



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
wR 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 22 SEPTEMBER 2011 AT GREYMOUTH**

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**COMMISSION RESUMES ON THURSDAY 22 SEPTEMBER 2011
AT 9.00 AM**

TREVOR COLLIN WATTS (RE-SWORN)

5 CROSS-EXAMINATION: MS SHORTALL

Q. Mr Watts, you said yesterday that you had concerns about the use of the ladderway in the vent shaft as an emergency escapeway from the mine. Do you recall that evidence?

A. Yes I do.

10 Q. And you raised those concerns in an audit report provided by Mines Rescue to Neville Rockhouse?

A. That's correct.

Q. And you didn't talk to anyone else in senior management about that matter did you?

15 A. I provided that audit to Mr Rockhouse who was the safety manager that asked me to complete the audit.

Q. You didn't contact anyone at the mines inspectorate about the results of your audit did you?

A. No I did not.

20 Q. And Glenville Stiles is a contractor employed by Mines Rescue, is that right?

A. That's correct.

Q. And Mr Stiles went underground at Pike each month didn't he, auditing medical equipment?

25 A. That's correct, medical equipment.

Q. And Mines Rescue brigade members worked at Pike River didn't they?

A. Yes.

Q. And they went underground as well?

A. Yes.

30 Q. And you wouldn't have let Mr Stiles or any Mines Rescue brigade members go underground at Pike River if you considered the mine was unsafe in the event of an emergency would you?

A. No.

- Q. Let's go to Saturday the 20th of November. You confirmed in response to questions from Mr Moore yesterday, didn't you, that Mines Rescue didn't know for a fact on that day that there was a fire in the mine. Do you recall that?
- 5 A. We didn't know for a fact. Yes, there was a suspicion.
- Q. Do you know anything about a Mines Rescue brigade member visiting family members on the night of the 20th of November and telling them that the mine was a fiery inferno and that no one was coming out?
- A. I've never heard that before.
- 10 Q. That wasn't the view of Mines Rescue at the time was it?
- A. Definitely not that it was a fiery inferno.
- Q. And if that visit by a Mines Rescue brigade member had happened, the information passed to the family members at that time would have been wrong wouldn't it?
- 15 A. That it was a fiery inferno, yes.
- 0903
- Q. Now, even though you didn't brief the families following the 19 November explosion, you were asked yesterday about two media briefings, one on the 21st and one on the 23rd of November. Do you recall that evidence?
- 20 A. Yes.
- Q. And I believe you confirmed yesterday that in neither of those briefings did you say that you believed false hope was being raised about the possibility of survival, is that right?
- 25 A. In the media briefings? No, I did not.
- Q. And Mr Whittall was also part of those media briefings, is that right?
- A. Correct.
- Q. You never pulled Mr Whittall aside and raised with him that you believed false hope was being given, did you?
- 30 A. I didn't know there was any false hope being given. I couldn't make any comment on what was in the media at that time. I kept myself completely removed of what was being reported in the media.

Q. In fact, to this day, you've never said to Mr Whittall that you believed false hope was being given around the time of the 19 November explosion, have you?

5 A. No, and to this day I have not viewed the media releases or the media briefs that Mr Whittall – and I have only read the odd snippet about what was being said about what was conveyed at family meetings, but I don't know exactly what was being said.

Q. You just never had that type of discussion with Mr Whittall?

A. No, I did not.

10 Q. Now, you were present on Tuesday, I believe – this is my last topic Mr Watts – when Mr Ellis, the statutory mine manager at Pike River was accused of crushing families hopes by rejecting a proposal by Mines Rescue to conduct a reconnaissance walk, do you recall that evidence?

15 A. I was here for Mr Ellis' evidence, yes.

Q. And you've been principally involved on behalf of Mines Rescue in assessing matters with respect to that proposed entry into the mine by Mines Rescue, is that right?

A. That's correct.

20 Q. And a risk assessment was undertaken by Mines Rescue, wasn't it?

A. Correct.

Q. Did you invite Mr Ellis to participate in that risk assessment?

A. No, I did not invite Mr Ellis to participate, because what we set out to do with that risk assessment was to look at our own protocols and procedures and the, to assist Pike, to see if we could assist Pike River
25 in receivership with reclaiming the main drift in a more, in a timely manner and if a reconnaissance operation could assist with that process, we wanted to go ahead with it, and the risk assessment was to really dig down deep and look at our protocols and our procedures, our
30 control measures really hard, to see if we could undertake it. Reviewing the gas data, if you like, that was coming out of the mine for the last or at that time for the previous six weeks to two months. And it was a determination to say that we could undertake a reconnaissance. We've

never stipulated how far we would be able to get with the reconnaissance because it's an unknown.

0906

5 Q. And Mr Ellis indicated to you very soon after he received the risk assessment from you that he didn't support the proposal set out didn't he?

10 A. When I first met with Mr Ellis he hadn't fully read it at that stage. He'd come to my home actually and met with me and we had a discussion around it and I clearly laid out the objectives that were in the risk assessment, that we wanted to assist in the process of getting that seal established at the top of the drift because we know that as soon as that drift's recovered a thorough search can be undertaken and it was to speed that process to assist him.

15 Q. Now you accept, don't you, that the drift currently contains an irrespirable atmosphere, no dispute there, right?

A. No dispute.

Q. It's full of methane isn't it?

A. That's correct.

20 Q. So do you understand that the company is proposing to put a remote seal on and ventilate the drift so that it can be accessed in ventilated air?

A. Yes.

25 Q. And you would accept, wouldn't you Mr Watts, that accessing the drift in ventilated air is safer than sending people into an irrespirable atmosphere using breathing apparatus?

A. That's correct.

30 Q. And you would accept, wouldn't you Mr Watts, that Mr Ellis' proposal to reclaim the tunnel, such that the drift is ventilated, is safer than Mines Rescue proposal to send people into an irrespirable atmosphere with breathing apparatus?

A. To reclaim the drift it would have to be done in a re-ventilated atmosphere.

Q. So you would accept that point wouldn't you?

A. I would accept that.

CROSS-EXAMINATION: MR MOUNT

Q. Mr Watts, I wonder if we could look at your statement dated 30 July this year, paragraph 40.

A. In my personal –

5 Q. Yes, I'll just put it up on the screen for you to refresh your memory. You're talking here about Saturday the 20th of November last year?

A. Yes.

10 Q. And you describe there watching the portal video footage and the white rag that we've seen, and you say that there was something funny going on in the mine, or something going on in the mine, are you able to help us with what you saw or what you're talking about?

0909

15 A. Yes sir. I do recall this, and this was the only time I ever got to view the video footage of the first explosion or the minutes preceding the first explosion. I've certainly seen the first explosion, sort of, right from the first second, if you like, when the video shows the windblast coming out the portal, but this was the only time I've ever seen the minutes leading up and clearly, you can see the indicator rag, or bit of brattice or whatever it is, on the side. It's in a different position to what it was in the
20 minutes leading up to that where you can see with, it looked like obviously the ventilation kept it at a steady state and my recollection at the time was that it was in a different position and it did seem to be fluctuating slightly, although it was a sensor movement camera, it's hard to determine and I do recall it meant discussing this with Mr Devlin and
25 we watched it over a few times and we both made the comment that this is the sort of footage that an expert, such as Professor David Cliff or other explosion experts, need to be viewing.

30 Q. This is a short video clip that begins, the time on the camera itself, at 3.43 pm and 33 seconds. And just for reference, by that same clock on the portal camera, the explosion begins at about 3.45 and 36 seconds. So, we're looking here almost exactly two minutes before the explosion begins at the portal. So perhaps if we just play that clip and if you can tell us if this is what you were looking at?

VIDEO CLIP CAC0092 PLAYED

A. Yes, and see the indicator piece of brattice or rag that's on the side there is in a completely different position to what it had been when ventilation was normal.

Q. Clip stopped there, perhaps if we just play it through one more time.

5 **VIDEO CLIP CAC0092 RE-PLAYED**

A. It just appeared to us, and I can't speak for Mr Devlin, but for myself, that it was abnormal and it did appear to be pulsing at that point and that's why I made the comment that it really needed to be looked at quite hard to see what was going on, or if it could be determined what was going on before that windblast came out.

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THE COMMISSION:

Q. Mr Watts, you used the phrase a minute ago that you observed, in what you termed, "Steady state," and can you describe for us, steady state was, we're sitting at what degree?

15 0912

A. It seemed to be a lot more horizontal and it did not seem to fluctuate, and I think from memory that we watched that piece of video even when a machine, and I can't recall if it was a loader or an SMV that went into the mine, but it did not seem to alter. It just seemed to be the position that the normal ventilation current would hold it in.

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Q. Whereas what you're referring to is in the clip we've just seen, it's lying 40 degrees of horizontal and it is fluctuating rather than steady?

A. Correct, and that was their observation, that it just seemed abnormal.

CROSS-EXAMINATION CONTINUES: MR MOUNT

25 Q. Perhaps just as a comparison, if we look at CAC0051, which is a clip taken earlier on the same day.

VIDEO FOOTAGE – CAC0051 PLAYED

Q. And as we are watching that clip, would it be fair to say that the white indicator is at something like 4 o'clock in a reasonably steady inwards direction?

30

A. Yes, correct.

Q. And just perhaps for reference Ms Basher, if you can help us with the time on that clip. That's at about 12.04 pm on the same day?

A. Okay yes. And as I stated before sir, I only ever saw this piece of footage once and it was in observation on that Saturday, not late on the

5

Q. As you suggest, Mr Watts, this is potentially a matter that we'll need to return to in Phase Three with a ventilation expert or someone who's able to look at other data. Is there anything else that you know about this that you are able to help us with at this stage?

10

A. No sir there's not.

Q. The second thing I wanted to ask you about was just to follow up very briefly on what you said yesterday about the plans for re-entry. If we could just have on screen MRS0095.

WITNESS REFERRED TO MRS0095

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Q. This is a document headed, "Criteria for entry to Pike River Mine". Do you recognise this?

A. Yes I recognise this as one of the documents, sir.

Q. Now we won't go through this in any detail now, but perhaps if you could just help us with what this typed document represents in terms of the stage of planning that you were at for re-entry into the mine?

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A. Yes, well the typed document here is dated the 23rd. That would have been when the document was typed up. A lot of the work that our rescue teams completed in the very early stages for a potential entry into the mine was completed on a whiteboard later on and handwritten, if you like, into the risk assessment documents, and it was around the

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Monday that I requested assistance from a member of the Solid Energy management who worked with a lot of risk assessment, to assist us with capturing this in formal documents and taking control of the documents, and Solid Energy supplied us with that person, mmm.

30

Q. We don't need to go through this document any further, but can you just confirm that in fact there are nine documents within it and that the dates include both Monday the 22nd and Tuesday the 23rd?

A. Yes, correct and that was when they were sort of typed into their formal process if you like, and there was a document completed for each of the stages that matched with the colour plan that we viewed yesterday.

5 Q. Prior to the 19th of November had there been any pre-planning as to what would be required for an entry into the Pike River Mine following an explosion?

A. No sir.

0917

10 Q. To be fair I suppose, one factor that might affect any pre-planning would presumably be the changing nature of the mine and the changing plans and so on?

A. Yes, that's correct.

Q. Looking forward, would the issue of pre-planning for entry into the mine after an explosion be something that Mines Rescue might consider?

15 A. Oh, absolutely and it'll fit in with the proposal that we have to adopt the same model that they are in Australia with the emergency mine re-entry work that they've completed, where mine sites themselves will be able to collate a lot of data to assist with information in the event of emergency, but certainly from our own perspective, we'll be linking into that and looking at having a series of pre-plans.

20 Q. The plans that you described to us yesterday, as I understand it, involved using a vehicle to get Mines Rescue workers as far up the drift as possible. What would the situation have been if for any reason it was impossible to get a vehicle into the drift?

25 A. The situation would've been very, very difficult. If the rescue teams had to don their breathing apparatus at the portal, they would've struggled to get all the way to the top of the main drift. Not so much because of the distance and perhaps the timeframe for the debris that may impede their route of travel, but the temperature that would've been in the top section of the mine. We work with safe working tables, which mirror those used in Australia that determine how long your rescue team members can operate in a hot and humid atmosphere. If you think of a temperature of over 30 degrees and a very high humidity, you've got a limited period of time that you can actually operate in that environment and it might only

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be, and I can't remember off the top of my head, but that you might have 80 minutes or something along those lines, maximum. Well that would've not been enough time to actually go beyond the first intersection and might've been too difficult to actually get to that point because the temperatures would've been higher than that potentially.

5

Q. Is another factor the length of time that a worker has access to oxygen with a BG4 breathing apparatus?

A. That is one of the constraints, sir, yes and I think to keep it very simple, we work on a third in, a third out, and a third in reserve as far as oxygen goes. They say that they're a four hour breathing apparatus. We would never operate men in those breathing apparatus for four hours. As we heard, we did operate for, on two occasions, up to a maximum of three hours while the teams were constructing the temporary seal. We did risk assess that to extend it, because they were only working 170 metres from the portal, plus the atmospheric conditions there were very favourable. It was only something like 12 degrees Celsius, so it was quite cool.

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Q. Thinking about the scenario of rescue workers having to enter from the portal under breathing apparatus, walk up the drift and then begin any rescue efforts, is it conceivable that, given the constraints you've mentioned, they would've virtually had to turn around as soon as they got to the top of the drift in order to come back again?

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A. If we've deployed them in that method, that's correct, and it may have been that we'd never ever deployed them under that situation, it would've more than likely required us to look at some way of re-establishing ventilation up the main drift to around the point of the grizzly, to be able to have what we would refer to as a jump off point from there, where we could have our fresh air base established to that point and launch any reconnaissance operations deeper into the mine from there. Because from the grizzly we're still looking at somewhere in the vicinity of seven to 800 metres to the furthest reaches in the mine.

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0922

Q. You've mentioned a fresh air base established by Mines Rescue, and you mentioned that yesterday too I think, could you just tell us what a fresh air base in that context would be?

5 A. A fresh air base for Mines Rescue operating teams is a guaranteed supply of fresh air and its maintained continuously. And obviously to guarantee that supply of fresh air we use gas detection equipment there that will alarm if any of the, well legal limits are reached if you like, but we also ensure that wherever a fresh air base is set up that we can virtually guarantee that that atmosphere won't change for the standby
10 rescue team, because that is where they will be located with additional equipment. A fresh air base controller is set up at that location and he is the person that's in direct link with the Mines Rescue team that's operating in the irrespirable atmosphere or inbye from that point, and basically he's the conduit between the operating teams and the surface.
15 Normally there would be communications set up between FAB and the surface so that you have got a direct link back to critical information, such as gas analysis and data such as that.

Q. Does that mean that a fresh air base of that sort would require direct access from outside air to the fresh air base?

20 A. It would require fresh air by some means of mechanical ventilation or if there was a steady natural ventilation of a reasonable type of airflow that could also determine that it was an acceptable place for a fresh air base. In Pike I think there was one measurement, there may have been two measurements, taken of the natural airflow and from memory it was
25 somewhere in the vicinity of 1500 metres a second of airflow going through the mine, which would've been sufficient to establish a fresh air base in a particular point. But a number of factors are taken into consideration when establishing a fresh air base. One of them is what the barometer is actually doing and the trend of the barometer. If there
30 was a rapidly falling barometer predicted or the trends were showing that we're working with a rapidly falling barometer that may have changed or altered where we considered a safe place to be a fresh air base in the main drift at Pike River given the changes that we established occurred with changes in the barometer.

Q. Mr Watts, if there are any further matters to cover with you would you be happy to deal with those in writing at a later stage?

A. Yes certainly, we'll do anything we can to help the Commission.

THE COMMISSION:

5 Q. One small point of detail. You referred to the BG4 as having a four hour specification for its duration?

A. That's correct sir. The rating of four hours is a oxygen consumption rate of about 1.65 litres per minute.

Q. Right.

10 A. To sort of bring that back into terms, a man that would be walking at a steady pace would be using around about 1.65 litres per minute.

Q. Right. And when you do your one-third, one-third, one-third calculation do you base it on the four hours or something less than four hours?

A. We base it on the available oxygen. The BG4 has a two-litre oxygen
15 cylinder pressurised to 200 bar, so we operate on the starting pressure of the oxygen cylinder. One of the things that's very difficult to determine is actually a turnaround time because of the unknown conditions or the roadway conditions that men will be walking on. And also the physicality of different individuals will determine the oxygen
20 consumption rates, physical fitness et cetera.

0927

Q. Thank you. We're indebted to you for the help you've supplied Mr Watts, so thank you and that completes your evidence and you're excused subject, perhaps, to the possibility of some written questions
25 for things we've forgotten about.

QUESTIONS ARISING - NIL

WITNESS EXCUSED

THE COMMISSION ADDRESSES MR RAYMOND - WITNESSES

We're about to turn to the evidence from several family members and there are just two matters. First of all, Mr Raymond, I think you filed applications under the media guidelines in relation to two of the intended witnesses, 5 Ms Kennedy and Ms Marden and those applications are granted with the effect that they will not be filmed, nor audio recorded as they give evidence this morning. That means that save for the normal feeds which are going to the foyer area of the Court into the media room, there will be no live coverage of those two witnesses given the applications that they've made and which 10 we've granted. I note for completeness that name suppression is not sought for any of the family members Mr Raymond?

MR RAYMOND:

No, sir, that's correct.

