

A. Thank you sir.

20 Q. Now it seems very clear that the Pike River emergency response management plan simply went out the window so far as you were concerned, it wasn't in play?

A. Sorry, I'm lost sir. Which particular aspect?

Q. Well you're aware of the Pike River plan. We've it on the screen for days now?

A. I've seen it sir.

25 Q. Were you following it?

30 A. No. When I arrived you could see, as I've previously said in my brief of evidence, that there was confusion and there's a great deal of distress. Emotions were high. There was a need for Sergeant Judd to corral people to get them to make sound decisions based on the evidence before them and kind of bring some rigour to the process, which is not, it's not a criticism of anyone either sir, because it was a very, very traumatic and harrowing experience for everyone there.

Q. All I'm trying to ascertain is were you in your mind in any way following the emergency plan that Pike River had?

A. No.

Q. I see. And did you clarify quickly who was in charge as incident controller with everybody who was there, you personally?

5 A. No I didn't because prior to my arrival I told Inspector Canning to take command and do that, and also when I arrived it was obvious to me that Sergeant Judd was wearing a fluoro jacket which said "Incident Commander" and everyone can see it.

Q. See, you heard Mr White's evidence and I'm just referring to his paragraph 92.

10 A. No. Which "White" sir?

Q. Doug White.

A. Yes I have.

15 Q. And where he said that he was introduced to Sergeant Cross at 5.30 pm. He was the most senior police officer on site and was therefore the police incident controller. He didn't notify Mr White he was police incident controller, "but I recall that during the course of the night he started wearing a luminous yellow vest labelled, 'Police Incident controller.'" That seems to be the way he got the message that the police had taken over as incident controller?

20 A. It appears sir, yes.

25 Q. What, at that stage on the day of the 20th, and you've told us that basically you were up, you didn't go to bed for some three days in your evidence. So through that morning of the 20th and when the hopes for rescue were so much alive for people, and the language was a rescue at that stage wasn't it?

A. Correct sir, yes.

30 Q. What information were you getting as that morning went on about, as it were, the real situation underground? Given that the intent was on rescue, what were you gleaning for your part as to what the true prospects were of rescue?

A. I was receiving information from the police staff who were on site. I was receiving the IAPs. I was receiving information from Mr Whittall who I've previously stated was involved with the company. I'd received information during the night from Mr White, Doug White, and also was

receiving information from the Mines Rescue team who were present, and I listened to what they said.

1133

5 Q. Well, I'm going to flag the nature and reason for my questions in the interest of time. What I'm driving at is whether you understood at this time that the situation was in fact extremely serious and uncertain and there was, even then, a real prospect that the men would not come out alive, whether you understood that?

A. I understood that sir. I understood the serious nature of the incident.

10 Q. And you were getting information from some of those people that you've just referred to or indirectly from those people that this was in the language of some of the documentation, potentially a K41 situation?

A. That is correct, sir, yes.

15 Q. And I take it the reasons for that would have principally been that some of those people relaying information had some knowledge of the effects of a gas explosion, actually knew something about the effect, is that so?

A. That's correct, sir, yes.

Q. Where did you get that information from?

20 A. I got it from some of the IAPs and also I got it from listening to the conversations that took place up there in front of me.

Q. When did you first hear the mention of a possible fire?

A. I don't recall, sir. I remember attending one of the first family briefings, the media briefings where Mr Whittall had mentioned a heat source underground or a heating.

25 Q. Yes, but when did you become aware that there potentially was a methane fire underground?

A. I think as days progressed on sir.

30 Q. Well, was it ever the focus of any discussion you can recall with anybody, that we've got a methane fire underground and we simply have to get it out or no one's going in.

A. I think there was a lot of discussion in the early stages where whether the heat source that everyone talked about had been created by a separate fire or the blast.

- Q. I'm going to come back to some documents in a moment, but I'm just looking at the 20th for a moment, to focus on what was known and I want to compare this with what the families were being told. "During that day, we had a," as a reference in your brief, "To being told by someone that there was a risk of a secondary explosion up to 12 hours, as if this was some like some kind of period during which the explosion could take place, but outside the 12 hour period things would change." What was that reference about?
- 5
- A. I think you've taken it out of context. At some point during the IAP with the information process, someone said to us there's a possibility of another explosion within 12 hours. That's what was said.
- 10
- Q. But I'm just inferring from that, that that was being said, you understood that , in that 12 hours ,yes, there could be an explosion but outside the 12 hour period did that mean someone was suggesting that explosion was less likely?
- 15
- A. No.
- Q. So really in any period of time there could be an explosion?
- A. Well, obviously yes from the evidence we've heard.
- Q. The briefing was given to the families that morning at 7.00 am on the 20th and the media release that was issued, referred to the Chilean mine as an example as if that is an example of what can be done but distinguishing a shaft mine from an incline mine didn't it?
- 20
- A. That's my understanding, sir, yes.
- Q. But you knew then it was a very different situation. It's not a gas mine in Chile. Any reference to Chile in the context of hope for rescue is irrelevant really?
- 25
- A. In hindsight now it is sir.
- Q. So that wasn't something you understood at the time?
- A. I knew there'd been another mining disaster.
- 30
- Q. But you knew no details of it?
- A. No.
- Q. There's also reference on that very first day to a clean room. Do you remember when a clean room was first described to you?

A. I think it was one of the earlier conversations during the night I had with Mr Whittall or the morning before the family or the media briefing.

Q. Well, we'll come back to this but where did you understand the clean room was?

5 A. I can't recall specifically in the mine sir.

Q. Well, did you know what the clean room was supposed to be?

A. My understanding from what I was told, it was a place that the men could go to and shelter and receive air and wait to be rescued.

Q. But you had no idea where it was?

10 A. No sir.

Q. Am I correct in thinking that you were told this was the only place where men could be holed up in this clean room?

A. No.

WITNESS REFERRED TO PNHQ.01543/15

15 1138

Q. Ms Basher, would you bring up please PNHQ.01543 at page 15. And before it comes up I want to refer to the document itself, which is an occupation Pike briefing at 7.00 am on Sunday the 21st of November 2010. This is a page from it, the situation. Did you have anything to do with the preparation of this document?

20

A. Which one sir?

Q. The document you're looking at, it's PNHQ.01543/1, "Operation Pike 7.00 am briefing, Sunday 21 November 2010, gas explosion in the Pike River Coal Mine?

25

A. The document you've got on the screen now?

Q. Yes.

A. Nothing to do with it sir.

Q. Did you see it?

A. No.

30

Q. Have a look at that page, page 15, and you see there, there appears to be a severed compressed air line in the mine that is working. Now were you aware of that, the detail of that, there was a compressed air line that was severed, that was working?

A. Yeah, I recall from when I arrived and the discussion in front of me and speaking with Mr Whittall that there was an air line into that, as I've previously said, into the mine.

5 Q. And what were you told it could do for the men who were are in the mine?

A. It would provide fresh air sir.

10 Q. And you see the reference in the second bullet point of a small room that stores technical, electrical equipment, a clean room, is the only place given the fire scenario where it's possible trapped miners may still be alive. Now you disclaim any knowledge of this document at all?

A. Yeah, I totally do sir, I didn't produce it.

Q. Yes. So I'm asking you whether the content of that bullet point was known to you for some other reason, by some other route?

15 A. As I've previously stated sir, it was known to me through conversations that we'd had at the mine during the early hours of the morning.

20 Q. We've got that far, but what I'm trying to ascertain is whether, either on the 20th of the 21st you actually held the view that men were holed up in what was called a clean room, and it's referred to in the sequence of events as well Mr Knowles, and that clean room in some way was offering protection to the men?