THE COMMISSION ADDRESSES COUNSEL:

15 The second matter is that, as I've said, we're about to hear in person from seven members of the men's families, the Commission sought evidence of this nature, despite the obvious difficulties involved for the families and given it in this forum, because we saw communications with the families as a significant aspect of this phase of the search and rescue operation, and hence 20 it became issue 2.20 in the list of issues which the Commission issued some months ago. Unsurprisingly, not all of the families felt able to respond by supplying evidence and we well appreciate the reasons for that. But there was a very significant response, in fact, I think the Commission has had, in total, 32 witness statements filed from various members of the victim's 25 families, in some cases more than one from each family. So, those seven that we are about to hear from represent a sample of the spread of witness statements which have been received. As was to be expected, family members have expressed a range of views and this produced a concern as to whether the sample of seven was sufficiently representative of the evidence 30 as a whole, which the Commission has received over the last several weeks. That matter was discussed with counsel representing the families, and

counsel representing Mr Whittall and the police, in particular, representing Superintendent Knowles, and the Commission is very pleased that a sensible compromise has been reached and that is that in the interests of balance, I will read the substance of one additional witness statement after we have
5 heard the in-person evidence from the seven family members who are in Court and about to give their evidence. And I'll explain a little more about that witness statement shortly when we come to it. There's one other point, and one other reason why the Commission's very concerned to have this evidence, and that is because it contains numerous acknowledgements in
10 relation to the work of various agencies and individuals who, during those agonising days last November and subsequently, supplied assistance of all kinds to the families. So it is equally important that we hear the evidence for that reason as well as in order to examine the terms of reference or rather the issue which I identified a little while ago.

15 0932

MR DAVIDSON:

Before I call the first witnesses who will come up into the witness box together, I want to say this sir if I may. The seven family members speaking
20 today do so for themselves and these are their individual stories. This is not easy for them at all, but they are at last able to tell that story publicly. They are grateful for the sensitivity shown by the Commission and other counsel in the way this is to unfold this morning. They are going to say what they felt and they feel and these are therefore deeply personal accounts of a
25 harrowing time. Because they speak as they feel, the written word often does not do justice to what they perhaps are really sensing, and they'll take their opportunity as they feel it to add to their briefs as they go. It is right, sir, that I acknowledge what you have said, that there are in the briefs that have been filed for the families including these seven, in parts, are remarks that are
30 highly complementary about many services and as counsel we should acknowledge that and keep the balance ourselves. In some occasions they will ask family members to be with them as they give the evidence. Again, all this is unscripted. It's for them as they wish to tell it, and I repeat their

gratitude of the opportunity to do so in public today. And with that I will ask Lauryn Marden and Tara Kennedy to come forward.

MR DAVIDSON CALLS**LAURYN JOANNE MARDEN (AFFIRMED)**

Q. Lauryn, do you have a written brief in front of you, but you will record that your full name is Lauryn Joanne Marden and your husband was

5 Francis?

A. Yes it was.

Q. And we have a video or a clip available to run while your evidence is going to read. So as we've discussed, would you read it and add to it as you please, Lauryn?

10 A. Okay. I'd just like to take this opportunity to explain the photos that are currently in front of you. When I wrote the brief it was basically about two months ago and I didn't include anything personal about Francis. I didn't feel it was the correct format to have anything personal. Over the last couple of weeks I have listened to this shambles. Now I would like

15 you to meet my husband Francis. He was killed. Now I raise five young people on my own. For me it doesn't get much personal, more personal than that. "I'm Lauryn Joanne Marden. My husband was Francis S Marden. Francis was 41 years old. He lived with me and my family in Barrytown. Francis was a contractor with Chris Yeats Builders

20 at the time of the first explosion on November 19, 2010. He had no previous experience in mining and had spent approximately 16 months working at the Pike River Mine. He was unhappy working in such terrible conditions, but he worked hard and he worked very long. He had gained several licences to operate several of the mine vehicles and

25 he stayed as we felt the money was good and we hoped that he would not have to work there for too long. Francis and I have two sons, Alexander who is six and Jade who is four years old and is a special needs child.

0937

30 A. Francis' stepson is Kennan, and he has two stepdaughters, Hazel and Akayla. On Friday November 19th, I was telephoned by my husband's supervisor, Daniel De Arth. Daniel had not been working at Pike that day. He'd heard over the police scanners that there'd been an explosion and he asked me if Francis was home yet. It was 4.45 pm. I

told him that he wasn't home and I asked Daniel to check if Francis had made it back to his vehicle, which he always parked at the Cobden Bridge. That is where he met up with the work van each morning. Daniel called me back approximately five minutes later saying that Francis' car was still there. He reassured me that the workload was light that day and that Francis should be out of the mine and on his way back to Greymouth. In the meantime, I was fielding calls from several family members and friends as they watched the footage on the breaking news. It became clear quickly that things did not look good at all and I was desperately hoping my husband would be in transit and would show up at home shortly. Francis had left me a list of telephone numbers to ring in the event of an emergency. Two numbers were the Pike River control room. I telephoned both, but they were not answered. I telephoned the police station but they could tell me nothing. I left my details with the police and asked if they'd phone me as soon as they knew anything. Chris Yeats and his wife Karen arrived at my place at about midnight and we drove to the Pike River office in town. This is where we'd been told to go. I spoke to the mayor, who had some Crisis people with him and I left all my details with these people. Nothing appeared to be happening, so I went home. I went to bed about three-ish with the phone beside me and I waited. Saturday the 20th of November. At around five in the morning, I'm not exactly sure of the time, I got a telephone call from a woman who told me to be at a meeting. At 6.30, I think, Tara thinks seven, but anyway, it was about then, I asked her if this is the phone call I was expecting from Pike telling me my husband was down the mine? She said, "Yes." And that was the total extent of our conversation. By now I was shocked at the lack of communication and the empathy for my situation. If you could imagine your worst nightmare, I was now in mine and it was becoming pretty obvious that it was not going to improve. You don't expect anything like this to happen in this day and age and if I had, I can assure you, my husband would not have been down that mine. I went to the meeting. I can't really remember what people were saying. However, it was along the lines of, "Not to worry." We were told they had air and

they had water, and we all had hope. I once again gave the people who appeared to be in charge my details, as I had already given them the night before, but they didn't seem to have them. One of my close friends that had come to the meeting with me for support recognised a person she knew from Civil Defence. I can't recall this gentleman's name. She arranged that that person email me information that was otherwise being sent to the family members by text. This was no good for me living in Barrytown as we do not have any cellphone coverage. That person was the key player in keeping me informed as nobody else did. They seemed to be relying on the text message system, which was great but not for me, as I had no coverage. I returned home and I contacted family members to try and update them with the little information that I had. My dad and my eldest son, Kennan, arrived from Hamilton on Saturday evening. I told them that I thought the whole group of men had been lost and I had very little hope of seeing my Francis again. My father is an experienced engineer and he said that what he knew of explosions, I was probably right. Sunday the 21st of November. Sunday morning we went to the council rooms. We were still told to have hope and to hold on. I spoke to the person who'd been Francis' first supervisor in the mine. He told me that unless the men got to the two fresh air bases, there was very little hope and I have since learnt that there was no fresh air base. I went home and tried to prepare myself for the worst and focus on how I would get my five children through this time. I requested that my husband's name not be released to the media, as I did not want my children to hear and see it on TV.

0942

A. I was still trying to protect them all from this at this stage. However, his name was released. The days that followed are quite a blur. There were more meetings, more and more upset of family arriving, trying to manage my children, who by now had worked out that something was very wrong. A person was assigned to me from Air New Zealand, they were brilliant, arranging flights to get my family home and keeping us posted with the updates. At this time the Air New Zealand lady seemed

to be an absolute angel in the middle of my hell. I now go on to Wednesday the 24th of November. We were in town for the meeting when we received a text saying that the meeting for that afternoon had been delayed, there had been serious updates and we should all attend the meeting. I sat in a cafe in town waiting and feeling totally ill. My father and my eldest son had gone with me into town for that meeting. When eventually the group of officials walked into the meeting it was clear to me by the looks on their faces that the news was not good. Peter Whittall started to ramble on but Gerry Brownlee was a dead giveaway that it was bad news. They announced there'd been a second explosion, of course all was lost. As the news sunk in people began to cry and scream and wail. My first feelings were of immense relief, this week of hell was over. I now knew my Francis was gone and I could begin the process of getting him home to rest and go forward for my children as best we could. I could never have imagined that 10 months later we would still be in this limbo, still waiting to bring our daddy home where he belongs. Returning to the meeting I gathered myself and began to head to the door. My son, who had been waiting in the car, had begun to approach the door and was absolutely distraught. We headed for home to get to Francis' parents and my other four children who were waiting at Barrytown to tell them what had happened. Sadly we did not make it in time. They had learned of the second explosion from the news on television. I was beginning to loathe the media. Attention then shifted to the memorial service which was proposed. The meetings changed and the arrangements were being made. We were told where we had to be and what we had to do. Our feelings were not considered and not asked for. The day after the memorial service I did one of the hardest things I've ever done in my entire life. I flew to my sister's wedding in Hamilton with my children and family. We were away for about a week. When I returned I was shocked to discover the police had been through my husband's garage looking for fingerprints and had also taken a statement from my father-in-law who had been left in charge of my property in my absence. I could not understand why they could not wait till I had got home. There was no urgency for

fingerprints, it's not like the men were coming out any time soon and I felt my privacy had been breached. The next meeting that I recall of some significance was the Commissioner Howard Broad in January of 2011. I sat and I listened with my three year old on my lap and Peter Whittall sitting directly behind me taking notes. I was shocked at what I was hearing. I was confused at what they were telling us. Essentially they were going to hand the mine and the recovery of our people over to the Pike people. My view was that Pike were way out of their depth as to handle of the situation. I was in shock and disbelief and I thought that maybe I had misunderstood what they were telling me. At the same time we had begun to hear rumours that Pike was about to go under and I left totally bewildered. The meetings continued, there was always confusion as to what was happening. The women from the Focus Trust were helpful and trying to do their best for their families. Some structure first came to the meetings when Colin Smith attended. Finally someone seemed to be taking our interests to heart and some organisation began to appear. There is one very large family in Barrytown that is missing a very treasured daddy and husband. And I'd also like to mention that the rest of the Marden family back in the North Island who have lost their younger son, brother and uncle.

0947

A. Can I please say thank you to Brigette, Mark Harrison and Wendy Robilliard from the police who were lifesavers, thank you Wendy, John Robertson from Pike is a name that I will remember for caring and being there, Catherine and Teresa, I now consider you my friends and I'm very proud of my community in Barrytown for their support and the public of New Zealand for the support they have given us as families, thank you very much.

WITNESS EXCUSED

MR RAYMOND CALLS**TARA KIM KENNEDY (AFFIRMED)**

Q. Tara your full name is Tara Kim Kennedy?

A. Yes.

5 Q. You have a copy of your brief of evidence with you, if you could please just read from paragraph 2?

A. Okay, I'd just like to start by thanking you for holding the hearings in Greymouth so that we can all attend. It means a lot to all the families, thank you. "I was the partner of Terry David Kitchin. Terry was
10 41 years old when he died in Pike River Mine. We live in Runanga. Terry was a contractor in the mine working with Subtech Contracting. He had been at Pike River for about three months. Terry and I have three children aged 10, seven and four. I was cooking tea at home when I was called by my father who had heard about the explosion on
15 the radio. It was before 5.00 pm. I contacted my friends, trying to hold myself together without the kids knowing until someone could get to my home to be with me. I did not receive any contact from anyone at Pike River or the police. So, at about 8.30 pm, two girlfriends and I drove out to the mine. Terry had only been at the mine about three
20 months, so I had never been there. We did not know where to go, all the way from Runanga we were hearing news on the radio that there was an information base for families at the Moonlight Hall and also at Karoro Learning Centre in Greymouth. When we go to the Moonlight Hall there was nothing there at all, not even a light was on. We'd got lost on the way and we'd shot past the turnoff, we had to turn around and come back when we finally realised, so we finally found the turnoff and drove quite a way up the road towards the mine. We were stopped at a roadblock. I could not understand why the police had made a roadblock so far up the main road to the mine and did not position it at
25 the Blackball turnoff or even closer to town on the Taylorville Road. There were so many distraught family members driving all that way in the dark to finally get close to the mine and be told to turnaround and drive all the way back to town was very upsetting, very frustrating and poorly managed, in my view. The police officer at the cordon told us to
30

5 go to the Karoro Learning Centre and so we did. On the way we ran
into some Civil Defence staff outside the police station. They had been
denied access to the mine site and they also could not get any
information. They said that we should go to the Red Cross Centre, not
10 the Karoro Learning Centre as was still being reported on the radio.
The information was very confusing. This was the third base we had
now been told to go to. So we went to the Red Cross. By this stage it
was about midnight. There were a number of people at the Red Cross
Centre. A woman took my name and Terry's name. We told the people
15 there about the wrong information on the radio and they said they would
ring the radio station. It was probably a bit late for that at that time. The
mayor was there and talked to us. We waited for a while but there was
no information for us. We left there about 1.30 am. I eventually arrived
home about 3.00 am. I received a telephone call at 5.30 am telling me
20 to go to a meeting at the Red Cross at 7.00 am. This is the only phone
call I have ever received over the initial period."

Q. Pause there Tara. That phone call which you've just described, were
you told at that time that Terry was in the mine?

A. No, I actually can't remember. I don't think so, I think they just asked
20 but it's a bit of a blur, yeah, I'm not really sure.

0952

A. "There was one other call much later. It was from a woman at Pike
River just before Christmas, wanting to know the names of my children
and their ages because John Key wanted to send a card. We never
25 received one. I do not remember a lot from the meetings. This is partly
due to the severe lack of sleep that I was suffering from, shock and
grief. I knew nothing at all about mines or mining. As a consequence, I
believed everything I was told by Peter Whittall and Superintendent
Knowles. I thought it was great they turned up twice a day and gave us
30 information. As a result of the positive information we were constantly
receiving, I was going home every day and telling my three kids that
daddy would be home in time for their birthdays. My two youngest
children share a birthday on the 25th of November. You can imagine the
total devastation when we were given the news on the 24th of November

of the second explosion. I had to go home and tell the children that their dad was dead, the day before their birthdays. This is after they had made "welcome home daddy" cards for him. The manner in which the news was delivered to us all by Peter Whittall and -"

5 Q. We had in your brief originally that you thought Mr Brownlee may have been part of that delivery of the news. Having reflected on it and thought further about it, are you able to recall in fact whether Mr Brownlee was there?

A. I think it was Peter Whittall and Gary Knowles. I vaguely remember him.
10 I think he was there but I don't think he delivered any of the news.

Q. Feel free to take a break and have a drink of water if you wish, gather your thoughts.

A. "The manner in which the news was delivered to us all by Peter Whittall and Gary Knowles in a public hall full of people was absolutely terrible. I
15 barely have words to describe it. It was horrendous. I hope I never have to experience anything like that again as long as I live. I heard that the police wanted to deliver the news to us as they are trained in that sort of thing, but Peter Whittall decided he was doing it, and what a stuff-up of it he made. It was so bad when everyone was clapping as he said a team was about to go in. The next minute, wham, our worlds collapsed when he said, "Wait, there's been another explosion and it's
20 unsurvivable."

Q. Just on that Tara, I think your sister-in-law was at that meeting to offer you some support?

25 A. Yes she was.

Q. And you wish to express how she described that meeting to you?

A. Yeah, I just think that everyone should know how bad it was in that hall for us and we've talked about it since and my sister-in-law compares it to being inside a slaughter house. "In terms of communication of
30 relevant information, crucial pieces of information were kept from us. When they showed us the footage of the blast from the portal, I naively thought that it did not look very bad. However, I found out months later, after viewing it again, that we had not been shown the full video. It had been edited."

Q. Can you just pause there again. And in fairness to Mr Whittall, and I understand Ms Shortall is not intending to cross-examine you, so I want to put to you what Mr Whittall has fully and fairly said in his brief of evidence so that we have in advance an opportunity for you to comment, and I'm grateful to Ms Shortall for that. When Mr Whittall says that the footage was approximately 50 seconds long and it was taken straight from the 24 hour real time monitor at the control room which links to the camera at the portal, and he very clearly rejects any suggestion that the camera footage was edited or doctored in any way by himself or any company staff and he had no intention other than to be entirely honest and open with the families, hence the recommendation to show them footage in the first place."

0957

Q. Having heard that evidence and you and I have discussed it several times, are you able to reflect or comment further on the evidence, sorry, the footage, which you saw on that occasion with Mr Whittall last year and the footage that we've seen from time to time played during the course of the hearing, and I note that you've been in the hearing and seen that?

A. Well, I think I can speak on a lot of family members, because I've discussed it with all of them and when we were shown that footage in the Civic Centre, that was much shorter than what we see now, when we view the footage of the first explosion. That's my view, and I'm sticking by it. I believe that it was not the whole thing, it didn't, yeah, it just didn't look that bad to me at the time and I don't think that we sat there for 52 seconds watching it. I don't think it was that long.

Q. Thank you Tara, if you could just pick up again at paragraph 19, please?

A. "I was also absolutely horrified to find out later about the window of opportunity that everyone talks about now, when Mines Rescue should've gone straight in like they used to in the old days."

Q. Okay, and Tara, if you can just pause. You have been at the hearings and you've heard the evidence, you've listened to several expert witnesses give their evidence and in particular, you've heard in recent days, the evidence from Mr Watts of Mines Rescue. I accept and

appreciate that that was your view at the time. Having heard that evidence, do you take a different view now, or is there something you'd like to add further on that?

5 A. No, I've – yeah, I've changed my view after listening to all of that and I mean, you know, I heard for months everyone talking about the window of opportunity, but I accept now that there probably wasn't one, just because you know, they didn't have the gas, you know, the –

Q. The gas readings in the mine at the time?

A. Yeah.

10 Q. Thank you Tara, if you could just go to the heading "General" and pick up again from paragraph 20?

A. "There were things which happened throughout the ordeal I have discussed above which I really appreciated. I thought it was great that Pike River and/or the police took all of the families up to the mine site on
15 the buses, but I was really pissed off that Cliff Sandrey never got paid for supplying the buses and staff to ferry everybody to the mine visits. I also think the Red Cross did a great job and the polytech, providing us all with a place away from the media between meetings to have a coffee and a bite to eat. It was absolutely awesome having Air New Zealand
20 come and help us and to get family members here from overseas and arranging credit on phones. The police liaison officer that was assigned to me, Miriam Erber, from Christchurch, was an absolute lifesaver for me. I do not know if everyone else's police liaison officer was as good as mine, but she really helped me a lot and I will feel forever grateful to her. Likewise for Focus Trust, who took over the support role for me
25 when the police officer left and who I continue to not be able to do without. Since the time of the explosions in November, we have had to deal with a huge amount as families. It has been extremely difficult and there has been a lot of information and misinformation that has come
30 our way. It is just too hard to recount all of it and to think about right now. What happened at Pike River and how it was dealt with afterwards has created such a huge mess in our lives that sometimes it is just too hard to take. I am not the same person I used to be and neither are my children. What it has done to us as a family is indescribable. The kids

and my pain and heartbreak, their nightmares, them hating me and blaming me for letting their dad go and work at the mine, the constant battles I go through everyday having to be Mum and Dad. Our great life has been totally ripped apart. Everything is the exact opposite of how it used to be. Terry did not deserve this while trying to make a better life for his family. I did not deserve to have my soulmate and father of my kids to be taken from us like this. I should not be having to raise three young kids on my own. My kids definitely did not deserve to lose their dad at such young ages.

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10 1002

A. They should not be without his love and care and his wisdom to get them through life. They should not have to go through all their important milestones without him around. We should not be having to go through this constant nightmare eight months on and it just gets harder and harder. It is sheer torture.

15

Q. Tara, thank you for your evidence.

A. Thank you.

WITNESS EXCUSED

MR RAYMOND CALLS**SONYA LYNNE ROCKHOUSE (AFFIRMED)**

Q. Sonya, your full name is Sonya Lynne Rockhouse?

A. It is.

5 Q. You live in Christchurch?

A. I do.

Q. And you are the mother of Daniel Rockhouse, who we know walked out of the mine on the 19th of November?

A. Correct.

10 Q. And Benjamin David Rockhouse who was 21 years old when he died in the Pike River Mine

A. He was, yes.

Q. You have with you a copy of your brief of evidence Sonya?

A. I do.

15

MR RAYMOND ADDRESSES COMMISSION – INTERPOLATE AT VARIOUS TIMES**EXAMINATION CONTINUES: MR RAYMOND**

20 Q. Sonya, if you could please read for us starting from paragraph 3, and as I've just said to Tara if you wish to take a breather at any time that's fine.

A. "Ben was a contractor for Valley Longwall. He previously worked as a junior geotech at Pike River for about one year. I am giving this evidence in relation to communications which we experienced during the search rescue and recovery operations. I am also giving this
25 evidence on behalf of my partner Pete. Friday the 19th November 2010, probably the worst day of my life. I was in Christchurch at the time of the first explosion. I had gotten home from work when my sister telephoned me. She asked me whether I had been watching the news. I said, "No," and asked her why? She told me there had been an
30 explosion at Pike River. I then, of course, watched the news and at that stage was not too concerned, at least for my own sons, that is because Daniel was meant to be coming to Christchurch the next day and therefore I felt for some stupid reason that he might not be at work.

1007

A. I also thought that Ben was on nightshift, or at least that's what I told myself. I rang my boys' cellphones and their houses and also my ex-husband Neville Rockhouse's cellphone numbers. I received no
5 answers. I began to panic. Within hours we had decided to head to Greymouth. That is because we had received no information from anyone with either good or bad news. I thought that surely if they'd gotten out of the mine we would have been contacted. Without that contact the only decision I could make was to leave and get to
10 Greymouth. We picked up Neville's brother and headed over."

Q. Sonya, I think that you also came over with your older son, Matthew?

A. We did, yeah. Not many people know I have another son, an older son. "Before we left, we received a phone call from Daniel's wife, Sarah, who confirmed that both Daniel and Ben were down the mine. We arrived in
15 Grasstree Mine at about 11.00 pm. As we came over the Pass and I got cellphone coverage, I received a call from Sarah who told me that Daniel had walked out of the mine and was in hospital."

Q. Sonya, I'm just going to help you a bit here and ask a few questions, so you can just acknowledge if you wish, just whilst you compose yourself
20 a little. And everyone understands, Sonya, so don't worry. At that time when Daniel was in hospital, you didn't know what sort of condition he was in at all?

A. No. We'd actually heard on the news that a loader driver was dead and the reporters had seen the ambulance driving slowly, and I
25 remembered. I said to Pete that I remembered Daniel telling that he'd driven the loader a few times, and then I thought that was just silly. What were the chances.

Q. You, of course, asked Sarah about Ben and you were told that there was no news about Ben at that stage and that he was still in the mine, is
30 that right?

A. Yes.

Q. And I think, and again I'll lead you through this because I know how difficult it is for you, that on that trip over the Pass, you received another piece of devastating news didn't you?

A. Mmm.

Q. And that was that your former husband, Neville's father, Rocky, had died, and your son Ben had lived with Rocky and with you for 17 years?

A. Mmm.

5 Q. And were extremely close?

A. Very close.

Q. And you had a concern then, one that lives with you, that Rocky may have seen the news and perhaps felt that he may have seen the news and then of course worried about Ben and Daniel, and precipitated his heart attack?

10

A. Yeah, he would have thought. When he died, Daniel was – we'd had no news about Daniel. So he would have thought that two of his grandsons were down the mine.

Q. And you were obviously absolutely distraught as you drove over the Pass and you were driving in convoy with Neville's brother, Terry?

15

A. Mmm.

Q. And it was Terry who flashed his lights to pull you over to tell you the news that his father, Neville's father, had died and you then had the unfortunate task of having to call Neville to tell him that news. Is that right?

20

A. Yes.

Q. Are you able to pick up again from paragraph 14?

A. Yeah. "When we got to Greymouth we went straight to the hospital to see Daniel. It was, of course, wonderful to see Daniel, but I had mixed emotions. Seeing Daniel and Russell in the ward, knowing there were another 29 or more men down the mine, was a very eerie and unusual feeling for us. Daniel was in poor condition and somewhat distraught that his brother was not yet out."

25

Q. Just on your first impressions of seeing Daniel, one of the things you've talked about with me, Sonya, is the smell?

30

A. Mmm, dreadful smell.

1012

Q. What is it that?

A. It was a dreadful smell, it was a smell I'll never forget. It's like a, hard to describe, it was just, it gave me an instant headache and the whole hospital room just, it just hit you when you walked in.

5 Q. And I think you asked Daniel, at that stage, about his view on whether they might be able to get Ben out of the mine, is that right? Can you remember what Daniel said to you at that point?

A. I just said, "What about Ben," and he said he didn't know, he just didn't know but that it wasn't looking good. Just not really what I wanted to hear but...

10 Q. Just picking up again from your brief, Sonya, Daniel, from where, "Daniel walked out of the mine..."

A. "Daniel walked out of the mine with Russell Smith and there was no one there waiting for them at the portal. This is despite Daniel having contacted Doug White from within the mine to advise him that he was walking out. In my opinion, this is disgraceful. We stayed in a motel that night but I had packed gear for the next day on the assumption that we would be up at the mine waiting for the men to come out."

15 Q. And again, Sonya, if you could just pause, you have talked with us about your thoughts when you tried, at least, to go to sleep that night and how it might be in the morning. Would you like to share that?

A. I just thought we would wake up in the morning and we would get news that the men would be out and that it would just, the nightmare would all be over, but I just had no idea of the enormity really, of the whole situation, I just had no idea.

20 Q. From paragraph 17 please?

A. "The motel that we were staying in was owned by Blair Sims', who was also down the mine, sister. She told us that about the family meeting that had been organised for Saturday morning. We went to that meeting. The meeting was at the Red Cross Centre. There were a lot of support people available to us. Information was being written up on a whiteboard detailing the gas readings in the mine. There was food available for us. Everyone was tense and hungry for information. I can't remember much about that meeting. I cannot really say how good the communication was or how effective it was because I was feeling numb

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and my recollection of it now is poor. We went to the second meeting that day, later in the afternoon. My experience for that meeting was as for the first. We were just hoping for information and there was very little forthcoming. Sunday the 21st of November. By that stage, Daniel was out of hospital and he was attending the family meetings with us. Peter Whittall and Superintendent Knowles presented at these meetings. Generally, I found Peter Whittall to be good and I felt reasonably confident in him and the information he was giving us. As for Superintendent Knowles, I found him reasonably good in the beginning, however, I did think he was a bit standoffish. People would ask him questions and he would defer to his expert panel. When family members asked who that panel was, he would not provide us with any details. He appeared to deflect some questions and I found him a bit cold in the way he delivered information to us.”

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15 Q. Sonya, again, if we could pause for a moment. You were in Court when Superintendent Knowles gave his evidence last week weren't you?

A. Mmm.

Q. And you heard his comments on, what he said, as being gutted at what he read in the family briefs and that was later clarified that it wasn't meant as a criticism at all but he was gutted that he felt from reading those briefs that he may have let the families down in some way. You remember that?

20
A. Mmm.

Q. Having heard from Superintendent Knowles now, I think you want to say something further in response to that?

25
A. I appreciate the fact that he apologised. I think that that says a lot and I actually went and shook his hand and thanked him for all that he did and, yeah. I just appreciated the fact that he admitted that there had been mistakes made, I think that's a huge thing.

30 1017

Q. Helped with your healing?

A. Mmm.

Q. Thank you Sonya, if you could just pick up again from paragraph 24?

A. “At a later one on one meeting with Superintendent Knowles before I returned to Christchurch, I did find him empathetic towards me and he seemed to be much better dealing with people at that one on one level. It was clear to me that he was and had been doing his best throughout and he was absolutely exhausted, and looked it. Monday 22nd of November to Wednesday 24th of November. We continued to go to the family meetings over the course of Monday and Tuesday. At one stage, Superintendent Knowles slipped up, or so it seemed to me, when he referred to the recovery of the men as opposed to the rescue of the men. This subtle change in language was a bit of an indicator to me as to his real thoughts. I found this distressing. The support over those few days was very good. Air New Zealand support was amazing, also Focus Trust provided continual support and still do.” And I’d just like to say that they are just the most amazing supportive people you could ever want. “And we were assigned a police liaison officer who was excellent, Constable Terry Middleton of the Greymouth Police. On the Wednesday we received a text message saying that there had been a significant development and we should go to a meeting later that afternoon. It said something along the lines that ‘Family attendance strongly recommended’.” Up until this time, I still had hope that Ben would come out of the mine alive. When I got the news of this meeting, I continued to have hope, but in the pit of my stomach, thought that the news must be bad the way we had been urged to go to the meeting. The meeting was appalling. As we arrived, I noticed that the media had been pushed back further from where they normally were. This was the first ominous sign. When we walked into the hall, I noticed the grave look on the faces of the Red Cross staff. It seemed to me that they’d already been told something. When we sat down, I then noticed the very significant police presence, many more police officers were there than normal. I would say that up to 30 police officers at least lined the side walls and the back of the hall. I found this slightly intimidating but I also had a sense of foreboding that we were about to be told something which we were going to react badly to. Peter Whittall then said that the gas readings had improved and that the Mines Rescue men were about

to go in. With that, everybody clapped and cheered, including me. Then he and Gerry Brownlee were raising their hands in an up and down motion telling us all to be quiet. He then said, almost in the same breath, that there'd been a second massive explosion and that no one would've survived."

5

Q. I think that you wanted to add there, Sonya, that in fact the words might've been "insurvivable", is that right?

A. Yep, the words insurvivable were used.

10

Q. And the second piece of news that it was insurvivable, is it your recollection now that it was Mr Whittall who delivered that piece or was it Superintendent Knowles?

15

A. I've thought about – I've gone over that day a million times in my head and I remember that Peter Whittall was, he was just devastated and got to a point where he couldn't talk. And so then Gary Knowles stepped forward and he relayed the last part of it that it was – Peter couldn't get it out, so Gary stepped forward and relayed that there'd been another explosion and that it was insurvivable.

Q. I think that was pretty much the evidence of Superintendent Knowles when he, so your recollection seems to accord with his, is that right?

20

A. Yes.

Q. Paragraph 33?

25

A. "Absolute pandemonium broke out in the hall. People were screaming and yelling. People were directing abuse towards the police. One woman collapsed and had to be taken away in an ambulance. My son Daniel came up to me and we hugged. We were obviously devastated. My oldest son Matthew was also with me.

1022

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A. As people were leaving the hall I caught up with Peter Whittall who was being escorted out. I stopped to ask him when the men would be coming out. I could barely speak and kept on just saying, "When, when." He was being urged to move on by his minders but he almost snapped at them and insisted that he stayed for a moment longer to talk to me. He was clearly devastated himself and his face was contorted with anguish. He allowed me to compose myself and ask the question I

wanted to ask about when the men would be taken out of the mine. He said that he did not know what the timeframe would be but that they would be doing all they could to make that happen, then he went. Gerry Brownlee asked me whether I had someone helping me to get away and comforted me by giving me a hug. When I went outside to the waiting media, although they took photos they kept their distance and I found them respectful. My impression was that they recognised the severe grief that we were under. The next day we had to leave Greymouth to go to Neville's father's funeral. We returned to Greymouth after the funeral and stayed in Greymouth for another 10 days or so. In the weeks that followed from the end of November to early January there was not much more positive news. We came over every couple of weeks to try and attend family meetings. The so-called recovery process seemed to be moving at an agonisingly slow pace. I should add that at one of the meetings early in November the Prime Minister Mr Key attended. He stood up in front of the families and said that the Government would do whatever it could to effect a recovery of the men no matter what the cost. I expect him to stand by that commitment he made to the families. Each day we were waking up with renewed hope because of the information from the day before. It seems that each day there was a slight improvement in the gas readings. Even on the day of the second explosion a number of us went to the meeting feeling positive until I got the unusual text that we should be at that meeting. The 13th of January 2011. On the 13th of January I was in Christchurch. I received a phone call from a police officer who told me there was a meeting that day with Police Commissioner Howard Broad. He said that for those family members who were unable to be at the meeting in Greymouth he had a statement to read to me which was going to be the same information provided at the meeting in Greymouth. He then read the statement. It was to the effect that the recovery effort could not continue any further. The mine was going to be sealed. I asked him to send me a copy of that statement. Given the way the recovery work was heading and the sort of things we were being told I half expected this news so it did not come as a great

surprise. What did come as a surprise to me was that the other family members in Greymouth did not get the statement that we got and during the course of the meeting Commissioner Broad effectively back-tracked on what he had started out saying. This was as a result of information that was being given to him at that meeting by family members, some of whom worked at Pike River. I did not find out about his flip-flop until I was at the next family meeting in Greymouth when the situation became clear and I made it known that was not what we had been told on the 13th of January. Observations. My general overall impression is that there were pieces of information which were not fully disclosed to the families. The video footage of the first blast is an example. Furthermore, the first time our family saw the footage of Daniel walking out of the mine was when we saw it on the Sunday programme months later.

15 1027

A. Also, we now know that on the evening of the second explosion the police and Pike River were aware from a CAL scan image that there was a self-rescuer box open at the foot of the Slimline shaft. That is what they thought at that stage. That was never communicated to the families until much later and only after our legal team became involved. Although potentially that sort of information would have raised difficult questions, it still is information that we, as the dead men's' families, were entitled to. I do not feel it was the police's prerogative to keep information like that from us. Likewise, I am unsure about the quality of the police initial review of the CAL scan and video images. I say that because also earlier this year it was revealed that the police now thought there was a body visible in one of the CAL scan images, which has since proven to be the case. This is notwithstanding the fact that we had earlier been told at the coronial inquiry that the men would have all died instantly and that there would be few remains. These changing circumstances and pieces of information have been extremely difficult to deal with. We were also initially told that the explosions would have been massive. We were later told that the explosions' force might not have gone as far into the mine workings as first thought. We were also

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told that there would be total devastation and something like an “inferno” in the mine. Later, however, we were shown images which reveal stone dust bags and wooden pallets still intact. My view is that the people that were dealing with us knew the men were dead and continued to give us what was false hope. I wanted to hang on to hope and I wanted to hear what they were saying and believe it. However, in my heart I could tell from their body language that they did not believe what they were saying and that they knew, from a relatively early stage, that the men were dead. Looking back, it is heartbreaking to have effectively been given false hope over those initial days and not be told the reality until the second explosion on the 24th of November 2010, when it became easier to say that all of the men would not have survived that blast. The impact of this incident at Pike River has affected me in ways which only those that have experienced loss could ever understand. My remaining children will never recover from the loss and seemingly senseless loss of their brother, Ben. For myself, I no longer sleep properly. I think about my Ben every day. I miss him terribly. He was my baby boy, he was only 21, and he died for nothing. We were told every day not to talk to the media by Superintendent Knowles, but in hindsight that’s exactly what we should have done to put pressure on Pike to try and recover the bodies of our men.”

Q. Sonya, just a couple of more things. You have in recent days I think, gone with members of your family to the Brunner Mine site to reflect and to consider mining disasters that preceded it?

25 A. Yeah.

Q. What was your impression of things -

A. It’s the first time I’ve been up there and at first I found it very peaceful, and I read the names of the Pike 29 there, and then walked around and read the plaques of the others, and naively I was shocked at how many men had died in the Brunner Mine and I felt sad that over 100 years on and still we’ve learnt nothing.

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Q. And Sonya, we’ve heard evidence, and you know very well, of course, about the imminent sale of the mine and that is one of the objectives, of

course, of the receivers and we know of course that 29 men remain in the inner reaches of the mine and may indeed still be there when the mine is sold. You wanted to offer some reflection on that?

5 A. I just don't see how you can sell something that has 29 bodies that don't belong to them. The bodies of those men belong to us, the families and I just don't understand how that can be allowed to happen. It's wrong on so many levels. Mostly morally and I think they have a moral obligation to get the men out. Our men went to work in the morning and did not come home in the afternoon, through no fault of their own and
10 we need, I mean, for me it's like Ben is away overseas on holiday somewhere and until I have proof or I have something that I can grieve over, when none of us are ever going to have any closure. It's going to be with us always.