25 A. No, that's not my view sir. As I've previously stated, I held the view that there possibly was survivability through the fact that two men had self-rescued and the information we were receiving from Mr Whittall and the Pike River staff was that people could still be down there injured, unconscious, hurt, and could still be alive.

Q. I'm not going to leave the point yet. I want you to tell this Commission, I'll take the morning of the 21st, we can use the 20th if you wish, where was it you understood the men might be holed up and able to be rescued from?

30 A. As I've previously stated sir, I was told that they were possibly injured, hurt and could be still in the mine and still be rescued.

Q. Coming back to the question, where were you told they might be?

A. I was told that they could be anywhere in the mine and could be laying injured or hurt and could be rescued. I was also told, as you've

previously stated, that there was fresh air being pumped into the mine and they could still be alive.

5 Q. So am I right in thinking that you couldn't then, this is not a criticism, you couldn't then, if someone had said to you on the 20th or the 21st, point to somewhere on that mine plan you had and say, That's where the men may be," you couldn't have done so?

A. No sir.

10 Q. So does it follow that in fact you had no knowledge, not only of where the men might be in a holed up position, but what they had other than air?

A. No, as I've previously stated, the indications from the Pike River mining staff were that they could still be alive and be underground, they could be injured and could be rescued, and we were trying to amass that information, as you've previously stated, as to where, what point of the mine they could be?

15 Q. Well I know because of a discussion and the instructions we have Mr Knowles that that answer will come as, and has come, as a real surprise to the families who were sitting through the briefings and believing the prospect that there may be men holed up somewhere and that somewhere there was some sort of refuge for them. But by the sound of it you could not have answered that question had it been put to you at a meeting as to where they may be in that mine?

1143

25 A. No, sir, and as I've previously stated that at those meetings they were the types of questions that Mr Whittall could answer. He built the mine. He was the mine manager. He'd worked there, and I could answer questions of an operational nature, sir.

30 Q. Yes, and that brings me right back to where I began this cross-examination, because there were so many things that were being raised at meetings which you simply couldn't answer, technically you could talk about resourcing and what you were told was happening, but as for decision making that was a frontline decision which was going, passing through your hands and up to Wellington?

A. In stages, sir, yes.

Q. I'm going to refer now to the incident log for the New Zealand Fire Service which is in under NZFS0010/1, and some pages from this.

WITNESS REFERRED TO NZFS0010/1

5 Q. And this is not, as you'll hear, exclusively a fire service involvement recorded here but much more because it refers to briefings of police officers and other parties. Have you had the chance to read this Mr Knowles, or have you read it?

A. No, sir, if you could bring it up on the screen so I can.

10 Q. Yes, I will do so. There are a number of pages I wish to refer to. Just to get the flavour of it, I'll ask Ms Basher to bring up page 3 for a start, and this page shows that you've got a guiding line so you move top part of the page is 19th November, we move to the 20th down the bottom.

A. Can I ask a question? Is this document, is it from the forward command, or where's it from?

15 Q. It's the incident log for the New Zealand Fire Service, so it's compiled from a number of sources, as you'll see, you'll see the identification.

A. So was it compiled at Pike site, or at their headquarters?

20 Q. I think it was compiled in different places, yes? Well Mr Stuart-Black is in Wellington, headquarter in Wellington, but it's derived from information from the site.

A. Oh, okay.

Q. And from Wellington, as you'll see.

A. So this is a log that's created in Wellington?

25 Q. Yes, maintained there. So if you have a look at this, Saturday 20th November, you'll see to the flavour at 7.10, "Gas analysis captured last night was inconclusive" and down second bullet point from the bottom, "I have concerns the mines company do not fully appreciate the gas levels. Planning needs to commence for mass fatality, not public." Now, that was why I asked you the question before Mr Knowles, about
30 the reality of the situation. I'm putting to you that you understood right from the start on that first day that the risk was of mass fatality here?

A. There was a risk that we would be facing fatality, sir, yes.

Q. And if we go over the page Ms Basher, page 4 at 8.45 on the 20th, there was reference to, in the fifth bullet point, "A general sense that Mines

Rescue are realistic to the situation and consider K41 likely.” Same point, isn’t it?

A. Sir, I’ve lost where you’re reading from. Oh, at the top, yes.

Q. The fifth bullet point?

5 A. Yes, sir.

Q. From the top block, 8.45? See that?

A. I do, sir.

Q. Now, that really accords in the printed form with what you’ve told the Commission today, doesn’t it, that you too understood from the outset that we could be looking at mass fatality?

A. Yes, from the outset sir, I was looking at all possibilities.

Q. Now I want to tie that in with the answers you’ve given regarding the gas having to stabilise and the risk of fire. Ms Basher, would you go to page 6, at 15.21? Look at that entry and you’ll see a call from Mark Boere, and you’ll see in the fourth bullet point that the, “After recording the carbon monoxide increasing, oxygen decreasing, methane increasing. Anticipate there is a fire burning. That information provided to Assistant Commissioner Nicholls and Superintendent Dunstan. Now this is important in terms of the criteria that we’ve been through this morning, Mr Knowles. The prospect of a fire burning was alive at this stage?”

A. According to the fire log, sir.

1148

Q. We go to page 7, and at 17.19 Mark Boere (spelt differently), “All indicators are positive that it’s a fire. Options to seal and fill with nitrogen about the only way you could deal with this kind of fire.” And at the bottom of that section, “Time for some hard decisions.” And then at 18.45, “Police briefing with Assistant Commissioner Nicholls. The flag need to be realistic about the situation.” That’s the fourth bullet point. See that?

A. I see that sir.

Q. And then at 19.38 from Mark Boere, “Reality of the situation clear to Pike Mine team. Advised Mines Rescue that things are moving to recovery. DOL have spoken to Crown Law. Advice that mine cannot be

sealed and fill it with nitrogen.” And so at this stage on the 20th it is apparent in the police command structure as well that the fire is now a real issue?

A. According to that log sir.

5 Q. And were you up with the play on this?

A. No, no I did, I have never seen this log before in my life.

Q. I'm asking you whether you were up with the play that there was a fire being reported or talked about including at police headquarters, Assistant Commissioner Nicholls?

10 A. The IAPs and things that I was indicating sir, did not reflect the intensity of this document.

MS MCDONALD:

Sir, I just want it to be very clear because the point was read out from this document relating to DOL having spoken to Crown Law in that document. The Commission have been advised formally that that's just inaccurate and I understand that that correction has been accepted sir by counsel assisting, and I just wouldn't want anybody to be proceeding on a wrong assumption.

CROSS-EXAMINATION CONTINUES: MR DAVIDSON

20 Q. Now looking at the same document at page 8, Ms Basher. In the section at 20.16 the reporter has contacted Paula Beever at home and provided a summary of the situation known to date. “Discussed the requirement to identify experts. None spring to mind at this stage. Paula is happy to be part of any review group to consider international CVs.” Again, clearly you weren't part of that discussion but were you aware that there was a move to get some international support and expertise in connection with the fire?

A. No sir.

30 Q. Look at the section at 21.12, 21.12, and here is Mark Boere making a phone call to the reporter. “Summary comments. After talking about Pike River management wanting to bring families up to the site, Mark will be there for the fire service.” The fourth bullet point, “Need to start advising families as to what's happening.” Now, this is not your

document, I know, but you can see in here the thrust of a concern that the families be told about the situation. You can see that can't you?