Q. With that acclamation, Sonya, I think that concludes your evidence.

15 **WITNESS EXCUSED**

MR RAYMOND CALLS**CAROL MARGARET ROSE (AFFIRMED)****SUPPORT PERSON**

Q. Carol your full name is Carol Margaret Rose?

5 A. It is, yes.

Q. And sitting with you in the witness box today is your husband Steven Rose?

A. That's right.

Q. You live here in Greymouth?

10 A. I do.

Q. And as we know you're giving this evidence in relation to communication issues in the search and recovery phase and as I understand it also giving this evidence on behalf of Steven?

A. Yes I am.

15 Q. If you could please start reading your brief from paragraph 4?

A. "I am the mother and Steven is the stepfather of Stuart Gilbert Mudge. Stu was 31 years old when he died at the Pike River Mine. He was a trainee miner. He had only been with Pike River Coal Limited for nine months and he lived in Rununga. Steve and I operate a retail firewood and coal yard in Greymouth and Stu worked for us as our right-hand
20 man for four and a half years. We spent six days a week together during that time until Stu decided that he wanted to go mining. We had a very close relationship.

1037

25 A. 19th of November. At about 5.15 pm that day we received a call from a friend who asked whether we had heard the news of an explosion at Pike River. We had not. I initially thought Stu was on nightshift, but quickly realised that he was at work. Turning to the television news, it was unclear how many men were trapped in the mine. It was several
30 days before the precise number was actually relayed to us. We made and received a number of calls trying to find out further information. Friends and family from around New Zealand were contacting us. We contemplated going up to the mine, but ruled that out as we had seen

on the news that the police were not letting anyone near the mine site. We thought that if there were going to be survivors, the Greymouth Hospital would be unable to cope with the number of injured. On that basis we thought that we may need to go to Nelson or to Christchurch and therefore made arrangements to leave if we needed to. We waited for further information and we watched the news. We had contact from Stef Timms, who is the aunt of Joseph Dunbar, and the wife of Joe Verberne who worked for Valley Longwall. He was on the shift before Stu and he was still at the mine site. Stef called to say that Joe had called and that two men had walked out and were being taken to Grey Hospital. He also said that there were another three men coming behind them. I tried to find out if Stu was one of the men taken to hospital. I was able to ascertain that he was not one of the injured men. We received no contact from Pike River and we were still unable to make contact with the mine. We noticed television footage of family members going in and out of the Red Cross rooms in Greymouth. I contacted them for information. They said that we should come in to register and wait with the other families. We went there at about 10.30 pm and registered as the parents and next of kin of Stu. At this stage we were still actually unsure whether or not he was in the mine. However, we had not heard from him. His phone remained unanswered and his car was still parked at the Cobden Bridge. We were told to report back the following morning for a meeting. We found the Red Cross people to be absolutely amazing. They were very caring and supportive towards us. However, they could not provide us with any information. They could not confirm whether our son was amongst the missing men. We know now that mine management actually had no idea themselves. We left Red Cross at about 11.00 pm none the wiser than when we had arrived. We collected Stu's car and went to Stef Timm's and Joe Veberne's house. Joe had just returned home. He had worked a 12 hour shift, driven home, then driven back to the mine site again, and was still up so many hours later. He was absolutely exhausted. He did, however, have a lot of news from the site. He drew us maps of the mine and told us where he had last seen Stu. As he

came off shift, he had exchanged a few words with Stu. In exchange for having New Year's Eve off, Stu was working a double shift that night, a 16 hour shift. Joe and Stu had had a bit of laugh together and he seemed happy. Stu had often talked to us about his concerns at Pike River being a gassy mine. We assumed it had been a gas explosion rather than a coal dust explosion. At the time this seemed worse to us. We were exhausted with emotion, but discussed with Joe Verberne at length, the likelihood of surviving a blast in such a small mine. We felt there and then that the men were probably gone. By 2.00 am that morning, we still had not received any contact from anyone at Pike River, or the police."

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Q. Just if we turn now to Saturday the 20th of November, Carol, there was a meeting that morning at the Red Cross Centre, wasn't there?

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15 A. That's right, yeah, we were crammed in like sardines, there was absolutely no room to spare. "It appears that the people running the meeting had no idea how many family members would be there. It's difficult to recall the details of the meetings, which are now hazy for me. Steve and I were hungry for information but there was very little information forthcoming. Peter Whittall talked about experts, gas levels and safety but the whole basis of his talk was about hope. He told us about fresh air bases, compressed airlines, self-rescuers and how sure he was that the men would be coming out."

20
Q. Just to pause there Carol. You've used the phrase, "Fresh air bases," that was the way you phrased it by stringing a number of things together, you're not suggesting that you were told that there was more than one fresh air base at that time?

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A. No, I don't recall that I was told there were many, I mean or several, more than one even. I guess I assumed that there would be, yeah, one or two.

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Q. Can you remember whether it was at that stage that Mr Whittall said that there would be men in a fresh air base?

A. Yes, he said, I think his words were something like, "They'd be gathered together and sucking on a compressed airline." That was the

impression that we had. When things are said to you in meetings like that sometimes you can't remember the words but you remember the impression and a picture that creates in your mind. So that was the impression we had, that the men would be gathered somewhere safe.

5 My impression was that they'd be passing around this airline, you know, and they'd take a breath and pass it on. I mean, I don't know, but that's how we viewed it.

Q. Thank you. Paragraph 19.

10 A. "However, with the information that we had received from friends who were miners at Pike River and Spring Creek we did not buy into this hope story that Peter Whittall was handing out to the family members. We knew that the men were gone, although we were not prepared to let go of that miracle factor. Stu had named his girlfriend at the time as his next of kin. This was unfortunate for us because when the police did
15 finally start communicating with the families it was her that they insisted on calling whenever there was any news. It was not until Monday 22 November before the police put me on their list of people to contact for Stu. I was required to get hold of Stu's ex-girlfriend and get her to tell the police that I was the one they should be calling before they
20 would even acknowledge me. I found this extremely frustrating and difficult to deal with. At the meeting for the families on Saturday afternoon Steve asked Mr Whittall what the temperature at the vent shaft was. Peter replied, and I can say this is quoted, "Those are not parameters we are testing for." We already knew from inside
25 information that the mine was on fire and rapidly came to the conclusion that the police and Peter Whittall were hiding something from us."

Q. Just pause there Carol and reflect a little further on that meeting. Is there something further from that meeting which you now recall about what may have been said in relation to the fire?

30 A. Yes I do. I recall a family member, and I don't know which one, because I didn't know anyone then, they mentioned a heating, that there was a heating, and Peter Whittall said that it was probably just some smouldering rags.

Q. Continue please from paragraph 22?

- 5 A. "At about 8.00 pm on the Saturday night Joe Verberne came to see us. He had received a visit from one of the Mines Rescue men who knew us and wanted Joe to make sure that we knew that the mine was a fiery inferno and that no one was coming out. It was at that point that we accepted that Stu was gone. Sunday 21 November. We went to the early morning meeting expecting to be told that it was all over. I was absolutely gobsmacked when Peter Whittall walked into the hall with a mine map under his arm and proceeded to tell the families that the men could be at one of the fresh air bases and would be hungry when they came out."
- 10 Q. Again Carol, on reflection do you think it is the case that he only referred to one fresh air base?
- A. I think he probably did. It was probably just my impression that there were more than one.
- 15 Q. Thank you, from paragraph 24.
- A. "Steve and I looked at each other in total disbelief, absolutely incredulous as to what was going on. At this point Peter Whittall and the police had still not admitted that the mine was on fire. Wednesday 24 November.
- 20 1047
- A. Much to our dismay, the authorities managed to continue this charade until 24 November. This is when Peter Whittall walked into the family meeting and told us that there had been a second explosion and there could not possibly have been any survivors."
- 25 Q. And Carol, just on that second point is with the previous witness and given there seems to be a little contradiction in the evidence about who said what, are you able just to recall, to assist the Commission, and it may not be an important thought I don't know, but who said what at that point in terms of survivability?
- 30 A. I have thought hard about this and I do think that it was Peter Whittall that said that, although I could stand to be corrected.
- Q. Continue on?
- A. "Steve and I just sat in our seats while the whole room erupted in a collective wail of grief. Steve and I had known this information for three

days already and had not been able to ascertain why Peter Whittall and the police were withholding information and instead giving the families such false hope. To us, the way this process was managed was so cruel and we were extremely thankful to those who broke ranks and, out of caring and consideration to us, gave us the facts. This was so much easier to deal with and got us through those early days. Communication issues. It is our personal opinion that Superintendent Gary Knowles was unsuitable to fulfil the communication role with the families. He struggled to communicate in an empathetic way with us. We felt that we were not being given the full picture or a realistic appraisal of the actual situation. We accept that Superintendent Knowles may well be a good policeman. He has reached a very senior position and he was no doubt trying to do his very best. However, in this underground mine rescue situation, with many upset families, he appeared in our view to be out of his depth on the issues which arose and in finding a suitable style of communication. In my view, it was unfortunate for the families that Superintendent Knowles' superiors did not recognise this and remedy it from an early stage. Someone else from within the police hierarchy, trained in this sort of massive disaster-type situation, with excellent people and communication skills, should have stepped in." I would like to add that since I wrote this, I have heard Mr Knowles' apology to the families, and while it doesn't change anything, I do accept his apology. "In terms of Pike River's communication with us, this was through the CEO, Peter Whittall. He came across as very credible, but with the information we already had from our friends in Mines Rescue, he was obviously not telling us everything. For instance, the video footage taken at the mine portal was edited prior to the families' first viewing and that it was cut short by 22 seconds, which minimised the visual intensity of the explosion. We were not told that it was edited." And can I just add here that there has been some question around whether we did view edited footage. It was timed when it was initially shown by Kath Monk, and it was 30 seconds long, and the visual impact was nowhere near what the full footage shows. It would have made a huge difference to us had we seen that full footage. "Peter Whittall told us

that this video footage was of no real consequence and there was nothing to learn from it. This in fact turned out to be quite the opposite. I still don't know why we were shown an edited version of the video footage of the explosion at the portal. 13 January. The communication to family members from the top police officer in the country was very poor. I am referring to the meeting attended by the Commissioner of Police, Howard Broad, on 13 January 2011. I found this meeting the most hurtful event in this whole sorry saga. Commissioner Broad was at the meeting with Al Morrison and Gerry Brownlee. Lies were told to us about sealing the mine and the police withdrawing from the recovery. They then walked across the road to a media conference and broke the news to the rest of New Zealand. I have never felt more let down or disillusioned at the hand of the authorities than at that time. We unfortunately still do not trust the police and strongly hold the view that they are withholding vital information from us.

1052

A. Over so many meetings with the families, they had encouraged us to put our trust in them, and many did. It is therefore, unbelievable to me, that they treated the same people so badly. At this meeting, it started with the suggestion that the mine would be sealed until family members provided information about improvements at the mine site and gas readings which then led to a back-tracking. He then denied accusations that the police were sealing the mine and handing over to the receivers but this was said, at the time that texts were coming into the room from outside family members, who had received telephone calls from police officers confirming that this was actually the case. Mines Rescue. Throughout the earlier period and to this day, we have been continually astounded by the complete lack of information from Mines Rescue Service. It was a great source of anger and frustration for us that nobody in charge seemed to have sufficient courage to enter the mine in the very early stages and pull out the survivors who we believed were there.” We since acknowledge that, that possibly wasn't the case and that there was no opportunity for that.

Q. Your comments here, Carol, which you've just read were a reflection on how you felt at that time in those difficult days.

A. It is.

Q. Over that initial period, is that right?

5 A. That's correct.

Q. And now with the benefit of time and education, better understanding and hearing evidence, you've reflected on that and understand that the so-called window of opportunity might not, in fact, exist?

A. That's right. We do accept that.

10 Q. Thank you.

A. "It was many months before Mines Rescue came to the meetings and we were still left in doubt about what they were actually doing. We would've thought that Mines Rescue would've been in charge of the whole operation given all their background training and experience.

15 However, to us it seemed that we were in a vacuum where nothing was offered and nothing seemed to get done. There may have been planning underway but it was not fully conveyed to us. It was, therefore, very easy for us to hold them in a very poor light out of sheer frustration." And I would like to acknowledge now, that I appreciate

20 Trevor Watts' reasons for not facing the families but I do still believe that he could've sent his 2IC in to communicate with the families. It really would've helped us enormously to have had that background. "We accept that hindsight has been used to look back on how things were.

25 Our impression is that Pike River may have had plenty of safety plans in place for dealing with things like a small injury, perhaps even a loss of life. However, they overlooked the bigger picture and in their ultimate goal to run a large and profitable mine failed to consider, examine or properly put in place planning for a catastrophic disaster in the mine, such as occurred here. It is our view that Pike River had no real idea

30 how to deal with such an event. There were no systems in place and no ability to cope with it. Our son has lost his life as a consequence.

Support. The Red Cross team had a very difficult job. They worked very long hours and extended wonderful compassion and care to family members. Our Air New Zealand support person, Robyn Sparkes, was

amazing. It was not until she was assigned to us that we were recognised as Stu's next-of-kin. She was the first person to acknowledge our pain and suffering. We also had a couple of police liaison officers. They were also a lifeline to us. They were like family members. We also recognise the good work and effort from John Robinson and Adrian Couchman of Pike River.

THE COMMISSION ADDRESSES WITNESS – THANK YOU

COMMISSION ADJOURNS: 10.57 AM

COMMISSION RESUMES: 11.15 AM**MR RAYMOND CALLS****MARTIN JOHN PALMER (SWORN)**

5 Q. Mr Palmer, your full name is Marty John Palmer?

A. Yes, Martin John Palmer.

Q. Do you have a copy of your brief of evidence with you? If you could please read from paragraph 2?

10 A. "My son, Brendon John Palmer, 27 years old, was a trainee miner for Pike River Coal. I have been involved in underground mining over the past 18 years. I've had some breaks in between. At the time of the explosion, I was employed by PRC as a shift co-ordinator. 19th of November 2010. On Friday the 19th of November 2010 I left work at 2.00 pm and was in Greymouth at the time of the first explosion.
15 However, I did not find out about the explosion until 6.15 pm. My daughter had been driving around looking for me. She found me and told me. I telephoned the mine but I was told not to come up to the site as they needed "cool heads" up there at that time. My personal view, as a coalminer, was that if the men had not come out of that tunnel within
20 four to six hours, there would be no survivors. Daniel Rockhouse and Russell Smith had walked out during this time. I form that view because of the length of the drive and the amount of the oxygen that would be displaced because of the explosion and then the quick build-up of carbon monoxide. That would have overcome the men quickly, as the
25 mine was only at its early stages and still pretty small, except for the 2.2 k tunnel.

1118

30 A. I attend the family meetings which were organised over the following days. At those meetings I was horrified about the information being conveyed. I felt the families were being led on by telling them what they wanted to hear. They were telling us that some of the men could still be alive. They said things like, "The men could be all sitting at the end of a stub and have air and water." I did not think that this was correct. My view was that if there were any survivors they would have attempted to

exit the mine. We all held a hope that a miracle would happen. I think the miracle was Daniel and Russell walking out the mine. I found the meetings intimidating. There was always a high police presence, we were all seated, there were at least several more police officers standing at the back of the families around the hall. There were a lot of families present who knew nothing at all about mining. Those of us who were involved in mining could not speak up and lay out what we thought was the truth and the facts of the matter as there were other families there who were still so hopeful because of like what they were being told by police and Pike River. In short, they were given false hope. I braced myself for the bad news which would eventually come. However, on the afternoon of Wednesday the 24th of November Superintendent Knowles and Peter Whittall broke the terrible news of the second explosion. It was a sight I never want to see again in my life. People were yelling, screaming and crying. In my view the way this information was conveyed to the families was cruel.”

Q. Marty, you have reflected on the use of that word, as I understand it, and want to just add something further to that?

A. Yes, I used the word, “Cruel,” but looking back I don’t think anybody delegated to deliver this news to the families would have intentionally set out to convey this news in this manner. It was a very emotional and trying time for everyone in that hall that day.

Q. If you could just pick again from paragraph 9?

A. “January 2011. In mid January 2011 the families were told by Police Commissioner Broad that the mine would be sealed. I was in Christchurch and had received a telephone call from the police telling us they would be sealing the mine. I went off the deep end but cannot remember the name of the person I was talking to. My observations. My view from the beginning was that police should never have been involved in the underground rescue process. This was a job for New Zealand Mines Rescue and the specialists in this field who have trained hard since the 1967 Strongman Mine explosion. Help was also available from specialised Mines Rescue crews in Australia. The police made the wrong decision in my view in not allowing the mine to be

sealed on Saturday or very least the Sunday and starved of oxygen within 24 hours.

1121

5 A. Superintendent Knowles would be questioned about this at meetings and his decision-making process. His regular response was that he'd have to ask his expert panel. In my view, the whole exercise over the first week was the worst rescue/recovery effort in mining history under police control."

10 Q. And again, Marty, I think that, in fairness to the police, you've reflected on that observation and would like to say something with perhaps the benefit of hindsight?

15 A. Yes. With reference to the worst rescue/recovery in mining history under police control, I'd like to add I've been listening to evidence this week that decision-making by the police was also hindered by other agencies and experts with continued delays of vital information sharing and non-environment and the use of local mining experts. I do now believe that the police did do their best and some decisions were hard to come to.

20 Q. Thank you Marty, now if you could just pick up again from the second sentence, "My strong view"?

25 A. Yep. "My strong view is that had the right people been allowed to do what they were trained for we would not have a mine with a major coal or rockfall at Spaghetti Junction, which was caused by letting the mine catch fire and burn after the second explosion. This was in my personal view an appalling decision by police and Pike River. Evidence has been lost. Our loved ones' remains may never be recovered in that area. I regard the decision to effectively let the mine explode for the second time by failing to seal it, has made the recovery of our men that much more difficult. A timeframe has now been imposed on us for the recovery which could take years. If the right decisions had been made, I'm confident that many of the 29 men would've been recovered and laid to rest. In summary my view, shared by my wife Sheryll, is that we were misled by the police and Pike River. The video footage of the first blast at the portal should've been shown to the families right from the

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beginning. This would have enabled the families to get a better appreciation of what we were dealing with. It would have assisted the families to come to the right decisions. One of the meetings Police Commissioner Broad was at, I said in front of the meeting that the whole scenario had been played out like a TV show, and I made the reference to Shortland Street. Commissioner Broad said that he was sorry I felt that way. However, what was disturbing for me was that when I made this comment a police officer then came and sat right next to me during the rest of the meeting. I found this extremely intimidating and unnecessary and was made to feel I couldn't speak my mind, which to me was unbelievable and totally inappropriate. Support. Our family also heartily thank the Air New Zealand support people, Red Cross and all other agencies that helped everybody out in this terrible time.

1124

15 A. Their support was tremendous and I pray that nothing happens like this which has affected so many people's lives. The most important issue for our family is now recovery and finding out what happened on November 2010, 29 men went to work that Black Friday and should have returned home. The big question is why they did not return home to their loved ones."

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Q. Thank you Mr Palmer for your evidence.

A. I've just a wee bit more ta.

Q. That's fine, go ahead.

A. "We now know that a sale of the mine is evidentially happening and as a family member we'd like to reiterate that our men aren't for sale and a recovery is still the most important issue remaining. As John Key promised, everything will be done to bring our loved ones home."

25

THE COMMISSION:

Q. Mr Palmer can you just clarify a couple of things for us, you said, "18 years underground experience," that's all local is it?

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A. Yes, I had Strongman 1 Mine, Terrace Mine in Reefton, Spring Creek and Pike River. And I had breaks in-between when I owned a business.

Q. And how long were you at Pike before the 19th?

A. I was only employed, possibly, 18 months. I left Solid Energy to work at Pike.

Q. Thank you for your evidence.

WITNESS EXCUSED

MR RAYMOND CALLS**RICHARD JAMES VALLI (SWORN)**

Q. Mr Valli your full name is Richard James Valli?

A. Yes, that's correct.

5 Q. You are the brother of Keith Thomas Valli?

A. Yes.

Q. And you live in Nightcaps in Southland?

A. That's correct.

10 Q. And your brother Keith was 62 years old when he died in Pike River Mine, is that right?

A. He was.

Q. And Keith came from a proud mining family?

A. Yes he did.

1127

15 Q. Your father had over 30 years' experience in mining?

A. He had.

Q. And your older brother, Max, was also a miner as I understand it?

A. That is true.

Q. And you all grew up living in a mining community?

20 A. We did.

Q. Your other older brother, Geoff, who I understand is with you here in Court today, is that right?

A. Yes he is.

Q. He was also a miner for a year or so?

25 A. Yes he did.

Q. I think you escaped the mining fold, is that right?

A. I had 18 years.

Q. You did –

A. Underground, yes I did.

30 Q. You had 18 years, sorry. And whereabouts was that?

A. That was in Ohai and Wairaki No. 6 underground.

Q. If you could please read from your brief now from paragraph 4.

A. "After Keith left school, he started with State Coal at Ohai and worked in several underground mines until 1972 when he left to work in Australia.

He was involved in tunnelling projects in Melbourne. After other work experience, he returned to Wairio in 1980 and resumed underground mining at Ohai, firstly at the Morely Mine and then the Beaumont Mine. He finally worked at Wairaki No. 6 where he worked until it closed in 2003. Following the closure of underground mining, he worked as a surface worker processing coal from the re-opened opencast mine until it closed in 2008. After nearly 60 years of age, he went for a position at Pike River Coal Limited. He was very pleased to get the position in the mine as he thought that at his age he wouldn't be wanted. However, he was an experienced miner. He had experience from shotblasting to hand-filling boxes to stone drive work and mechanised mining work. Living in Wairio, Western Southland, it was a logistical exercise for him to work on the West Coast. He only planned to stay mining for a further two years before retiring. When in Greymouth, he stayed in a hotel and on his days off he drove the nine hours home for his five days off. Although not directly relevant to this issue, ie covering Phase Two, I do note briefly at this stage in a conversation with me about Pike River, Keith said to me that the operation at Pike River compared with Solid Energy was a "circus". He said there was a lot of down time, with new machines continually breaking down. He said workers were getting jobs having pretty much walked off the street. They would get enough experience and would leave for Australia. 19th November. I first learnt of the explosion at Pike from my son. He rang to ask if I was watching the news on television. I switched the news and digested what was happening. My first instinct was to drive to Keith's home to be with his partner Bev. I knew that Keith had returned to Greymouth to report for work on the Wednesday before the explosion. I was unsure what shift he was on. When I arrived at Bev's, she was already aware of the explosion having spoken to a neighbour. She thought Keith was on the dayshift. Many family and friends called while we were there. When we set about trying to get information from Pike, we were trying to get confirmation of Keith's whereabouts. However, we were unable to get any information out of Pike. We either got no answer from the numbers we called or when they did answer the staff wouldn't confirm anything

for us. We made these attempts all night long on Friday 19th of November, but without exception, received no information or confirmation. This was extremely frustrating and disappointing for us as a family. My wife and I stayed with Bev that first night, with the objective of leaving for Greymouth first thing in the morning. On our way out, we checked our phone messages at home. There were many messages, some from media enquiring about Keith but also a message from Pike left at 5.00 am on Saturday morning. This was to inform us that there was a meeting to be held at 1.00 pm at their office in Greymouth.”

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10 Q. Just a very small point, Mr Valli, on the timing of that message. I think you said that your wife took that message and it may have indeed been 7.00 am, you don't know?

A. I'm not certain about that.

Q. Continue reading from paragraph 14.

15 1132

A. “Bev, Judy and I travelled by car to Greymouth, receiving intermittent reports as we travelled up the country. By the time we arrived at about 4.00 pm the meeting room was packed with people and the meeting had virtually concluded. Our priority was confirming whether Keith was alive or not. We searched for an official to speak with. I found Peter Whittall, I introduced myself and he said he knew Keith but could not confirm whether he was down the mine. Again, this was very frustrating. I was surprised to learn that as late as Saturday afternoon the Mines Rescue Service had not been down the mine. I was of the opinion, rightly or wrongly, that there was a window of opportunity immediately after an explosion. We left the meeting and went to the hotel where Keith had lived when on shift. The owner of the hotel was able to provide more information that anyone else had at this point. He confirmed that Keith was on dayshift and that he had left for work that morning. This was the first confirmation he was down the mine. At this early stage there were many mixed messages coming through. We were told that five or more men had actually walked out of the mine. We were also told that there may have been 30 men down the mine, pieces of information were incorrect. I became aware when I arrived in Greymouth that when Keith

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applied for the job at Pike River he named me as his next of kin in the event of an incident. I therefore had some contact with police liaison people and also with Air New Zealand support. I found these people to be excellent value and most helpful to our family. At the early meetings with the police and Pike the council building was the venue. We felt that information was being clearly relayed to us. A new venue became a necessity and we were moved to a sports complex. That, however, was a disaster as it was extremely difficult to hear speakers due to the poor acoustics and there appeared to be nothing that could be done about it. Superintendent Knowles spoke at these meetings. He was leading the recovery process. He was asked at one of the meetings why the police were in charge and not Mines Rescue. He said that the police were in charge of all search and rescue operations and that was the way it was, like it or not. The superintendent had this phrase that he used many many times. He said repeatedly that the police had the best of the best. However, my opinion was that we were going nowhere fast. Communication for Pike River was through Peter Whittall. In my opinion he talked the talk and never missed a beat. He seemed to have the majority of the meeting in the palm of his hand. My view then was that there was a long way to go in this matter and I took the view -"

Q. Just pause, if you just go a wee bit slower please Richard, just start that sentence again and read it slowly. "My view..."

A. "My view then was that there was a long way to go in this matter and I took the view that I would reserve my decision on Peter Whittall for further down the road when more information was to hand. For some reason I always held the view that the police and Pike River were holding back information from us, which I now understand has proved to be the case. When I viewed the video footage of the first explosion I came to the conclusion that it may well have been possible for someone to have survived the initial blast. I reached this conclusion on the fact that I had worked in an underground coal mine for some 18 years and that the men were in many different parts of the mine. Wednesday 24th. Prior to the afternoon meeting family members were urged to attend a very important meeting. As families had received nothing but bad news

up until this point, my impression was that everyone was relatively optimistic. The way the information was relayed to the second explosion was conveyed to us, left a lot to be desired. The meeting descended into chaos once the news of the second explosion was relayed. I stayed on in Greymouth and attended every meeting for two weeks hopeful of knowing everything that was happening. My family members returned home and returned later for the memorial service at the racecourse. Although not directly relevant to this search and rescue and recovery operation I mentioned briefly the memorial service that was held. I greatly appreciated this being held. However, I was not impressed with what appeared to me to be a great fanfare for all the so-called dignitaries. It appeared to be all about the politicians and the entourage and my impression was that the 29 men and their families came a distant second. This was hurtful to me and my family.

15 1137

A. We held a memorial service on the 20th of February for Keith in the Nightcaps Town Hall. I was contacted by the then mine manager Doug White, to see if it was okay for him to attend. We agreed. However, he asked to have a meeting with the family before the service and we agreed to that also. At that meeting he spoke about how Pike River Coal ran its operation and the standards they set for safe mining. He said that the standards were exceeded by Pike. In my view, this creates more questions than answers. In my view, throughout this whole process there appears to be a 'them and us' approach."

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25 Q. Thank you Richard. Is there anything else you would like to add?

A. No, I think it's all been said and we just wait for the boys to come home. That's my focus.

THE COMMISSION ADDRESSES WITNESS – THANK YOU

WITNESS EXCUSED

MR DAVIDSON CALLS**BERNARD HANMER MONK (SWORN)**

Q. Bernie and Kath, I'd like to acknowledge you've got Alan and Olivia behind you here, and I'll just read from your first paragraph Bernie.

5 "Your full name is Bernard Hanmer Monk and you are the father of Michael Nolan Hanmer Monk who was 23 years old when he died in the Pike River Mine. He was a contractor for Pizzato Contracting Limited. Michael had been working for Pizzato at Pike River for about five months having commenced in June 2010. He was also occasionally
10 working at the Spring Creek Mine." Bernie, would you like to take it up there please in paragraph 2?

A. Michael had no previous underground mining experience. After completing five years at St Bede's College in Christchurch, Michael was selected to attend Rockwell College in Ireland as a house tutor for
15 12 months in 2005. On returning home in 2006, Michael briefly worked at IPL plywood factory, at Plumbing World before starting his building apprenticeship for a Nelson company based in Greymouth. He completed this in January 2010. An opportunity to work at Pike River was offered to Michael by Graeme Pizzato. To broaden his experience
20 in the building industry, Michael started working underground in Pike River in June 2010. I am giving this evidence in relation to Phase Two matters concerning communication, communications with the families during the search, rescue and recovery operations and also on matters relating to the measures taken to, in an endeavour to regain
25 full or partial access to the underground reaches of the mine. I am also giving evidence on behalf of my wife, Michael's mother, Kathleen Anne Monk and our son, Alan Bernard Monk. Michael's sister, Olivia, will put forward her own brief of evidence. Friday the 19th of November 2010. I was working at the Paroa Hotel, which I own with my brother and has
30 been in the family for many years. My son, Alan, received a call from my daughter Olivia, who had received the news at about 5.20 pm, from a friend who works at TV Three. I immediately called Kath who was at work at a local medical centre and told her there'd been an explosion at Pike River. I told her that it was not good, which was my then

impression. I told Kath that I thought Michael was in the mine. Kath went into shock at the medical centre and was supported by her work colleagues.

1142

- 5 A. Olivia attempted to contact Gemma Schuddeboom, Michaels' girlfriend. In due course the immediate family assembled at the Paroa Hotel and shortly thereafter the wider family members started to arrive as well. Initially, we thought Michael might have got out of the mine and would have still been up there helping. We thought that he would be out because usually on Friday he was home by 4.00 pm. We thought that the explosion was sometime after that and, therefore, he would have left the mine by the time of the explosion. We weren't sure of the precise time of the explosion. Ironically, we were hosting a function for Victim Support at the hotel and I pretty much continued working. Michael's boss, Graeme Pizzato, came to the hotel and told me that things were not looking good. He told me that he thought Michael was still in the mine. At about 7.00 pm, my son Alan and Gemma's father, Martin, went up to the mine but only got as far as the main gates and were turned back. We decided to all congregate at home along with Gemma's family. Alan and Olivia tried to get further information. They called surface control at Pike River. They called the head office at Pike River in Wellington, they called the police. No information was made available. We left our family details with the police. Later that evening a good friend of mine, Dave Homson, visited me at home. Dave works at Spring Creek and is a very experienced miner from the UK with a long mining family history. At one stage, Dave took me aside he said that in his heart, as a miner, he hoped the men would be able to get out. But talking to me straight, as a friend, he said, 'Bernie, Michael will never get out alive.' I told my wife what Dave had said but she did not want to hear of it or believe it. I did not tell my other children at this stage. Kath held onto the view that Michael was a strong and fit young man and that if anyone was able to get out, then he would. We thought that if there was any prospect of Michael staying down the mine to help others, then that's what he would've done. We are not a mining family, so a lot of

the details of about how the mine might be, was at that stage, lost on us. We just wanted to hold onto help. We had heard that two men had walked out at about 7.40 pm. My daughter, Olivia, received a text saying that another three had walked out. This proved to be incorrect. Everybody was at home watching TV One at 10.30 pm when Mr Whittall said he had contacted everyone's family. This was incorrect. We urgently phoned Pike head office at this stage. They phoned back with the first actual confirmation at around 4.00 am on the 20th. At about 1.00 am I went to the Red Cross in town to try and get more information. None was available. At 4.00 am Alan was back at the Paroa Hotel, received a phone call saying there was a meeting at the Red Cross in the morning."

Q. Bernie, before you go on, before you go to the events of Saturday the 20th, Dave Homson is an example of someone who has provided you with mining information throughout this whole period, in fact, not just from the first day, but right through to this day and you, as the spokesperson for the families, have had information about many of the things that were happening at the mine and reportedly happening there from that very moment, is that so?

20 1147

A. Well that's correct. He, you know, he's been a rock for me and my family, well especially myself because I mean I've struggled over this time and you know I'll be straight up and down, he told me the next day, he said, "Bernie they should seal this mine up, there's no way your boys are going to come home now."

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Q. Thank you Bernie, would you go on to paragraph 21 please.

A. "Saturday the 20th of November 2010. All our families went to the early meeting at the Red Cross rooms. There were not that many families members present. Superintendent Knowles spoke to the families. Peter Whittall also spoke to the families. The Mayor Tony Kokshoorn was also present. From my recollection there was not terribly much information available at that stage. All we knew was that there had been an explosion, two men had walked out and the gas atmosphere was unknown. We were instructed not to talk to the media. Generally

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we felt numb. It was difficult to take anything in, simply being there was surreal. At the Saturday afternoon meeting John Key's attended together with Kate Wilkinson, Superintendent Knowles and Peter Whittall. I cannot remember much about that meeting. There was
5 little in the way of new information. It was hoped that the men would be at a fresh air base, although I believe now this was not a proper fresh air base as at all like the one at Spring Creek. Gas samples were being taken and we were told they had to have three samples below a certain level. We held onto hope. Sunday the 21st of November 2010. The
10 next day there was a further meeting at the Grey District Council building. Superintendent Knowles and Peter Whittall addressed the meeting. Family members were beginning to ask more and more questions. Generally Peter Whittall offered a lot of reassurance to the families that the men would come home. He gave the families hope."

15 Q. Just pausing there Bernie. How did you respond to that sort of message, given what Dave Homson had told you?

A. Well I'd already locked in my mind that Michael wasn't going to come home. I just, you know you always hold on to that hope, you know, that miracles happen but, you know, if that happened I'd be one of the most
20 happiest men in the world but I'd already come to the, in my heart I knew Michael wasn't going to come home.

Q. Well just carry on with paragraph 26 please?

A. "Questions were being asked about whether there were fresh air bases in the mine. We were told that water was available to the men. We
25 were told that there was a compressed airline which they would have been able to access and get fresh air. People were asking about whether they would have any food. Peter Whittall said there would not have been food but offered the reassurance about the availability of water and fresh air. A lot of discussion was about rescuing the men.
30 This was not a real possibility for me because the words of my mining friend Dave Homson were ringing in my ears. Kath hung off every word of Peter Whittall. She refused to listen to the news or talk to other people. She went from home to the meetings and home again and took everything Peter Whittall said in good faith. He gave her hope, but as I

discussed later on in my evidence that this was, in my view, false hope from early on. Plans of the mine had emerged by this stage and we got an idea from Graeme Pizzato where Michael might have been working in the mine.

5 1152

A. It seemed Michael may have been on his way out at the end of shift. During the course of Sunday, many family members took the opportunity to go in buses to Pike River Mine. I did not attend, but Kath and Olivia did. Kath felt the experience of visiting the mine was worthwhile. She was struck by how peaceful it was. There was a coal slurry and water pipes running adjacent to the road which go up into the mine and to the coal processing plant. Kath banged on the pipe with a stone as a way of sending her family's love to Michael, communicating to him that he was to keep his strength up and that we were there waiting for him. She wanted to use the pipeline as a way of sending her strength and her love into the mine towards her son. Kath also had the overriding desire to scream out his name because everything was so quiet. She wanted him to hear that she was there for him. Monday the 22nd and 23rd of November 2010. We all went to the meeting in the morning and afternoons both the Monday and Tuesday. A lot of wider family had gathered by now who offered us support. There was sometimes up to 30 to 40 members of our family attending these meetings. They followed much of the same pattern. There was never really any positive news. We continued even at this late stage to receive messages of hope from Peter Whittall. At one of the meetings I remember Daniel Rockhouse abruptly getting up and leaving the hall, tossing his chair aside and yelling at either Peter Whittall or Superintendent Knowles something along the lines about why they weren't going into the mine. Feelings of helplessness and desperation worsened by the hour. How could we help Michael? Was he lying injured, wondering when he was going to be rescued? We were desperate to have Michael safely back with us and Gemma. As part of my evidence, I wish to touch briefly on the way information was being communicated to us by Superintendent Knowles. My wife and I found

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his communication style extremely frustrating. He would often talk in the first person, always saying, 'I will do this' or 'I have done that,' et cetera. He also could not properly respond to questions. Questions would be asked by family members and he would respond often abruptly, saying that he was not a mining expert, but then also saying that he had access to the 'best of the best'. This was a phrase that he repeatedly used and it became extremely irritating. At one stage he seemed angered by questions and said if the families could do a better job we should do so. By Monday and Tuesday, I had formed the view in my own mind that Michael was lost. I did not have much faith in Superintendent Knowles and I was finding it difficult to believe much of what he was saying."