A. I can from that document, sir.

Q. And I'm sorry I have to complete this. This is an important part of my questions obviously Mr Knowles. Now on the same page at 0700 on the 5 21st of November we've got the reference to the small clean room underground. "Only possible safe area from the fire," and then if you look to see in the third bullet point what the family briefing contemplated, "We'll be showing some operational photos of the area. Focus of 10 conversation the ongoing scene assessment, et cetera, safety management," and at the bottom, "Combustion grade flagged at 34.28," which you've heard about in the evidence already. Now that initiative if you like, expressed at fire service level is seen at page 9 and in the passage which runs on from 7.00 am, 0700, two bullet points from the 15 bottom,

1153

Q. "JSB flagged the need to start telling the families. We have known since 1521 hours yesterday that there's a fire underground. Will be a difficult day today and care will need to be given to how things are 20 managed." And the same point is made in the third bullet point at 0849. "I have flagged to police that there is a need to tell the families given the length of time we have collectively known of the fire." This is, as recorded, expressing recognition that there was thought to be a fire and the families had to know. You can see it here, but I'm taking your 25 evidence to indicate you simply didn't know of this?

A. No, sir, I didn't, I've never seen this bullet point before ever.

Q. But not only that you didn't know that there was a fire, thought to exist by the New Zealand Fire Service in the way that's described here?

A. Not to that extent, no.

30 Q. But in terms of the criteria that we've established during your cross-examination, as to the critical components, gas as monitored, heat or fire, this is standout isn't it?

A. It's a combination of factors, sir, that would've prevented re-entry into the mine.

- Q. Well, that's true. It would've prevented re-entry into the mine at a time the families were waiting, every second of every day, for indication that rescue was possible. So, not only were the gases readily being analysed, although SIMTARS have come on the scene of course, not only were they not readily being analysed, or easily being analysed, but this fire was thought to be burning and that knowledge held meant until that fire was dealt with, there would be no re-entry, but my understanding from your evidence is that you simply, as incident controller, were not aware of it like this at all?
- 5
- A. No, sir, not to that extent that's written in this document.
- 10
- Q. You see, looking at it now, and as the families now understand it, they are saying, "Why weren't we being told this at the time. We can face the truth. We don't want to be flannelled over this just because the authorities know we want our men out. Tell us what you know." I think you recognise the importance of that Mr Knowles?
- 15
- A. Sir, as you will be aware, I don't flannel anything.
- Q. I understand that. But that's not my suggestion to you. I'm saying, looking at this and recognising, as you do now, what some in this whole operational structure were saying, and these are the fire people, information conveyed carefully to the families about that issue would have told them, in conjunction with the problem with getting gas levels to a point where they could be dealt with, that this is a situation of great pessimism?
- 20
- A. Sir, I'm going to go back to what I said originally, that when I attended those meetings I told the families what I knew, based on what I knew, and that standing beside me was Mr Whittall who had 35 years of mining experience who had a lot greater knowledge of that mine than I do and that's not what he was saying.
- 25
- Q. That's my point. This is not directed at you Mr Knowles. It may be a product of the way the structure worked, although I have referred to the fact that Police National Headquarters were aware of this and to the involvement of some there, and this document is studded with reference to briefings with Police National Headquarters. All I'm saying to you is that given that you were deriving your information in substantial part
- 30

from Mr Whittall, and he wasn't saying this to you and not to the families, that this is information that they should've had?

A. Well, there's two things I'm going to comment on, if I may sir, one of the things I originally told the families that I wouldn't lie to them, and I never
5 have and secondly, I gave the information I had at hand on each day.

Q. Yes, Mr Knowles, please it may help. You don't need to be defensive about this.

A. I'm not being defensive sir.

1158

10 Q. It's not directed against you at all. It's the fact that it's not known and I'm going to bring another point to bear here. If you had read the family briefs in detail, you'd realise that some of those family members actually knew this mine. They worked there and they knew from what they were
15 were going to meetings where the issue was not being raised by those, who to the families, to the families, you and Mr Whittall, were those conveying the true information to them. Now something's gone very wrong here Mr Knowles because they missed out on vital factual information. And I'm putting to you that that was in part the product of
20 your being removed from the front line, removed from discussions with the people who could've given you this information, and in a sense removed from Police National Headquarters where these matters were being discussed, because the police are involved at that level in these matters. You're kind of stuck in the middle, as it were. You understand
25 what I'm putting to you?

A. I can understand what you're saying sir.

Q. And can you see now the validity of the families concern, that they lost out because of that?

A. No I don't. I received full briefings from the front end.

30 Q. Sorry, what did you say then?

A. I received full briefings from my team at the front end.

Q. Well if that's the case your team didn't tell you this did they?

A. Not specifically in this log.

Q. Well forget the log, they didn't tell you of the perceived risk of a major methane fire, or the methane fire. And there's reference to it being in this log, and I can take you to it if you wish me to do so, for being inexhaustible supply of methane. That simply didn't get through to you did it?

5

A. I note your comment sir, yes.

Q. You heard Mr Nicholls give evidence?

A. I have sir, yes.

Q. And he, I think, made some reference to the families being entitled to have this information, this sort of information?

10

A. I do recall that sir, yes.

Q. And you're not actually departing from that proposition either. You accept that this is the sort of information that should've been given to them?

15

A. Totally agree.

Q. I'm just going to ask Ms Basher to bring up PNHQ.15492/2. Now it's come to my hand, and I confess there'll be others in this room who know the governance of it, but it's got key issues, 1700 Sunday 21 November, and you can see the situation in the mine there. And so we're talking about the same time period I've just taken you through from the fire service log, "Critical focus on determining safe atmosphere in the mine," talk about the Graham combustion et cetera. The second dash point, "The hot operating environment combined with dangerous levels of toxic gas make the mine too dangerous for rescuers to currently enter." And then, "Advise from the New Zealand Fire Service is that all indications point to fire in the mine and that it'll be extremely difficult to put out such a fire, it is not known how extensive the fire is." And go down to the sixth dash point, "Advice from mining engineers suggests that there is an exhaustible supply of methane in the mine." So if this is, as it seems possible to be associated with the police, the story's well understood at police level, but not at your level, some police?

20

25

30

A. I know that sir.

Q. And if we go Ms Basher to the next page, page 3 of the same document, and I'm just going to introduce the passage at the top of the

page, which runs from the previous page but I'll introduce it in this way. Page 2 records, "International expertise, international offers of help continue to be received, following assistance has been accepted," and they talk about the Australian experts with equipment on site, "No limit to assistance being offered by the Australian Government." So the Australians would do all that was required. Then at the page on the screen, "Teleconference with the Department of Homeland Security and Emergency Management in the United States.

1203

10 Q. Teleconference between experts at the forward command and from the Department of Homeland Security. Experience of those people in America in Upper Big Branch, West Virginia. Americans have indicated they'll be in a stronger position to provide advice at teleconference on 22 November." And then lastly, "Operation may move from rescue to 15 recovery. At what point would this decision be made?" I'm putting this to you really for completeness Mr Knowles, because it brings the police into play again and it is early morning on the second day after the explosion and indeed reconstructed things look very bleak at that time?

A. I note your comments, sir.

20 Q. Now I can move quickly through the next couple of days before I come to the last two topics I want to raise with you. The events of the 22nd of November, so 56 hours after the explosion. We have things like DOC are cutting a track up to the top of the vent shaft for sampling purposes for getting up there to the top of the vent shaft. You have briefed staff on your evidence at paragraph 269, your staff, and said that a coal-based combustion is occurring and you refer to recovery at this stage, 25 this is the 22nd of November. So your staff become aware of this and it follows from the evidence that we've just been through and indeed your own evidence, which I'll put to you quickly. On the 21st of November at your paragraph 216, you talk about an analysis of gas in the evening of 30 the 21st, which goes back to the morning gas sampling, and you had at 8.00 am methane burning and 9.00 am coal burning, and your comment was that this coal burning meant there were high temperatures in the mine?

A. That's correct sir, yes.

Q. On the 22nd of November Mr Whittall showed the possible location of trapped miners to the family members and he showed I think the video footage from the portal, is that right?

5 A. That's correct sir, yes.

Q. You'd seen that?

A. I'd seen it on the afternoon of the Monday.

Q. You only found out about it on the 22nd though didn't you?

A. That's correct sir, yes.

10 Q. Again, I just make the point. Here is evidence of the explosion and you don't know about it until the 22nd, you don't see it 'til the 22nd, and you're the incident controller?

A. That was the situation where it was brought to the attention of a detective in the investigation and he did not deliver it to me on the
15 Sunday.

Q. So it went into the investigation arm, not the search and rescue arm?

A. Yeah, he did not deliver it to me.

Q. It was obviously a matter of import up at the portal and indeed Mr Whittall didn't even know about it himself according to his evidence.

20 He didn't know there was a camera there according to what he's told this Commission. Have you read his evidence?

A. I have sir.

Q. So you didn't know, he didn't know, and so you find out on the 22nd and realise that something has to be shown the families?

25 A. Correct sir.

Q. Just on that point. Really, Mr Whittall wasn't up at the mine site managing things from the Pike position all the time was he? He was chief executive but he wasn't up there as he were running the ship in terms of search and rescue because Mr White would have had that
30 responsibility so far as the company was concerned?

A. That's correct, sir.

Q. Did you ever sense that Mr Whittall didn't actually know everything that was going on?

A. No I don't because I understand and he used to tell me every morning at 6.30 he received the full briefing from his team. He would then ring me and meet with me.

5 Q. But that's how the information got through. He would get a briefing. He would tell you what he'd heard and you would go and see the families and bring into play what you'd heard yourself?

A. Correct sir, yes.

1208

10 Q. Well we can see already some of the things that which were standouts that weren't getting through, can't we? For example, the video? For example, the flyer? They weren't being conveyed.

A. No, sir, and I – with the video situation, it was not of my making that it didn't come to me, but I take responsibility that it didn't come to me.

15 Q. I'm not looking for that sort of acknowledgement, thank you. Now, I want to quickly go to the 24th of November and because it's been dealt with in great detail, I really just want to record this and have you agree or otherwise. Just for a moment, it looked in the morning of the 24th as though there might be the prospect – or around lunchtime, there might be the prospect of a re-entry?

20 A. Yes, correct, sir.

25 Q. And in fact everything swung into action for the purpose of re-entry on the 24th. Mines Rescue were ready to go. Risk assessments were being completed. In what's taken as a whole seems to have brought that rescue, or that re-entry to halt, apart from the explosion, but before then, was the recognition that some of the samples were indicating a temperature, ignition source?

A. That's correct, I'd gone – that's correct, sir, I'd gone to the mine and the IMT team were assessing that situation and things were coming into play.

30 Q. And it was only really shortly before that, before the explosion occurred, that it was recognised that there was a problem. There was a problem in terms of the change again in the heat, the gas might be looking a bit better but the heat source was identified again as a problem from the gas samples?

A. Yes, that's correct, sir. My understanding is that Mr Singer said we needed another 10 minutes to analyse the situation.

Q. Now, I don't want to dwell for more than a few, a couple of minutes on what happened on the 24th, on the night. This was the moment of terrible truth for the families and it's understood how you felt, indeed everyone felt going to that meeting to tell them. And we know it went horribly wrong and it began with Mr Whittall beginning by indicating a positive, it would seem, Mines Rescue ready to go in, gas samples and so forth looking better, when it all fell apart in what was a sudden – the moment of real hope in an instant turned to absolute grief. We know that story.

A. I certainly do, sir.

Q. Yes. And what the families, I think, still find very hard to understand is that already before the 24th it was noted in discussions with Police Commissioner Broad that you, the police, were concerned about the overoptimistic nature of what Mr Whittall was saying to the families. That is so, isn't it?

A. That's correct, sir.

Q. And I don't need to go to his brief I think to do this, but just pause for a moment, it may be worthwhile my doing so. This is a police brief, POLICE.BRF.33/22, Ms Basher, could we bring it up please?

WITNESS REFERRED TO POLICE.BRF.33/22

Q. Now, bearing in mind this is Tuesday the 23rd, when Commissioner comes to Greymouth with the Minister of Police. And at paragraph 84, "Briefed personally by Superintendent Knowles. I wanted to discuss any issues he had, the support he was getting and where he saw events heading. An issue we discussed was the messaging of the families. The need for police to be direct with the families and how to achieve this in circumstances where the messaging from Pike River Coal's Chief Executive was in the view of police to be overly hopeful." And clearly from the way you acknowledged my question already, that was your view and you were conveying it?

A. Totally sir.

Q. So there was, at that terrible, terrible moment on the 24th at that meeting, where Mr Whittall was agreed to speak to the families about what he called his men. There was always a risk involved in that because you were concerned enough to raise this issue with the commissioner?

5

A. Correct sir.

Q. Had you managed to address the issue after your discussion with the commissioner, with Mr Whittall?

A. Yes we had discussed in some of our meetings, prior to the 24th, that the message here from the police was going to change that we were using messaging such as, dire and grave, and that the indications were that things weren't as hopeful as everyone hoped.

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Q. It's happened now and the families, as you can see from their briefs, live with the trauma of that moment. And so it was a decision that went wrong to allow him to address the families first as it happens, Mr Knowles, I'm not going to put it any further than that. It just went horribly wrong but it did come on the back of recognition the families had been given an overly optimistic perspective?

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A. It did, sir, yes.

Q. And looking back now and tying what I've put to you together, with that, and addressing the issue of fire, you can see now that the families weren't being told accurate factual information about what the fire was thought to be and what it meant? You couldn't convey that, only he could convey it if anyone was going to do it?

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A. I can understand their feelings sir.

Q. Yes. They just didn't find out?

A. No.

Q. And finally, on that point, if Ms Basher could bring up PIKE00278/1 which is an incident action plan of the 22nd of November between 0600 and 0700. That's for identification first.

30

WITNESS REFERRED TO PIKE.00278/1 - INCIDENT ACTION PLAN

Q. Now, just so you can identify the document, it's one you'll be well familiar with in structure anyway, Mr Knowles. If you go to page 3 of the document? So, 22nd, six to 7.00 am and the third bullet point at page 3,

“Results indicated at 3.00 pm on the 20th of November 2010, active fire within the mine. No rescue will be taking place in the immediate future.” Here it is, police record of that very bad situation, 22nd November. It’s expressed very clearly, Mr Knowles, and that should have been conveyed to the families that day?

5

A. I note that sir.

Q. Do you think it wasn’t conveyed in part because this is a police document isn’t it? Do you think it, in part, wasn’t conveyed because it was a truth or a fact that was too hard to convey?

10

A. Not at all sir.

Q. I wasn’t just addressing it to you but clearly we’ve addressed whether Mr Whittall may, well, we can ask Mr Whittall next week about that, but it simply wasn’t conveyed was it?

A. No, sir, I’ve agreed with you.

15

Q. Now, I’m going to try now and just finish in the last few minutes with this. One of the issues which has bedevilled the families for many months is the fact that on the 24th of November last year, the CAL scan was read at Pike River which showed what may have been two rescue boxes and one of them open. And while I could go to the record, and I’ll probably choose to do this by submission eventually more than cross-examination, for time reasons, what happened after that is that it was recognised even though the second explosion had occurred, it was recognised this was an issue to be looked into, wasn’t it, and you were aware of that?

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A. I was, sir, yes.

1218

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Q. And if we track what happened after that there were clearly discussions which took place, and the police involved in this, as to what it actually meant. Did someone open a self-rescue box? Could it mean that someone survived the explosion? Could it have then blown open? Was it a self-rescue box? One thing was clear Mr White’s perspective, therefore the company perspective, was that it was a self-rescue box and it was open. And that’s something that you would have known amongst the many things that came your way?