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Q. Bernie, would you pause there please. You've got a supplementary brief we're going to come to at the end of your evidence, but this is the right time I think to tell the Commission of your response to the evidence you've heard from Superintendent Knowles, in light of the comments you've made in the written brief, and I think you've actually spoken with him after the evidence was given. Would you just tell the Commission please how you respond now to what you've heard?

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A. Well, I did approach him and, you know, shook his hand and I did accept the apology that he made that he felt gutted by the way that he made us feel at the time. I have spoken to the police since. I don't really hold them, you know, responsible for any of these. I know everyone was under extreme stress. They were doing their best and they had the families at heart, it's just that we are going to go from this and learn more from it.

1157

Q. I think you've made a public statement much to that effect, haven't you, after Superintendent Knowles gave his evidence?

A. I have.

30 Q. Thank you for that. Let's go to paragraph 35.

A. "By the Monday and Tuesday, I had formed the view in my own mind that Michael was lost."

Q. We've done that, just go to the next paragraph.

A. Sorry. “We were still being given hope and I did not think that that was right. We were still being told that it was a rescue operation and I was really only going to the meetings at this stage to support other members of my family. As for Peter Whittall, he spoke well. He was convincing.

5 We found his explanations plausible. We wanted to hang off every word he said. He was certainly an effective communicator and he appeared to be empathetic towards the families. Wednesday the 24th of November 2010. This was a meeting in the morning that I cannot remember too much about. It is the afternoon meeting which I will

10 briefly comment on. Family members had received a text at 2.55 pm. ‘Operation Pike. There will be a significant update at the 4.30 pm family meeting. It is recommended that all the family members, families attend’. As I walked into the meeting, I noticed an extra police presence. As we went in, the police liaison officer assigned to us,

15 Constable Terri Middleton, said to Kath in a whisper that she thought it might be good news. The meeting was attended by Superintendent Knowles, Gerry Brownlee and Peter Whittall. Peter Whittall began by saying that there had been an improvement in gas readings in the mine and that the New Zealand Mines Rescue Service men were all kitted up

20 and about to go in. This announcement was immediately greeted by many in the hall, including Kath and my children, with loud applause and cheering. However, Peter Whittall and Gerry Brownlee were waving their hands up and down, in an up and down motion, trying to tell us to be quiet. Peter Whittall then said there had been a second massive

25 explosion in the mine and that no one would have survived. There was then a terrible scene in the hall. People started screaming and yelling. Some dropped to the floor. Some abused the police and Peter Whittall. I was gutted as it was an absolute confirmation that the men had died, but it was inconceivable that the second explosion had not been

30 prevented. Many family members left the hall. The Monk family remained. We stood there and prayed. When we eventually left the meeting we were met by the media. I was supporting my wife who was inconsolable. We eventually got to our vehicles and made our way home. It was after that meeting that I rung Colin Smith of Hannan &

Seddon in Greymouth and my brother-in-law. The idea of forming a family group was beginning to take shape in my mind. We continued as a family to go to all the meetings which were arranged. The third and then the fourth explosion happened. The discussion was about recovery of the men. Our thoughts turned to how Michael might physically be in the mine and where. The meetings all became a bit of a blur and although we'd gone to all of them, progress appeared to be very slow. The family group did form and I became group spokesperson, a role which I hold on to this day."

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10 Q. Bernie before you go on, have some water and just pause, there's two matters I want to pick up on. The last piece of evidence about your being the spokesperson for the families, I think it's right, isn't it, that there would not be a day since you were appointed the spokesperson that you've not had contact, indeed multiple contact with people about this process? That's a yes?

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A. Yeah it is.

1202

20 Q. And one of the roles you've fulfilled has been the, if you like, the access point for all the families spread out all over the world and the Commission, I think, would be helped by understanding the extent of that communication which you've had to deal with if I introduce the point by saying that as we live in your hotel, when we're here during the week you are on the phone with the media and overseas people every day from first thing in the morning. Could you give the Commission an idea of the scale of that responsibility that you've actually had to fulfil?

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30 A. Well I basically might get to work between six and half past six in the morning, you know, well, say today, I would've, for example I would take about four to five media interviews, whether it's via television or radio and then constantly the families will ring me. I've made myself available full-time and I've always told them that I'm full-time, they can ring me any day or night, seven days a week. And I made that point known to them all and I've also made that fact known to the media, that it's important that our voice gets heard, because as I'll go on later, I'll explain the reasons why I feel that way.

Q. The second point, Bernie, is you've referred on the evidence you've just read to the fact you found it inconceivable that the second explosion had occurred, or been allowed to occur, with all the consequences as to recovery. Up to this point, on the 24th, do you recall discussions with the family members in the meetings about whether sealing of the mine was being considered?

A. You know, some of the families, you know, they held back and then other families were for it, and I think that's with a lot of the families that probably didn't know enough about mining. I think though with getting guidance from the people that did have the mining experience, so, you know, I think they did listen, but you, you know, everyone sort of held onto that hope and, but, you know, I agree with what Marty said before, you know, that, you know, false hope as it was, but everyone just wanted that miracle to happen.

Q. Let's go to the section marked, "Support," at paragraph 45.

A. "I personally kept a bit of a distance from all the support that was on offer. However, I can briefly comment because the support was there and was beneficial to my family. The support offered, taken up and provided by Air New Zealand was outstanding. Many family members say great value in the liaison they had with Air New Zealand staff. The Air New Zealand support person for us was a constant prop. Our police support liaison officer, Constable Terri Middleton, was simply excellent. She had so much empathy towards the family and was a wonderful communicator. We received fantastic support from the Red Cross. They provided food, cups of tea, their facilities and as much information as they were able to give. There was a huge support from the local churches, the Greymouth community and the businesses, the local polytech, Victim Support and as time went on, the wider New Zealand community. I also found great support and leadership from Greymouth Mayor Tony Kokshoorn. In those early days before the family group was organised, he was the voice for the families. I know that my wife also found some Pike River people to be supportive in those early days. At that stage, they provided information she needed. There was another occasion, the 27th of November, when the families

went back to the site and a marquee was set up and food and cups of tea available and further information provided.

1207

5 A. From my perspective I felt it was all a waste of time. Although I recognise and appreciate what Pike was trying to do I was there mainly to support my family. The Focus Trust, Teresa and Katherine, took over much of the very demanding emotional and physical needs of the families. I was very grateful they were there for us then and now.” I would like to add something here that they might be a bit annoyed about
10 but I’d like to really thank our legal team.

Q. You needn’t do that.

15 A. I am doing it. You know Nicholas Davidson QC, Richard Raymond, Jessica Mills and Colin Smith, if it wasn’t for them I don’t think the families would’ve got through a lot of this. They’ve been a constant support and we regard them as part of our family.

Q. Now just record our thanks for that, unnecessary and unscripted, and yours is the burden, not ours. Thank you.

20 A. “My wife Kath and I feel that over this time we were wonderfully supported by our immediate and extended families, friends, our loyal staff at the hotel, Blacktown rugby football members, St Bede’s College and the wider community of the West Coast and New Zealand. We also feel the love, concern and practical help provided by all those mentioned carried us through these trying and most difficult times and continued to do so to this day. We are being very moved by the effect this tragedy
25 has had on so many people and we will forever hold in our hearts the love and the respect shown both to us and to our beautiful sunshine boy Michael. Information given to us throughout. In my view, and my expectation was that we should have been told frankly everything which was relevant to the situation the men were in and the underground
30 conditions. We were told that we were being given all the information. We could only really deal with the facts and any expert opinion which drew on the facts. The families wanted the police, Mines Rescue and Pike River to be open and transparent with us. If we had the truth the families would have been able to prepare for what lay ahead of us. The

families could make their own judgment calls based on facts. We were given hope that the men would be rescued virtually right up to the time of the second explosion on Wednesday the 24th of November. This was a full five days after the first explosion. I think it was wrong to be given such hope. It made it so much harder for us to deal with, although personally I had been given a good reality check by Dave Homson on the first night. However, it was painful to watch the rest of my family go through phases of what I thought was false hope. I will set out some examples to illustrate my point. Portal footage. The authorities clearly had from the outset full video footage of the explosion at the portal. We were shown the video footage at one of the meetings on the Monday, the 22nd of November. We were being told that the explosion was 52 seconds and we were only shown video footage of 32 seconds. My wife timed it. The short version gave the impression that it was not as bad as it really was. When questioned as to why we hadn't seen it earlier by one of the family members Peter Whittall said that he thought it was irrelevant. And he knew then that there had been an explosion and the video wasn't going to tell him anything more. It was highly relevant to the families. Had the full effect of the explosion been properly and professionally explained to us, and had we seen the footage, we would have been better informed and therefore prepared. Gas readings. Although there was some information on gas readings, how the gas would affect the men was not explained. For example, I now know document -"

25 1212

Q. You don't need to read the document number, Bernie.

A. Right. "That at 2200 hours on the Friday, the 19th of November, the atmospheric readings taken in the mine, although I'm not sure where, were .4 ppm methane and 700 ppm carbon monoxide. A little later that evening the records show that police were advised, National Police Commander Superintendent Steve Christian, that CO at 600 ppm for 30 minutes would be fatal. That information was not conveyed to the families and it would have been a measure of reality for us. I also note that at 0710 hours on Saturday the 20th of November 2010, that the New

Zealand Fire Service had concerns about the company not fully appreciating the gas levels and that planning was needed to deal with a mass fatality. It was specifically noted that that was not to be made public. At the meeting on Saturday the 20th of November we were not advised by anybody that fatalities were likely. However, it transpires that early on that day, at 08.45, Mines Rescue were taking a realistic view of the situation and consider that the deaths were likely. NZFS also appreciated this. The likelihood of fatalities were not passed to the families. Mines Rescue. On the Saturday in terms of how the re-entry might take place, we were not told what Mines Rescue would be doing. We now know by reference of the same document, that the police knew by 2.00 pm on the Saturday that once the gas sampling had been completed, Mines Rescue would determine with Department of Labour and the police whether they could go in. However, if they did, it would have been initial re-entries only. Fire in the mine, impact on re-entries. We were not told that there was a significant fire in the mine. At one of the meetings we were told that there was heating somewhere in the mine. If the police and Pike River had been straight up with us, we would've been told about the fire and been able to prepare for the worst. I want to make the point that we live in a small mining community. We speak to the people who go underground. We can address the facts. By about 13.21 on the Saturday, the police, Pike River, Mines Rescue and the New Zealand Fire Service were aware there was a fire burning. Advice received by New Zealand Fire Service at 16.45 from local NZFS staff of a significant fire underground. We were not told this. By 17.19 hours on the second day, the NZFS were noting that all indicators are positive. There was a fire. Options being discussed at that stage were to seal the mine and fill it with nitrogen, as being the only way they could deal with this kind of fire. None of this thinking was passed on to the families. It was noted even at this time that Mines Rescue would need to make some calls on how to progress the situation.

1217

- A. It was recorded by NZFS that there was 'time for some hard decisions'. What irks me is that according to the notes, someone identified as 'PM'

was aware of the situation. I took this to be a reference to the Prime Minister, but that may be incorrect as I note there was a fire service member called Paul McGill. I understand that the fire service said on the Saturday that they needed to start advising the families as to what was happening. Unfortunately that did not happen. As at 5 0700 hours on Sunday the 21st of November 2010 the combustion upgrade was flagging as being 34.28. This is a reference to the Graham combustion scale. I understand 30.28 is a very significant fire. As at 1530 on the Sunday, the carbon dioxide readings were 9.6%. The 10 NZFS documentation indicated a 'probable internal temperature of 4500 degrees'. It was also noted that there was potential for a secondary explosion and that the gas readings from some of the sample sites indicated methane was going down and oxygen going up. None of this was conveyed to the families so we could understand what it meant. It 15 was not until much later that we were told about the scale of the fire. Further notes show the reality of the situation on that Sunday afternoon. We were also, through those early days, led to believe by Superintendent Knowles and Peter Whittall that there was potential for a rescue. It was a matter of the gas readings 'coming right' and then the 20 Mines Rescue men 'going in'.

Q. Bernie, would you like me to read two or three paragraphs for you, do that and then you can confirm it?

A. Yeah.

Q. "73. Options for reducing the oxygen in the mine as a means of 25 managing the fire were also under discussion early in the week of Monday 22 November. However, this option was apparently ruled out as 'not viable'. None of this was discussed with the families. It was not until the Monday that Superintendent Knowles said we needed to prepare for the fact that there 'may be loss of life'. That was the first 30 time there had been any mention about loss. However, the information now available to the families show that loss of life was very much a likelihood much earlier on in the peace. January 2011. The briefings in January took place on Wednesday of each week at 5.15 pm. Each day we looked for news from the mine, and being Greymouth and the linked

community which it is, information came to us from many sources including those working at the mine, Mines Rescue personnel, and other family members. It was clear that stabilisation of the mine was a major issue and I for one had been told repeatedly of the need to seal the mine to avoid the risk of further explosions. At the same time the use of the GAG machine from Queensland and its repeated malfunctions was a wearying story.” The meeting on 13 January 2011, paragraph 77?

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- A. “Commission Howard Broad came to this meeting with the minister, Mr Brownlee. Others at the meeting included Alan Morrison, CEO for the Department of Conservation, David Reece, an Australian mine management consultant and Superintendent Gary Knowles. I notice the media presence. I had calls from the media before then in with advanced learning of what was to come. It was a bombshell for the families to be told by the commissioner that the police were soon giving up their role in recovery and handing the matter to the receivers. The commissioner’s statement at the time made it plain that the sealing of the mine was a high probability and that the possibility of a re-entry for recovery, therefore, would become uncertain in the hands of the receivers. It seemed to me that this was a sudden about-face and that the police were effectively abandoning us to a commercial interest who would have no equivalent interest in recovery. We thought the police should be protective of our position. It took some time for us to realise that what we were being told was that the receivers effectively would carry out the same atmospheric stabilisation function as the police but with a different interest in recovery. I refer to this further. The rationale for the commissioner’s statement to the family was undermined immediately when one of the family members interrupted the commissioner and asked him if he was aware that there was distinct signs of stabilisation in the mine that very day. That seemed to mystify the commissioner and I could not understand why, what was an up-to-date information on a crucial issue, had not been passed to him.”
- Q. I’ll just pause you there. You’ve heard evidence from Superintendent Knowles in this Commission that he, personally, disagreed strongly

about the way that decision was announced to you. Did you hear that evidence? You weren't aware of that before were you, you weren't aware that there was contest within the police ranks about that announcement?

5 A. No, no.

Q. Paragraph 81.

A. "Our solicitor and counsel then became involved and a great deal of urgent communication took place with the Crown Law office and in the media regarding this development. The families would not accept that the sealing of the mine was inevitable and believed the decision was flawed and not based on up-to-date information. As part of the police response to the outcry from the families, a file was sent on a confidential basis to our counsel to consider the information on which the police commissioner's decision had been taken. By arrangement this information was not passed to the families at that time but we were advised that there was professional opinion contained in that material regarding the risk of further explosion. The information that there were some positive stabilisation signs was correct as we learned later. The notion that the GAG machine had to return to Queensland should not have been seen as the stimulus for the police to give up recovery as it was not needed at the time of the announcement by the commissioner. For most of the families, this became a time of great uncertainty. We had not, at this stage, received information regarding the underground conditions and all of us had our thoughts about what may have occurred to the men underground after four explosions. There was some quarters, including families, a belief that the merits of a recovery mission was debateable while others, including my own family felt quite the opposite. While we feared the worst in the terms of the possibility of recovery, we still wanted that step taken.

30 1227

A. It is only the determination to continue with the recovery process that we have been able to hold onto hope and that we will bring Michael home to us. This is what he would've wanted. The realisation that the matter had reached such a pass and the families had been so shocked by the

announcement of the intended handover led to a no surprise policy announced by the police and communicated at the family meetings held on Wednesday evening at the Trinity Hall. We believe that this meant what it said and every piece of information relevant to recovery phase would be given to us. We were conscious that the information was being derived from underground as videos and CAL scans began to generate images, of which we became aware. In the period leading up to the Coronial Inquest, information was conveyed to us by the company, the receivers and the police. Video and CAL scan images taken from the mine were shown to us at various times. A demonstration of CAL scans were made following the inquest. We were being told by Harry Bell that knowledge of the underground conditions and the possibility of recovery turned substantially on what would be shown from borehole 45 or from borehole 9 adjacent, which it was contemplated might be grouted and re-bored. The period leading up to the inquest. The inquest was for all the families a great moment. We consider the Coroner and his staff handling the matter with sensitivity. We knew the closely detailed description of the explosive effect and the likely consequences of the men underground would be difficult to take. For that reason our counsel were provided with copies of medical and expert reports and we were able to convey the essence of that to most of the families who were able to attend the inquest in advance. The essence of the advice contained in those reports was that the men would not likely have survived the first blast, or if so for not long afterwards. And had they accessed the self-rescuers those self-rescuers would not have been any use to them. This was the police position as well and when the families understanding of this evidence was conveyed to the Coroner's Court it was reflected in the finding that was then made by the Coroner. There was in the material presented by the police to the Coroner a one-liner which held no moment for us, nor was discussed because it was not raised by the police or any expert reports as of consequence, which read, 'There is evidence of a self-rescuer box open at distance Slimline shaft.' After the inquest Steve Ellis and John Taylor took us through a CAL scan to show us what was

visible within the mine. This gave many of the families an understanding of how the CAL scan works and what could be seen from it. We now know that much lies in the hands of a skilled operator with knowledge of what lies underground. The tenor of the evidence at the inquest was plain, that the explosive forces and aftermath from the four explosions would have been devastating and the general impression held by the families and many of the families with whom I spoke was that the prospect of recovery were very poor. In this regard we brought into account the forces, the extreme heat and the multiple explosions.