A. It was sir, yes.

Q. In a sense the issue was not immediate for you because the second explosion had occurred and the rapid conclusion was life would be extinct. It was something to look at in reconstruction of what had occurred, that's where this sat?

5

A. It was sir, yes.

Q. And it then arose at the inquest in the evidence that was given by you which referred to the medical reports and Dr Robin Griffiths was one of those reporters, who gives evidence here as well, referred to the fact that in a single line simply evidence of a self-rescue box opened at distance Slimline shaft. That's the single line that's recorded in his records?

10

A. That's correct sir, yes.

Q. And Dr Griffiths went on to say, "Well if anyone got hold of it, it wouldn't have been any use." His primary evidence was death by hypoxia you'll recall, and this was put by me for the families to the Coroner and police agreed and the Coroner so found. Do you recall that?

15

A. That's correct sir.

Q. But that was the only reference to it and you're aware Mr Knowles that about two months after the January inquest the families that saw an image for the first time of the box and could recognise the implications?

20

A. It's my understanding.

Q. And right till this day, indeed for this week, the inquiry's been ongoing as to what that meant, we have evidence from Mr Couchman, Mr Stiles, all sorts of people, Mr Moncrieff, all on this issue, now the reason I raise this with you is that the families have been so troubled by what this may have meant, because notwithstanding the medical evidence that the men died in the blast or very shortly afterwards, which is still the medical evidence, the question remains for them, "What if, what if someone did get to the self-rescuers, what does it tell us?" And I'm putting to you they should never have had to wait for the circumstances of, as it were, surprise when someone provided the information to them to find this out. It's the very sort of thing, as Mr Doug White agreed, they should have

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known. It's a factual thing of great consequence to them. Can you explain why it did not get to them and more detailed?

5 A. No I can't sir. I first became aware of that image when I'd been at Pike River and speaking to Doug White, he brought it up on a screen to me and I asked him what it meant and he went through various scenarios and I said, "Well we need to seek some clarity around this issue, it's quite important," and some people were tasked to do that. So in that particular occasion there was some confusion as to it being – bearing in mind it was a CAL scan and not a video image, as to what it meant.

10 And Doug's interpretation was that it could be a rebreather box open so that we need to have some assurance as to what it actually meant.

Q. And we're still struggling with that really aren't we, even today, because we're still trying to work it out?

A. We are sir.

15 Q. And the reason it's still an issue and can't be simply put back in time and said, "Well it's of no consequence," is that we know that Daniel Rockhouse walked out from 1900 hundred metres?

A. We do sir.

20 Q. And those self-rescuers were at the end of the drift, at the base of the Slimline shaft?

A. Correct sir.

Q. And so there's 500 metres of ground about which we really know very little?

A. Totally agree sir.

25 Q. And you understand the reason the families are still so vitally concerned and how they resent the fact this was not put to them many many months ago?

A. I can understand that sir.

30 Q. The message is really clear because the consequence of Cave Creek, and indeed other material that's been put before the Royal Commission, of the need for clarity and transparency in the messaging is accepted by the police, and indeed Mr Knowles accepted by you?

A. It is sir.

1223

Q. Without asking you to accept responsibility for it, I would ask you to accept from what we've been through so, we're almost at the end now, this morning that there were glaring omissions in the communications with the families. Do you accept that?

5 A. There were some issues that need to be addressed, I accept that.

Q. Now just two very small points to finish with. One is, on the 13th of January this year Commissioner Broad came to Greymouth and you have read – were you at that meeting?

A. I was sir.

10 Q. And it's quite clear that the message that was going to be conveyed was that the police would be ending their role and that the likelihood was that the mine would be sealed and the receivers would be taking over from the police. That was the essence of the communication?

A. Correct sir.

15 Q. There was no warning for the families that that was to be announced was it?

A. No sir.

Q. And I think maybe you can simply agree me that the shock to the families having coped with the loss of the men and so all their focus was then on recovery. The shock of being told that the police who'd been there, as it were, at the right hand from the beginning, were essentially saying, "We're departing" was immense as the families were put in the hands of commercial interests. You must have understood that at the time, the import that was going to have, the impact that was going to have, did you?

20

25

A. Would you like me to respond to the whole situation?

Q. Yes you must be allowed to answer as you will.

A. Thank you. And I'm going to tell this. That was not my decision and that was not the way that I told Police National Headquarters that it should be conveyed, and there was a process to be followed and it was not followed, and I told Police National Headquarters in no uncertain terms, "This is not the way to give this message."

30

Q. Did you tell Police National Headquarters how the message should be conveyed?

A. I did.

Q. Would you tell the Commission and the families?

5 A. I told them that it should not be conveyed on that date. There needed to be a series of meetings with the families and a staged process where the families could understand why we were leaving and they could understand the reasons behind it. We should not have gone on that night and delivered that message in that way.

Q. Well your message fell on deaf ears obviously or unreceptive ears?

A. I'm not going to comment sir. These are my beliefs.

10 Q. You saw the effect at that meeting because that decision that was taken in fact was based on, in part, someone had reached a conclusion that the GAG machine had failed, it was going to go back to Queensland and the die was cast. And what happened when this was part of the explanation, do you recall, was that Mr Neville Rockhouse, I think it was
15 Neville Rockhouse, got up and said, "Well, Commissioner, Minister, do you not realise that for the first time it looks as though the gas is – there was a stabilising." Do you recall that intervention?

A. I do sir. Whilst the message was conveyed in an unshapely fashion, the message had to be conveyed and I supported that.

20 Q. You mean once the decision's taken you convey it?

A. You do sir.

Q. But what I'm putting to you that immediately one of the family members was able to say, "Have you not – do you not realise what's happened up at the mine, the results today?" Do you recall that?

25 A. It was said sir, yes.

Q. And it took the Minister and it took the Commissioner back didn't it, it took them aback immediately?

A. It took everyone aback sir.

30 Q. Because one of the very premises on which the decision was taken and conveyed was suddenly put aside. Suddenly there was a real prospect of recovery being possible if the gases in fact could be brought under control?

A. I think the common theme believed by a lot of us on the ground was that we'd reached the stage where New Zealand Police had to exit and how you do that is never palatable to a lot people and it had to be done.

Q. And the reason for that?

5 A. Well it's not my decision sir, but there reaches a time when you look at our obligations and where we're going, that we can't be there forever.

Q. Was money a factor?

A. No, not at all sir, ever.

1228

10 Q. Well you clearly for some reason you articulated most of, you knew this would come as an absolute shock to the families again. It would be the second and lesser, but still major shock for them. So why is it that you consider that while work could continue by way of recovery, that the police should not be involved? You've been involved all that time. The
15 GAG had been going for what, 27 or 37 days, or something, hadn't it? It was never used again, was it, afterwards?

A. No sir. It didn't need to be used because the nitrogen advice was stabilising the environment.

20 Q. Exactly, at the very time they were being told, "It's all over." My question is from the families, is why would the police having been there, as it were at the right hand right throughout, why shouldn't they stay, have stayed involved?

A. Perhaps sir, that's something you should ask the commissioner, not me.

25 Q. We will, in our own way. Now finally Mr Knowles, I just want to take you to something from one of the family briefs. They have felt over all this time that they have not had the whole story told to them and they've been puzzled why, and we've got more witnesses to come, but if I take a passage of evidence from one witness, it demonstrates the position from someone who, when the time the brief was written, was puzzled by
30 how they understood the story, and it's FAM00016. It says, "It's our belief looking back over the situation that no one could have really predicted how to handle it. There was no guidebook for handling a tragedy like this. We like to think that Peter Whittall and the Pike River team and Superintendent Knowles and his police team were not

intentionally suppressing information or purposely trying to handle the meetings badly.” So, if you think about that, it was put carefully. That’s what they want to believe. They want to believe that things were told to them honestly, and adequately and no deliberate suppression. Am I

5 right, from your perspective Superintendent Knowles, that you are saying to the families and this Commission, that there was no attempt by you or anyone you knew to suppress information but you can see now that information was not conveyed as it should’ve been to the families?

10 A. There was no attempt by myself at any stage but to be honest and factual.

Q. But somewhere along the way, the communication with the families here have led to great grief because of the omission of certain things, non-conveying of certain things and still hurting today. You do

15 understand that?

A. I can understand that, sir.

CROSS-EXAMINATION: MS SHORTALL

Q. Superintendent Knowles, I have two topics that I would like to cover with you and they build in a large part on what Mr Davidson has just covered.

20 I’ll try not to duplicate. I’d just like to ask you first about the claim that you’ve never told the families about a fire burning in the mine, and I understand you to suggest that you relied on Mr Whittall at the family briefings to speak to what was happening underground. Would that be a fair understanding?

25 A. That’s correct, yes.

Q. And you said on Wednesday that as a senior police officer and a trained detective inspector, you don’t deal in rumour or speculation. You deal in evidence, do you recall saying those words?

A. I do.

30 1233

Q. And you’ve told the Commission that you could not speculate or buy into rumours when briefing the families is that still your position, Superintendent Knowles?

A. Correct.

Q. And did you listen to the evidence of Mr Brady yesterday?

A. Not in its entirety, no.

5 Q. Well, do you understand Mr Brady to have said that, "Evidence," that was his word, "Evidence of an existing fire in the Pike Mine was not obtained until the results of certain gas samples were available on Wednesday the 24th of November?"

A. I do.

10 Q. So, while there had been speculation about the possibility of a fire, until those gas samples were available on the 24th, it was Mr Brady's expert opinion that there was uncertainty about whether a fire existed. Is that consistent with your understanding Superintendent Knowles?

A. Correct, it is counsel.

15 Q. Now you said on Wednesday that you recalled Mr Whittall telling the families about a heating underground didn't you?

A. I do.

Q. And you've read Mr Whittall's evidence for this Phase of the hearings?

A.]I have counsel.

20 Q. And Mr Whittall has provided a brief explaining that on the Saturday following the explosion, on the 20th of November, it was made clear to him that he was to meet with the police before and after family briefings. Did you read that in Mr Whittall's evidence?

A. Correct.

Q. And that's what happened isn't it, Superintendent Knowles?

25 A. Where possible.

Q. And Mr Whittall met with you before each family briefing where possible, is that correct?

A. Where possible counsel.

30 Q. And so you wanted to know what he was going to say to the families, is that fair?

A. For an outline, yes.

Q. And just so I'm clear, you never showed Mr Whittall any police documents referring to an underground fire at the mine did you?

A. No.

Q. You never asked Mr Whittall about references in police documents to an underground fire did you?

A. Not that I recall.

5 Q. In fact, Superintendent Knowles, are you aware that the first time Mr Whittall heard about documentation stating, not speculating, that there was a fire burning in the mine was sitting in this courtroom, watching Assistant Commissioner Nicholls being cross-examined earlier this week?

A. No I'm not, no.

10 Q. And I'm not going to ask you about the issues with those documents because they have been discussed already with Mr Brady yesterday, but you were shown some fire service documents by Mr Davidson this morning. Do you recall those documents?

A. I do counsel.

15 Q. And you don't have any reason at all to believe that the New Zealand Fire Service was providing copies of those documents to Mr Whittall either do you?

A. No.

20 Q. Let me turn to my second topic, Superintendent Knowles, you gave evidence on Wednesday that you were present at the mine site when the second explosion happened around 2.40 pm on the 24th of November, do you recall that evidence?

A. Yes.

Q. And Mr Whittall was at the mine too wasn't he?

25 A. Yes.

Q. In fact, you had called Mr Whittall around lunchtime on the 24th, asking that he immediately head to the mine because Mines Rescue was preparing to go underground, do you recall that evidence?

A. I do yes.

30 Q. Now, the extent of the second explosion on the 24th of November, was such that people onsite knew no one could have survived didn't they?

A. Yes.

Q. It was a very emotionally charged time for the people onsite?

A. It was.

Q. People who had been working tirelessly towards a rescue were suddenly forced to confront the reality of that second explosion weren't they?

A. They were.

5 Q. And in your own words, "The prospect of telling the families that all hope of rescue was over," was dreadful wasn't it?

A. It was.

Q. And there already was a family briefing scheduled for 4.30 that afternoon wasn't there?

10 A. Yes.

Q. And so you left the mine soon after the explosion to drive back to Greymouth for that family briefing didn't you?

A. I drove and I understand Mr Whittall took a helicopter.

15 Q. Now, you didn't spend time while at the mine site talking with Mr Whittall about the severity of what had happened or how to break the news to the families did you?

A. We discussed onsite that the families had the right to know at that meeting and then when we discussed who would be the most appropriate person he said they were his men, he wanted to tell them.
20 When we got to the carpark outside that building, in the presence of Minister Brownlee and Barbara Dunn, we discussed with Mr Whittall that the information needed to be factual and direct. And in fact Barbara Dunn ripped her notebook out and wrote some key points for him to deliver. And at that stage he understood what had to be done.

25 1238

Q. Now you didn't offer to Mr Whittall that he could drive back to town with you, such that you could both discuss in advance of the carpark meeting, I'll come to that –

A. No, can I finish?

30 Q. Yes please.

A. He didn't offer me a ride in his helicopter either.

Q. I'd like you to answer my question to you Superintendent Knowles, you didn't offer to Mr Whittall that he could drive back to Greymouth with you did you?

A. No, because he chose to take the helicopter. I had to drive.

Q. Did you offer to Mr Whittall that another of your police officers could travel back with him in the helicopter to assist him determine how it might be best to break this tragic news to the families?

5 A. No, because he had the helicopter full of his own team.

Q. Who was in his team?

A. He had his personal bodyguard, his EA, and some other staff.

Q. Who were the other staff?

A. I have no idea.

10 Q. Your recollection is that there were other staff in that helicopter that day Superintendent Knowles?

A. Yes I do.

Q. Now when Mr Whittall arrived at the Civic Centre for the briefing you spoke with him in the middle of the carpark didn't you?

15 A. Yes, that's the only opportunity before we went in.

Q. And I believe your evidence on Wednesday Superintendent Knowles was as you stood in the carpark talking about who would deliver the terrible news you could see that Mr Whittall was struggling, couldn't you?

20 A. We were all struggling.

Q. And family members were walking around you into the briefing at the time. Is that correct?

A. They were walking passed us, yes.

25 Q. And you understand that Mr Whittall knew and had worked with many of the 29 men?

A. That's correct.

Q. You knew that his family had lived in the same community as the families of the local men?

A. Correct.

30 Q. You knew that his children knew some of the children of the 29 men?

A. No I didn't.

Q. Superintendent Knowles, you're a police officer with 34 years experience aren't you?

A. I am.

Q. You're an experienced officer?

A. Some would say.

Q. And you've faced the difficult task of telling people that a member of their family has been killed?

5 A. When we stood there that day I made the offer to Mr Whittall that I would deliver the message, it is my role as a senior commander to do that. He said, "No, I would rather do it myself, they're my men." Now I was not happy to deliver that message but I felt if he was not up to it I would do it. It took a lot of convincing for him to even admit that they
10 had gone. And if you don't think I'm telling the truth you can ask Mr Brownlee?

Q. I'm not questioning your truthfulness Superintendent Knowles, I'm just trying to understand what happened in that carpark and going into the meeting. Fair to say that you have experience in delivering tough
15 messages Superintendent Knowles?