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10 1232

A. Further surprises. We know videos and CAL scans were intended to be taken from a number of boreholes. The next development of consequence for us was the showing to the families of a video for a borehole PRDH 44, which seemed to show far less damage than we had expected. This will be shown to the Commission. Although no bodies were visible, it seemed clear that the explosive forces had not destroyed this part of the mine. Stone dust bags were not burnt. A wooden pallet could be seen. This gave rise to a sense that the conditions underground may not have been so severe as we had believed from the evidence presented to the Coroner, yet there was still no sign of anybody. Updates on re-entry. In the meantime, the receiver and the company reported at regular meetings and told us of stabilisation steps they were taking. The self-rescuer box image. During a confidential briefing with a person who was prepared to assist our counsel, we were advised that a self-rescuer box as it was described to us had been CAL scanned underground at the Slimline shaft and which indicated a self-rescuer box had been opened, and depending on how the scan was read, the possibility of self-rescuers rescue is taken from it. Our counsel broached this with me as spokesperson for the families and a course was taken which saw the CAL scan in question, shown to counsel and to me, at the Hornby Police Station. The image of the open self-rescuer box as we understand it, was obvious and nothing was said at the meeting with the police to indicate that they were aware of it, or had seen it before or even knew

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what it meant. Not long after the image was clearly shown to us, we were told by the police that that was probably not a self-rescuer box, but a box which contained canisters of foam for fire fighting. There are different views, so we were left uncertain what this meant but to us it generated a very real concern that if the image had been seen by those in-charge of the rescue and recovery operation and others on the night of the 24th of November 2010, just after the second explosion, and was an image then taken immediately before the second explosion, then we could not understand why it had not been discussed with us. We only stumbled on it through a third party. The implications were, of course, potentially unpalatable to those who had accepted the evidence and findings at the inquest, and the notion that some men may have accessed self-rescuers did not rest easy. Nor do we know what that would have meant. Could men have used a self-rescuer to get to the fresh air base, such as it was? What then? May a man use several self-rescuers. We still do not know the truth of this, and we are aware from the Royal Commission Counsel that this matter has been investigated.”

Q. You don't need to read the rest of the paragraph, Mr Monk, Bernie, just would you acknowledge into the record that the Commission counsel had provided an analysis of the evidence which concerned you regarding the discovery of this image and that's been available to you to reflect on and which has been brought out during this hearing so far.

A. I do, yes.

Q. We'll go to the long road to re-entry and recovery. It's 102.

1237

A. “The news from the receivers and the company was consistently one of either progress or regress with gas stabilisation, and we were always uncertain which way this was heading. While these reports were made to us we were also receiving verbal information from the company about ‘a plan’ and described to us in particular by Doug White, of staged re-entry. We had the impression, or certainly I did, that there was an active and formulated plan in the hands of the receivers to re-enter and recover. We knew there was significant risk to be assessed, and we

realised no entry could take place unless it was safe. But we were not aware (as we later became aware) that there was no developed plan which would have to have involved Mines Rescue Service with very detailed preparation for any re-entry. “A further surprise. First our lead
5 counsel was told, and then the families were told, that Assistant Commissioner Grant Nicholls had decided to review a video and scans taken, I think, on the 22nd of February 2011. As a result of and after consultation with Martin Sage, forensic pathologist, a body had been likely identified. This was presented to the family group meeting on the
10 11th of May 2011. This was an electrifying event because suddenly the purpose of recovery for those who sought it became only too clear. There was probably someone to recover and, if so, there must be the prospect of others. Later there was a further indication from the police that there may have been other bodily remains identified and at the
15 meetings in Greymouth and Christchurch on the 23rd and 24th of July 2011 a clear picture of another body was seen.”

Q. Just pause there Bernie. This is material that’s appeared in the evidence of Mr Moncrieff and has been presented to the Commission already as potentially a body part. That’s what you’re referring to there?

20 A. Yes I am. “The revisiting of images which the families had not seen or been told about, was a strong stimulus for a safe re-entry and recovery if possible. A sense of unease. We redoubled our efforts to gain re-entry for recovery, and have worked through a process with our lawyers, which include a widely publicised agreement with the police, the
25 Department of Labour, EPMU, the receivers and Mines Rescue Service, to formulate a plan for re-entry and recovery, and that process continues. This agreement was made on the 23rd of May 2011. We have been acutely aware of the proposed sale by the receivers, and the risk of the sale cutting off the prospect of recovery which is
30 contemplated. We are told by the Prime Minister that there is no issue of money involved in a credible and safe re-entry and recovery. We are now depending on the combined efforts of the unions, national, Australian and international, the Government’s review of the terms on which an assignment of mining interests might be made conditional on

recovery, and the receivers' stipulation with a purchaser in contracting for such.

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5 A. We realise that a straight forward and binding contract for recovery by a purchaser is difficult because the process of a safe re-entry and recovery was not determined but think there should be a binding obligation to do that which is safe and credible. Our need. It just cannot be the case that we leave men underground and mine nearby. For me, and I know for others, the reality is that just below the surface of land we can fly over and stand on, lie our sons, our fathers, brothers, partners. This knowledge is with me every waking moment. Unanswered questions. Why were we not told about the open self-rescuer box, or whatever it is, and what was made of it as of the 24th of November 2010? What has been the quality and accuracy of the underground video and CAL scan readings when it took a revisiting by the Assistant Commissioner Nicholls to identify a body? What the further reviews of CAL scans and videos might demonstrate to us with regard to the possibility of recovery? Was this an opened self-rescue box or a box containing fire-fighting equipment? If it was the latter, was it for the purpose of putting out a fire either before or after the explosion? Why was effort not put into determining the answer of this question in November 2010 or by the time of the Coronial Inquest? Or if effort was put into this issue what conclusions were reached? What is the implication of possible access to a self-rescuer after the first explosion? Why was the mine allowed to explode three more further times? Who was making the final decision covering whether Mines Rescue were able to enter the mine initially and then not to seal the mine to control the fire and prevent the second explosion? Were such persons suitably qualified to make this assessment? Our position. I must not purport to speak for every family. I expressly do not do so where some seek to state their own position. I know I speak for many of the families about my concerns about what we were told, the way we were kept informed and/or not kept informed, the accuracy of the information and the professional skill which has gone into the interpretation of the video and

CAL scans.” I just want to add a couple of things here which, you know, I said that I’d mention earlier on. I have sat through these hearings to learn more about what occurred on the 19th of November and the days after. I am haunted by the thought that there may be men at the top of the drift beyond the 1900 metre mark from where Daniel Rockhouse telephoned. Perhaps men were ready to come out on the Friday afternoon. We have to heed the evidence from Mines Rescue and others that there was no safe basis Mines Rescue could’ve gone into the drift. I live with the concern that Mr Strydom was sent into the mine and other Pike employees milled around the portal. The risk was, I understand it, real. I have always thought the venting of air and gases from the mine allowed for a period of safe air and a so-called window of opportunity.

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- 15 A. Many of the families understood the notion of this window, but I hear evidence about Mines Rescue men who have been lost. I am deeply affected by the thought that there was a prospect of men entering the mine on the 24th of November 2010. I cannot get out of my mind that there may have been men in the drift who were not able to be rescued or, so far, able to be recovered. I think all the families have faced the reality of recovery where there might have been multiple explosions but the possibility of recovery was brought home to us with the image of a body at borehole 43 and the possibility of remains at the base of the Slimline shaft. Daniel survived at pit bottom and stone. The determination that there be a recovery has never left me and most of the families. I have heard it said, ‘There is nothing to recover.’ I point to the evidence that these three facts and the certainty that there are men and their remains to be recovered. We have never flagged our resolve to re-enter the mine. This prospect of a sale and a new owner with different perceptions about recovery worries me. We have tried as best we can to maintain pressure on, for recovery, through the combination of legal, union and other pressures. The Prime Minister’s words have stuck with us. The money is not an issue and a safe and credible re-entry will be funded. The first step of recovery of the drift and for the sale is made,
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that must not impede recovery. The family representation on this small committee includes Harry and Steve Bell and Neville Rockhouse working with Steve Ellis, the mines manager.”

5 Q. Bernie, just pause there, we can't claim Steve Bell as a member of the committee so we need to take him off that list, we do so now.

A. Thank you. “I have listened to the evidence and make no premature judgement as to the way the rescue recovery operation was conducted. This for me, this is for the Royal Commission.

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10 A. I heard Superintendent Knowles give evidence and when he did he described his regret as realising many families felt let down, I was prepared to accept that. I do not understand how such a complex and catastrophic incident should ever be handled except by experts. In those desperate hours, the days that followed after 3.45 pm on 19th of
15 November 2010, I consider we should have been given facts which include the probability of a methane fire, understandable gases, which we did know and that there was no prospect of men being hold in a safe somewhere, as there was no place for them to go if they survived the first blast. Even though it may have made no difference being told
20 about the self-rescue box and how that be accessed, should have been known to us as families. It may have vexed us, but I think we had the right to know all important facts.” I'll just finish. “The truth is a strong antidote to doubt and fear. We learn to live with the truth, to face it, to reconcile ourselves to it. Only then can our minds settle with knowledge
25 that we can each adjust and reconcile in our own way. I have taken liberty to make this evidence beyond our personal account available to our family members in advance so they can read this section of my evidence which goes beyond the loss of Michael to our family. I think that a person going to work on any given day should expect to return
30 home safely and have good reason for that. These were just hard working men doing their job who have never come home.”

Q. I've been asked to express the gratitude of families to those who've given evidence on their behalf to date.

THE COMMISSION ADDRESSES WITNESS – THANK YOU

WITNESS EXCUSED

1253

THE COMMISSION:

I return to the arrangement that I outlined before we heard the evidence from the seven family members. Just before I do that and in light of comments that were made by my contemporaries over the break, I should mention, Mrs Marden, how much we thought your slideshow added to the reading of your witness statement. It certainly added a good deal. Now, by arrangement with counsel, I now read the substance of that one further statement which supplies a slightly different perspective and it's the reading of this which has also helped to reach a position where other counsel did not feel any need to cross-examine members of the families after they had read their witness statements. I will not identify the maker of this statement, but I will read the substance of what she had to say. "Having worked for many years in an incident management capacity within the IT industry, I cannot stress enough how impressed I was with the level of incident management and cross-organisational co-ordination that was occurring even prior to our arrival. My view is that there was a consistent level of care and assistance to any family member who wanted it. This was provided at the Red Cross centre, by the polytechnic, Air New Zealand liaison officers, the New Zealand Police, the Focus Trust and local church and community groups. A family member simply needed to walk into the Red Cross building, identify themselves as a family member, and the support mechanisms were invoked in a timely and efficient manner. By the time I had arrived in Greymouth our family had an Air New Zealand liaison officer and a police liaison officer assigned to us. We had their contact details and they had ours. They would approach us at every family meeting and via the telephone to ensure we had everything we needed.

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All of the welfare agencies, in my view, presented as professional and well co-ordinated. Their respectful behaviours and processes enabled them to assist whoever and however it was needed. My view was that the family briefings themselves were well co-ordinated and convened in a professional and respectful manner. For example, an outline of how the meeting would run, who would speak, in what order and what information updates they would be providing was advised at the beginning of each meeting. It was made

clear in relation to any search and recovery operation that there was, “A panel of experts making decisions.” It did not fall to any one person or organisation. I personally found the convenor of both Peter Whittall and Superintendent Knowles and all staff from their respective organisations to be professional and empathetic. I felt that those who were providing us with updates on search and recovery efforts were non-emotive, factual and pragmatic with the information. Those addressing families were open to questions and suggestions and were very patient with the group, even when the same questions were often repeated by family members.” So the comment made earlier that there is obviously a range of points of view.

THE COMMISSION ADDRESSES MR STEVENS - WITNESS

COMMISSION ADJOURNS: 12.58 PM

COMMISSION RESUMES: 2.01 PM**MR STEVENS CALLS****CRAIG LINCOLN SMITH (AFFIRMED)**

- 5 Q. Mr Smith, could you state please your full name?
A. Craig Lincoln Smith.
- Q. And you've prepared an institutional brief on behalf of Solid Energy New Zealand Limited in respect of the rescue and recovery of Pike?
A. Yes I have.
- 10 Q. Have you got a copy of it with you?
A. Yes I have.
- Q. Can I just briefly touch upon your qualifications? What tertiary qualifications do you hold?
A. I have a Bachelor of Science and Honours from Otago University in
15 Mineral Technology.
- Q. You mentioned you had honours, that's first class honours?
A. Yeah, that's correct.
- Q. And you've got first class mine managers' certificates?
A. Yes, in Queensland and in New Zealand.
- 20 Q. And how many years experience in coalmining?
A. A total of about 39 or 40 years.
- Q. And you're a Mines Rescue Trust trustee now. That correct?
A. Yes I am yeah. A past brigadesman, but I'm no longer an active brigadesman.
- 25 Q. And where were you a brigadesman, please?
A. Both in Blackwater in Queensland and in New Zealand at Greymouth.
- Q. And how long have you been a trustee?
A. I think for eight or 10 years.
- Q. I'm going to ask you some questions on why you came to Pike and your
30 impression when you got there following the explosion and some issues on Solid Energy's response to the explosion, and then just one or two other matters. So, why was it, Mr Smith, that you came to Pike River, because I think at the time of the explosion you were at Huntly?
A. Yes I was at Huntly, yeah.

Q. Why did you come?

A. I became aware of the explosion on the – I listened to the news when I got home from work on the Friday afternoon. At the same time I was, I received a message from the Christchurch organisation, telling us of the incident and that we may be required to provide assistance.

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1404

Q. Had you been involved in a mine disaster at any stage previously?

A. Nothing of this magnitude. I was involved in an incident at Mt Davy where two people were killed from a coal outburst. Another incident where a man was killed while roof bolting. A further incident when I was mine manager of Deniston when a man was killed operating a machine driving out of the mine.

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Q. And what about in Queensland?

A. Yeah, when I was a shift undermanager at Liam Colliery in Blackwater Central Queensland there was a coal outburst at a neighbouring mine like our colliery operated by BHB. I was required to attend that. I was a brigadesman at the time, I was required to attend that as part of the rescue or the recovery of the two men that were killed in the outburst.

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THE COMMISSION ADDRESSES MR SMITH

20 EXAMINATION CONTINUES: MR STEVENS

Q. Can you just say briefly what it was that you undertook in terms of the Queensland recovery, sorry, it was a recovery Mr Smith?

A. Yes, it was a recovery operation. Two men were inundated in a coal outburst and we were summoned by the local Mines Rescue organisation as, I think we provided two teams from South Blackwater Colliery. We're about five miles away. So we were assembled and proceeded to attend the site and we're deployed by the company to help in the recovery of the men. I think the operation from memory is being managed by the undermanager in charge John Brady at the time. And I can't recall the exact details but I recall that we were prepared, briefed by our own organisation at South Blackwater Colliery. We arrived at the

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mine and were briefed again as to what the operation, we're required to do and went down the shaft and did our two-hour stint.

Q. And that was on the recovery of the bodies?

A. Yes.

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Q. I'm sorry, I had asked you why you came to Pike River, can you just confirm again?

A. Yes, I was spoken to by Brendon Somerville on Saturday morning to determine that I was able to attend the mine if I was required, and I said
10 I was and I later received a call to say that I was required and to get to Auckland Airport as soon as possible and a plane was being held there to get me to Christchurch and then to Hokitika. I understood that I was attending as a Solid Energy offer of assistance, not as a Mines Rescue person, even though I'm a trustee and met some other trustees at the
15 mine.

Q. And when you say, "An offer of assistance," based on your experience particularly with Mines Rescue, what did you anticipate that would involve?

A. Well, it has less to do with my experience with Mines Rescue more as
20 my anticipation and experience as a mine manager I think. Imagine that the mine manager of a mine would be under extreme pressure at Pike River and that, what I could offer I had very scant knowledge of the mine itself so I didn't imagine that I'd be able to offer too much in the way of specialist skill about the actual operation but I felt that I could
25 offer a lot of assistance as an independent person to the mine manager, in particular, and perhaps to other members of the management team. In an emergency like this there is enormous pressure on the manager who is running the operation, both in running the operation and in making decisions, so it's a fraught time for the manager or the person in
30 charge and I think it's invaluable for somebody who has some experience and knowledge but is not emotionally attached, if you like, and who is able to provide a peer review, assistant support, another point of view to ensure that good decisions are made.

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Q. As part of that answer Mr Smith, you said you might also be able to provide assistance to the management team, is that the incident management team?

5 A. Yeah, well I imagined that the incident management team would be the mine management team. I went along there expecting to see the mine manager and his senior staff that were available, managing the incident, all aspects of it, supported by Mines Rescue brigadesmen that had been mobilised. That's what I expected to see.

10 Q. And you managed to get a helicopter flight from Hokitika up to the mine in the course of Saturday afternoon?

15 A. Yes, when I arrived in Christchurch, I'd missed the first plane and managed to hook up with the plane that was taking the Huntly brigadesmen across to Hokitika, so they'd held that plane for five or ten minutes and so I caught that one across with them and they had already arranged for a helicopter to pick the Huntly brigadesmen up from Hokitika and take them to the Rapahoe Station, so there were already teams of Mines Rescue brigadesmen up at the mine and the Huntly men were being brought in to act as the backup teams and they would be mobilised and stationed at Rapahoe Mines Rescue station in the interim, so those men were dropped off and the pilot radioed forward and got clearance to take me directly up to the Pike River Mine.