A. Yes I do.

Q. And would you agree with me that it doesn't get much tougher than needing to walk to the podium in a room of 500 people filled mostly with the families of the 29 men to tell those family that their men were dead?

20 A. Yes, but as I've previously said, I totally agree with Mr Whittall, if they were my men I'd want to tell their families.

Q. Did it occur to you in the carpark Superintendent Knowles that Mr Whittall might have needed more than a hastily scribbled note on a torn notebook page to guide him through how to deliver the
25 gut-wrenching news to the families?

A. I think that if we had not delivered that message on that time on that day what would we have told the families, they should go away and come back in half an hour, to allow him and I time? Out of respect for the families the message had to be given at that time.

30 Q. And when you offered that you would deliver the message and Mr Whittall said, "No," did it occur to you as the lead police officer to add objectivity and just tell him that the police would deliver the message?

A. I said to him that I would deliver it for him if he wasn't comfortable doing it.

Q. Would you accept that you were vastly more experienced than Mr Whittall to deliver the necessary message to the families on the 24th of November?

A. Yes, as a police officer it's my job to give bad news.

5 1243

Q. And when the families started clapping, this is my last question for you Superintendent Knowles, such that Mr Whittall had to quieten them and say that a second massive explosion had occurred, did it occur to you that Mr Whittall should never have been put in a position by the police of needing to deliver the tragic news to the families in the first place?

10

A. It occurred to me that that message went horribly wrong, and I relive it every day. I can't change the passage of time and I don't think that message would have been any more palatable to those grieving families if I'd given it either, but I would not have stood there and said we are going to rescue them and then tell them they'd all died.

15

Q. Well Mr Whittall will speak to what he said next week, Superintendent Knowles.

CROSS-EXAMINATION: MS MCDONALD

Q. Really just a couple of matters, superintendent. I want to go back to a question please that Mr Hampton asked you. He put to you that Mr Bellett, Dave Bellett, was a health and safety inspector and didn't have effectively, any coalmining qualification or experience. Can I take you please to Mr Bellett's brief of evidence, DOL7770020004 because I think that question of you needs to be put into some context.

20

25 **WITNESS REFERRED TO DOL7770020004**

Q. And at page 3 of that evidence, paragraph 11. You'll see there that Mr Bellett confirms that, and this is relating to the 19th, that he received a call from his manager who instructed him to go to the mine, and these are the words I really want to emphasise to you, "to support Kevin Poynter in any way". Now, I'll come back to this issue in a minute, but you'll be aware that Kevin Poynter had coalmining qualification and experience. He and Mr Firmin were both coalmining inspectors?

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A. I understand that counsel, yes.

Q. And the evidence is showing that they both held first class coal mine managers' certificates?

A. That's correct.

Q. Is it your understanding that Mr Bellett's role was to support Mr Poynter?

5 A. I can only gain that from your brief, counsel.

Q. And if we go then to paragraph 35 of that brief of evidence on page 6. This is dealing with the risk assessment, as I understand it, relating to the piercing borehole on the 23rd of November and that paragraph confirms that or shows that Mr Bellett, his role in relation to that risk assessment was to look at the risk assessment more generally. Do you see the words there? "Mr Firmin and Johan Booyse assess the technical issues and once they had done this Keith Stewart and I reviewed the risk assessment more generally?"

10

A. I note his comments, counsel.

15 Q. So, it suggests to you and asks you to comment that that would indicate that Mr Bellett's role was in assisting the mines inspector with these matters?

A. Yeah, with the tenor of the pages you've shown me, that's what it indicates.

20 Q. Now I come to another matter now please. This relates to some questions that Mr Stevens put to you. He put to you paragraph 75 of Mr Firmin's brief of evidence and if we could put that back on the screen, because my friend only referred, or read out part of that paragraph, DOL.7770020003/13, paragraph 75, if we could have that highlighted please?

25

1248

WITNESS REFERRED TO DOL7770020003/13

Q. Now the portion of that paragraph that Mr Stevens referred you to was the reference to the document being, the description being thought to be too technical, wasn't it?

30

A. That's correct, counsel, yes.

Q. Yes. If you look at the full sentence, or perhaps a line or two above that, "Johan and I went through the risk assessment. We thought much of the information was incomplete. Hazards had not been labelled and

others were missing and it was too technical.” And then he gives an example. So that would suggest, wouldn't it, that there was more of concern with the particular risk assessment than it being thought to be too technical and in fact the concern was also that it had important information missing, such as hazards or risks not identified?

5

A. That's correct, counsel.

Q. And does that line up really with some of the other evidence that you've given where you've expressed concern about the quality of some of the information or lack of information that was going into the risk assessments?

10

A. In some cases, yes.

Q. If we have a look at that particular risk assessment, DOL777002000203/1, and I don't want to take too much time with this, but just by way of example, if we could go through to page 10 of 24. I'm sorry Ms Basher, I should've given you a specific page number earlier rather than just the document number.

15

WITNESS REFERRED TO DOL7770020002-03/10

Q. While that's coming up, I can perhaps proceed in the interests of speeding things up – oh, it's there. As I understand the evidence that has been filed, rather than the evidence that's necessarily been heard orally in this phase, it is that the handwritten comments on that risk assessment are those of the Department of Labour inspectors, you know that or not?

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A. No, I don't counsel, I'm sorry.

25 1251

Q. And just by way of example, the very first box there, assuming that what I've just said is correct, and that relates to an action on the first page, which you don't have to go back to, but it's the action being talked about is drilling into the ground support and the hazard being identified by the DOL inspector is possible explosion. Would you accept that that's a reasonably significant hazard or risk to identify in a risk assessment?

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A. It is yes.

Q. Now, the other aspect of this questioning that Mr Stevens discussed with you was, what he called a lack of knowledge on the part of the

Department of Labour inspectors. Now, I want to take you to Department of Labour, reference DOL7770020002-08.

WITNESS REFERRED TO DOL7770020002-08 – EMAIL FROM KELVIN POWELL

5 Q. Now, if you look at first at the bottom email, which is earlier in time, 23rd of November, 4.12 am. Now this is from Kelvin Powell, he's a police officer?

A. He's a superintendent yes.

Q. And where was he?

10 A. He was my counterpart on nightshift.

Q. Now, he's sending this email to Sheila McBreen-Kerr who's the Department of Labour person who was on the ground in Greymouth?

A. Correct.

15 Q. "As indicated in my voice message, the content of this risk assessment was a bit too technical for me to determine whether the risk assessment adequately covers it or not. My take, for what it is worth, is that on the surface it appears adequate, but obviously I will be guided by you and your team," and he goes on and that email, I would suggest, indicates that in fact it was Superintendent Powell who was having difficulty understanding the technical nature of the terminology?

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A. That's what it appears from his email.

Q. And if we go to the email response above that and this is Sheila McBreen-Kerr's response back to Kelvin Powell and David White. "Dear Kelvin and David. Our mining inspectors have assessed the risk assessment above, this was a difficult task and lengthy task as the assessment was incomplete in many areas.

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1254

Q. In the interests of urgency given the situation, they have attempted to fill in the missing parts so a proper understanding of the risks is appreciated. This took considerable time," and so on, and then she confirms that the two inspectors will be up at the mine in two hours to discuss with the risk assessment team. "That should give them time to have a completed assessment for us which will give more urgency." And in fact can you confirm that those two inspectors, Department of

30

Labour inspectors, went up to the mine and worked with the risk assessment team to try and expedite this process because of these difficulties?

A. No I can't, counsel.

5 Q. So you don't know?

A. No I don't know.

Q. And it would seem from this exchange of emails they have done that between 4.00 am and 8.00 am, if you look at these two emails?

A. It appears so, yes.

10 Q. Now, staying with Mr Firmin's brief of evidence, or rather going back to it, DOL7770020003/13?

WITNESS REFERRED TO DOCUMENT DOL7770020003/13

Q. Now we look there at paragraph 75, and I'll do this quickly. If we just go over the page, starting at paragraph 80, still dealing with the same risk assessment and the process. This is Mr Firmin at paragraph 80 making the comment that the risk, in his view, "The risk assessment needed to address drilling a hole as well as what would happen when the hole actually broke through." You see that?

15

A. I do.

20 Q. You see that that's fair enough?

A. I do, as far as the brief is concerned, yes.

Q. And obviously from that paragraph and the ones that follow, if you have look, Mr Firmin there confirms that he was met with some resistance by the risk assessment team at the site. He asked the police, in paragraph 31, he confirms that he asked a police officer present who was co-ordinating this process if they, the police, wanted the Department of Labour people to continue to help. You comment on that?

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1257

A. Can I please see paragraph 31?

30 Q. Paragraph 81?

A. Sorry, 81. That's what it says in the brief.

Q. Do you know anything about that?

A. No I don't.

Q. And then he goes on, at paragraph 82, you can bring that up please, to say that Johan, that's Johan Booyse, and I were outside the office when someone came up to us and spoke to us in an accusing fashion and said the Department of Labour needed to speed things up and he had been talking to Andy Saunders. Now is Andy Saunders from the company is he, do you know?

A. Andy Saunders is a police officer.

Q. Police officer. "Andy had told him that he had finished the borehole risk assessment last night and that the Department of Labour had held it up. This was not true as Andy had not finished it and we have had to go to Steve Ellis to get it finished?" Do you know anything about that?

A. No I don't.

Q. No, do you accept that it might've been delayed by police in fact?

A. No I don't.

Q. Well how do you know if you don't know anything about it?

A. Well I can't comment then can I.

Q. And if you go to paragraph 83 of his brief, Mr Firmin confirms that he then was asked by Ms Sheila McBreen-Kerr if there'd been any delay in the drilling, or if the drilling had stopped as a result of this process and Mr Firmin says that that hadn't happened. And is that your recollection, that in fact this process hadn't interfered with the drilling, that the drilling had continued nonetheless?

A. The drilling continued, yes.

Q. So there wasn't any delay occasioned by this process?

A. There's obviously a delay in the RA process but not of the drilling.

Q. Yes but not the drilling. Is that right?

A. Yes.

MR WILDING ADDRESSES THE COMMISSION

30 QUESTIONS FROM COMMISSIONER HENRY:

Q. Superintendent, I noticed that you have had considerable experience in emergency response management prior to being given this very difficult

task that you faced at Pike River. Did you operate the CIMS system at any of those?

5 A. Yes sir. Whilst I have never been formally trained in the process I have operated and been part of it in a number of emergency events, civil defence events in my time as a commander in emergency planning at the airport.

1300

10 Q. And did you have any similar experience in regard to risk assessments that we've heard of during this hearing whereby risk assessments are sent formally to different levels and then come back down again?

A. No, never sir.

Q. When you were charged with overall command by Deputy Commissioner Pope, did you understand that to mean that you would be making the operational decisions?

15 A. Yes, I assumed that I would go to Greymouth and I would become the operational commander, and with that would come roles and responsibilities associated with that role.

20 Q. So when it transpired during the course of events that there were a number of operational decisions that you were in fact not allowed to make, did you feel disappointed about that?

A. No, sir, I wouldn't use the word 'disappointed'. I could understand why AC Nicholls felt there needed to be some rigour in relation to certain processes, but on occasions there was some decisions I felt that could've remained with me.

25 Q. Yes, and did you make that point to AC Nicholls and other people?

A. No, not to him specifically, but when I looked at the role I undertook, with it comes responsibility and I had assumed that a great deal of these operational decisions may have been made at my level, but when we looked at the complexity, the ongoing of the operation, I could understand why they needed to be moved to his level.

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QUESTIONS FROM COMMISSIONER BELL:

Q. Superintendent Knowles, I've just got a couple of brief areas, you mentioned when you wanted to, when the families, sorry, when the

response at the mine was being handed over to the receivers, that your advice was not accepted by your superiors. And you've also told us you had a pretty good relationship with AC Nicholls, and I'm not challenging that at all, was there any other time that he said no when you contacted him to get something or to have some resources provided?

5

A. No, he – and it wasn't AC Nicholls that made that comment about the families either. It was someone else, but no, AC Nicholls, at no occasion did he ever say no that for any resources I wanted, no matter where in the world, he told me I could have them.

10

Q. Just finally, I know you've said that you didn't think you should be based at the mine. I'm just putting a proposition to you that, in situations in Australia, there is a lot of hubbub at the mine, there is a lot of emotional activity there, but the IMT really tends to be isolated. Would you have felt better if you'd been able to be located at the mine but in an isolated area of the mine so you could work without being sort of harangued all the time?

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1303

A. Yes, but totally sir. Perhaps if I put it in context, because of the nature of the environment there was a lot of raw emotion and I was conscious that some of the decisions lacked clarity but I think that if the IMT had been separated from the general worker environment I would've been more comfortable to be there.

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QUESTIONS ARISING: MR MOORE

Q. Superintendent, it was put to you by Mr Davidson that with Mr Whittall's reputation as an optimist that the dire and growing seriousness of the situation wasn't being properly or effectively conveyed to the families. I'm going to put a couple of documents to you and they are media releases. The first one is SOE.003.00037, and while that's coming up on the screen is it correct that after the family meetings the police would also undertake a media briefing?

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WITNESS REFERRED TO SOE.003.00037

A. That's correct, sir, yes.

Q. Now, this one is dated the 23rd of November 2010, at 10.56 am, so that's the morning of the day before the explosion. Can we just highlight, Ms Basher the paragraph towards the bottom, I think it's the fourth to last paragraph which starts the words, "This remains to be..."

5 These are words attributed to you?

A. That's correct sir.

Q. And it reads, "This remains to be a very serious situation. The longer it goes on, their hopes fade. We must remain optimistic but I'm also a realist and we're preparing for a range of eventualities."

10 A. That's correct sir.

Q. Now, I accept that wasn't what you said to the families, but how consistent was it with the message that you conveyed to the families at the family briefing on the morning of that day?

15 A. It was similar, that's, they're not words I'd use but it's in a similar thing. I think some of the times that we move from saying it was dire and it was hard and that we had to plan for every possibility and every eventuality.

Q. And was that a message which evolved with time and obviously as time flowed the expectations which may have been optimistic at one stage, moved towards the pessimistic end of the spectrum?

20 A. They certainly were sir.

1306

25 Q. The next document I'm going to ask Ms Basher to put up is the afternoon briefing of the same day, the 23rd of November. In fact it's recorded there at 1938, but I think with daylight saving it would have been 8.38 pm. Now that records you saying that you've had to be frank about the situation. We can see that in the second paragraph, is that right?

A. That's correct sir.

30 Q. And attributed to you are the words, "The situation is bleak. It is grave and you have to understand that the risk posed by a secondary explosion is real, and we're not prepared to put people underground so we can assured of the safety of both the rescue crews and those people still trapped?"

A. That's correct sir.

- Q. And then the bottom paragraph, “Mr Knowles said significant resources had been moved to the mine. Over the last 24 hours we have 65 Mines Rescue staff, including 18 from New South Wales,” and it goes on talking about some of the other things that were being done. But is this another example of the evolving message you were at least attempting to convey in terms of the direness and the gravity of the situation that everyone was going to have to come to grips with?
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- A. That's correct sir, yes.

10 **THE COMMISSION ADDRESSES WITNESS**

WITNESS EXCUSED

COMMISSION ADJOURNS: 1.09 PM

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