20 Q. And so when you got up there after the brigadesmen had been dropped off at Rapahoe, was it?

A. That's correct.

25 Q. Yes, what occurred?

30 A. I found my way into the office. It was a very busy site. There were fire brigade vehicles and first aid and Red Cross and all sorts of vehicles and a lot of people, a lot of activity. I dropped my bag off at reception and asked whether I had to sign in, but there was no, apparently there was no need to do that, so I found my way around the office until I could find where things were happening and managed to bump into Steve Bell who had been there for some time. So Steve gave me a quick layout of the office, where things were happening and took me to a room where

he showed me a plan of the mine and quickly took me through the situation as he understood it at the time.

Q. And did you have any observations on the layout? Was it as you expected, or?

5 A. It was – I found it difficult to know where things were happening. I subsequently, not long after I was there, I attended an IMT meeting and they occupied the main room, adjacent to that there was a lot of rooms which contained food and other supplies. I didn't ever find any other rooms in the main office that - where other planning or organisational
10 activities were taking place, but I didn't go wandering around unguided. I went out to another area of the infrastructure there and found where Mines Rescue were based and talked to the teams that were there and the other trustees that I met.

Q. When you first arrived and you'd met Steve Bell, were you introduced to
15 any people from Pike?

A. Yes, Steve – we managed to find just prior to that first meeting that I spoke about, we managed to meet up with Mr Ellis and he introduced me to him, didn't have anything much in the way of a conversation with him, he was going from one place to another. I was a little bit
20 ill-informed, I suppose, or unaware of whether my going up there had been communicated to Peter Whittall or Mr Ellis or anybody else, so I was there at the behest of Solid Energy, had an idea in my head about what position I could take, where I could be of assistance, but I wasn't aware of what arrangements had been made, so...

25 Q. And just for the record, Steve Bell's Solid Energy's South Island alliance and development manager, correct?

A. Yeah, that's correct.

Q. You said shortly after you arrived there was an incident management team meeting, or what you understood was an IMT meeting?

30 A. Yes.

Q. And you attended that?

A. Yes, I did.

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Q. And I think we've heard that was in the Pike boardroom. Can you just describe the layout at that meeting physically, how was it conducted?

5 A. With that first meeting I was required to sign in, there was a general reminder from the person that was – whose role that was to ensure that everybody who attended that meeting signed in with who they were and who they belonged to. But it was a relatively large room but it was pretty packed. A reasonably large table, doors at either end where people were coming in jostling to get standing room. On the far side of the table it was, seemed to be permanently occupied mostly members
10 of the police and –

Q. You said “mostly”. Anyone else?

15 A. I think some of the other services were there. Fire service had a chair there, from memory. May be St John's or Red Cross, I'm not quite sure. They seemed to occupy that side of the table, and where I found a position it was shoulder-to-shoulder standing room with various people most of whom I didn't, couldn't identify, but that was where there were Mines Rescue representatives and members of, other trustees that were there. I only knew one other person from Pike, which is Greg Borichevsky, who I'd had a previous association with. He was the
20 only other face that I recognise but it was a tight office with a number of people there, maybe 20 or 30. And at the front end where the thing was being chaired by Mr Ellis there was a whiteboard where he ran the agenda.

Q. Do you remember how it started, what was said by Mr Ellis?

25 A. Oh, no I don't think I can remember. It's sort of called to order. This is our meeting here is the, here's what we want to discuss or we'll take it from the top who wants to speak about what. So it was a – at that time I was assuming that Mr Ellis was the incident controller. Some of the police had jackets on with different acronyms on or different writing with their particular position was in the rescue, in the incident team, but I
30 didn't take too much knowledge of it. I assumed that Mr Ellis was the incident controller and the police were there as support. That was my initial observation.

Q. Well your view that he was the incident controller I gathered changed. When did that occur?

5 A. Well I did note that – I don't know exactly when it changed. He appeared to be chairing the sessions, if I can describe his role as that, taking advice from various people that were in attendance, giving updates about various activities that they've been involved in, whether there were risk assessments of particular activities or the state of play with sampling from the shaft, et cetera. So there was – he acted as a co-ordinator I suppose I'd describe him, trying to maintain an orderly sharing of information by various contributors. I don't know at what point I actually figured out that the police had a lead role in the incident management.

10 Q. And was it some considerable time later that you'd in fact that that was centred in Greymouth anyway?

15 A. I wasn't aware that there was anything going on outside of the Pike River for some days.

Q. Either at that meeting or – sorry, you were at Pike for a couple of days?

A. Yes that's right.

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20 Q. And then you went to Rapahoe didn't you, and that's in your evidence. In the course of that couple of days how did your expectation about a mine manager being under great stress and you being able to assist that, how did that compare with what you observed?

25 A. Yeah, my immediate observation of that first meeting was a certain amount of, well at that meeting and then immediately after was a certain amount of confusion. I expected to encounter the mining team that were acting with a lot of urgency in deliberating over the available information to decide how to determine what was actually happening underground and that was a long way from what I saw. What I saw was a seemingly orderly exercise but which didn't have, both in the information that was being discussed and the priority that was being given to the, what I thought would be the critical issues at hand, so there's a big gap between what I expected to see in the way of who was discussing what and what was actually taking up people's time and what

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actually happened. So what was happening was a lot of people there that didn't have any part to play, any contribution to the key mining issues, the key decisions that had to be made to gather information to allow us to actually make some calls as to what to do next. So there was a lot of time spent on stuff which probably needed to be dealt with. I'm not saying that it wasn't important, the logistical side of the exercise, but it seemed to have equal time and priority given to it to the major issues that I expected to be discussed. And at the initial meeting I suppose I thought that those discussions must have been had elsewhere. And talked to Steve Bell after that first meeting and said, "Where is all the mining analysis going on?" And he said that "That's pretty much it."

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Q. So can you just briefly state what you thought were those key issues that you expected to see going on, key mining issues?

15 A. Yeah, the key issues were what was happening in the mine. And there was a lot of work on that going on, being carried out by the Mines Rescue Service. I'd quite like to talk about that in a moment.

Q. Yes, come to that.

20 A. It was a very important point. The other issue was the when and where and how we can deploy rescue teams. And the other issue was what was going on in the mine prior to the explosion, where were people, what was actually happening, what information has been already discovered, made available that would actually help to advise the planning team about where people were likely to be, what may have been the cause of the explosion which might inform discussion, deliberations about what was likely to be happening in the mine.

25 Q. Do you have some examples of information you subsequently found out that you would have expected to have come through an incident management team to help inform those key mining deliberations?

30 A. Yeah, well the classic one was the compressed airline being breached. I spent, and I guess we'll come to this later on in my evidence but there was a lot of discussion when I arrived at the mine that, and I was shown the gas results that had been analysed to date and that was a fairly

dismal outlook. Just lost my train of thought, can you bring me back where I was?

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5 Q. It was about the compressed airline being breached and key information not coming through the incident management team.

10 A. I was assuming all the way along that when we started to think about sealing options and where people may have survived, compressed airline availability seemed to be a fairly important issue and we spent a lot of time taking account of the fact that there would've been a compressed airline available throughout the mine where people might've gone into as an alternative to getting out of the mine and it was some days, in fact, it was after I left the mine that I found out that there was good evidence that the compressed airline had been breached at the time of the explosion.

15 Q. What about, as key decisions, survivability and also sealing the mine, what attention did they get at the first or subsequent incident management team meetings, sorry by incident management team meetings I mean the meetings you attended at the mine that you thought were IMT meetings?

20 A. Yes. At all the meetings I attended, one of the issues that was raised, and I think it might've been, sort of, near the top of the list, was a briefing from Robin Hughes or Dave Stewart sometimes it may've been Steve Bell, all these are Mines Rescue trustee members that were involved in the analysis of the gas samples that were being taken and analysed out at Rapahoe, so there was, well on the first meeting that I attended it was on the agenda and, I think there was, I know there was, a lot of frustration by Robin in those early meetings that I attended about getting the severity of the information that he was presenting acknowledged.

25 30 Q. Can you just describe how that lack of severity was demonstrated? What were the responses to that information to lead just to make that comment?

A. The content of the information was probably completely foreign to most of the people in the room, at least all the police, you know, despite the

talk of the mining 101, the what was actually happening in the mine and what was being supported by the information, the data from the gas analysis would be just totally foreign to a layman and the police were laymen. So the information that was being relayed was being relayed in
5 as much layman terms as Robert and others could do but even with that translation my strong impression was that the people in the police, in particular, I'm not quite sure about Pike representatives, but the police didn't have the faintest idea about what it actually meant.

10 Q. Can you remember their response after Robin had given that information?

A. "Yeah, well, thanks Robin, we'll look forward to your next briefing and move onto something else."

Q. What about sealing of the mine. Do you regard that as a key issue or was that too soon?

15 A. Well, I think there'd been some discussions, at least by the mining people that were there and I don't know what forum they were discussing this, but there had been discussion about this before I arrived that sometime had passed, almost 24 hours by the time that I was really there and that the conclusions at that point were that it was highly
20 unlikely that anybody had survived to that point in time.

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A. I gradually became aware about what facilities were available in the mine with regard to self-rescuers and fresh air bases et cetera, and I think the general consensus was at that point that if anybody had
25 survived then they would've made their way out of the mine and that there was fresh air, pretty much continuously re-established through the natural ventilation circuit, so I think there was, seemed to be general agreement amongst the people that were there that the chances of anybody surviving were remote and that there was a lot of growing
30 concern I suppose, about what the gas readings meant in the mine with regard to open fire accelerating and/or giving rise to further explosions with the destruction of the mine, rescue/recovery operations being made much more hazardous and potentially losing the mine, so the evidence, the data about the gas results was it was important with regard to Mines

Rescue teams contemplating going in there, and that was the other part of what my focus was, I think. I was very concerned that Mines Rescue doesn't put itself into a hazardous situation and I spent some time while I was there actually talking to the Mines Rescue teams who were being fed the information through the people that were attending the IMT's and through Robin and Dave and Steve but they were still quite emotionally charged and wanting to get on with it, get down and do something. So you had these people that were being cooped up in a room on standby that were getting very irate about the inability for them to do anything, and I spoke to them and said that even if Pike River or the police request you to do something at this stage, there's no way that it's safe to do it, so...

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Q. Can I just come back to part of your statement that was about the general consensus as to the very poor or grim chances of survival? I think you said, "Survival being very remote." That was the general consensus of who? Everybody at the IMT, or a different group?

A. No, everybody that I had personal contact with, with the mining people involved. I didn't have any real discussion with the members of the police, police response team, or the Pike managers that were part of that, so I was talking with the Mines Rescue people and the trustees. Those were the people that I had contact with, talking about the facts that were available to make some determination on.

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Q. Can I just move to Mines Rescue Services? Was there anything happening at Pike about the activities of MRS people that you would not have expected?

A. Yeah, I think it's quite an important – well, my view of what I expected to see and what I think is the actual response and the responsibility of Mines Rescue is some way apart from what the general public and maybe others see as Mines Rescue. The name itself suggests that they are equipped to carry out Mines Rescue operations and that's only true to a certain extent.

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A. The planning and the risk assessment and, I've got a bit of a problem with the term "risk assessment," but the planning and the determination

about what needs to be done is a different function to what Mines Rescue is set up to do and is trained to do and is qualified to do. Mines Rescue is, in the current situation it's a very happy chancy arrangement where we have on the trust, on the board, five managers, ex-managers, 5 ex-inspectors that have a first class manager's ticket, but that's not – we're a board, board function. We're there for governance to determine what the organisation needs to do and how to operate. The fact that we have mining experience and qualifications is not there by design I don't think. So the Mines Rescue brigade under the leadership of the general 10 manager has staff, full-time staff as officers and volunteers from the mining operations as brigadesmen who are trained, and the trainers are qualified to train Mines Rescue brigadesmen in how to wear a self-contained breathing apparatus and how to rescue people while using a BG4. So they're not there to actually, they're not equipped to actually – 15 our staff are equipped to analyse gas samples but they're not there to actually determine what all that means and what needs to be done to, in the way of designing a series of operations. I think they presented themselves at the mine and fell into a bit of a vacuum and filled that vacuum as best they were able to do and that may have been not that 20 much dissimilar to what, the way it's been operating for decades perhaps, where they are called out to small mines where there isn't the expertise, wasn't technical expertise available to make those decisions and they are forced to be pretty much self-contained, but in an exercise like this I think it was not appropriate for them to be doing the range of 25 activities and to be held to account now actually, for how they completed those activities and why they made decisions and why they didn't make decisions. I think that they were there and were presented, trained, equipped to be deployed underground in an irrespirable atmosphere to do reconnaissance activities to recover people, recover bodies, 30 whatever the task was to do, and they were there trained to do that and they were trained also to ensure that the task they had been given and the environment they had been directed into that they felt that that was actually a reasonable task to undertake and safe to do so. So I think there is a two-level responsibility for the Mines Rescue to be engaged.

They've got a responsibility to be trained and present themselves. The incident controller, the mine manager, mine management team are responsible for ensuring that for designing the task that they are required to do and to satisfy themselves that what they are being put to do is safe, and then the Mines Rescue team then have an obligation for Mines Rescue Service, the manager, person in charge then has an obligation to satisfy himself that that is a reasonable thing to do.

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Q. And were those distinctions blurred at Pike?

A. Well, I don't, I think in –

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Q. From your observations?

A. Well in the case of the, in the case of a rescue if they had been tasked with doing something, you're putting on a suit and entering the mine, I think that dual level of responsibility would have taken place. I think that there's been a lot of statements by Department of Labour and the police and others, Pike River staff saying who and when will go underground. So I think they were, that was a responsibility of the mine manager to determine that, and Mines Rescue Service were doing probable appropriate assessments themselves in terms of saying, "We may be asked to do this. What are our protocols in the event that we are asked to do this? Are we happy to undertake this task?" So a lot of that was happening in parallel.

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A. I think my major point I'm trying to make is that they were I think being expected to do stuff, and part of it I think was that they volunteered it, they went up there, in Robin Hughes, I say Dave Stewart, Steve Bell, they all had a Mines Rescue hat on as much as any other hat but they were doing things which were probably within their area of competence but they weren't Mines Rescue activities as such. And I think it is important in a well run operation I think that would've been observed at the outset is that these people are here, we've got Mines Rescue brigadesmen, fine, put them over there and we'll call them when we need them. We'll also have these other people who have come up as volunteers, if you like, or have come up to support Mines Rescue, they have these qualifications and this experience, how are we going to use

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them, and to formally task them with these roles, and I don't think that sort of procedural clarity – it wasn't evident to me.

Q. Can I change topics please to Solid Energy's response to the Pike explosion. You've got Mr Bragg's evidence there, Solid Energy implemented on the Friday night, it's a crisis response plan?

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A. Yes, that's right.

Q. And in fact it had also done that previously immediately at the time of the Christchurch first earthquake?

A. Yes.

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Q. It has a crisis co-ordinator and that was Mr Bragg?

A. Yeah, he took that role.

Q. And it has an incident controller and that was Steve Bell, correct?

A. Yeah, Steve Bell was - he was appointed to that role, yeah.

Q. And notes, you were part of that incident control team?

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A. Yes, I'm not quite sure whether I had a formal capacity, I was reporting to that incident control group, yeah.

Q. With Steve Bell?

A. Yes.

Q. Yes. And you start with a situation report which is from yourself, or from formerly through Steve Bell, but you were part of that and then you have a response from the Crisis co-ordinator. Can I just quickly touch on please the notes of those meetings. Your first meeting was on the Saturday morning at 8.00 am and that records that it was likely fire burning underground and gas monitoring critical?

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A. Mmm.

Q. That there were many offers of support, equipment mobilised and an inventory being prepared. And the co-ordinator gave the following instructions, and they're at paragraph 23 of Mr Bragg's brief, and I don't need it to be brought up, but Spring Creek was by that stage put on care and maintenance, correct?

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A. Yes, they mobilised so much equipment, first aid equipment, particularly that the mine had to be effectively shut down.

Q. Yes. That Huntly management was to be put on standby to be mobilised, and you've told us about, well sorry, and in addition you were

to go to Greymouth, and it reads, "To add to our on the ground peer review support for Pike River and/or Mines Rescue?"

A. Yes.

5 Q. And, "West Coast drilling resources on standby to be mobilised." The next day you again had same meeting, same people?

A. Yes.

10 Q. And that's at paragraph 26 in Mr Bragg, and the report from the incident controller, who's Steve Bell, was, "No positive news, conclusive evidence of a fire, severe blast and dismal outlook, rescue attempt very unlikely because of the risk of further explosions and need to put out fire," and then there was a briefing to be organised for the chief executive Dr Elder, who we know flew back into New Zealand at 1 o'clock.

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15 A. And the notes of that briefing at paragraph 28, that's on the Sunday at 1.00 pm, the event update, "Latest thinking from our mining staff on best response, seal the mine to get control of the mining conditions to allow safe re-entry and to minimise damage to mine infrastructure so as to get access to all parts of the mine to recover people." And secondly, "Real confusion over who is making the decisions. PRC leaving it to the police, Mines Rescue will rightly not enter the mine until a comprehensive risk assessment is completed." And it concludes by noting, "Spring Creek is still closed." You were part of that mining staff briefing, feeding that through for Dr Elder?

20 A. Yes.

Q. Who else did that involved please?

A. Look, I can't recall, there were some people in Christchurch, I was phoning into those meetings, I wasn't really aware of who was also on the call.

25 Q. Well, can you confirm though that it included Steve Bell and Robin Hughes?

A. Steve Bell most of the time, Robin Hughes occasionally, but mostly Steve Bell and I, we were phoning in from different places.

Q. Did the two of you, and when it involved Robin, did you have consensus on all issues or sometimes disagreement?

5 A. Well, I think we all agreed on the confusion and the need to get on top of the situation underground. Robin was very, Robin probably has more experience in this than me, but he is very adamant that the Jones-Trickett ratio and the Graham's ratio of the analysis of the gas results showed extreme fire event underground.

10 Q. Sorry, I'm just conscious of time, Mr Smith, what about on sealing. Was there unanimity on sealing being, as that recorded sealing the mine to get control of the mining conditions?

A. Yes, there was complete unanimity there, we spent some time talking about options.

15 Q. I just want to ask you a couple of questions on that. And one of those people that had that view was Steve Bell and its correct, isn't it, that he had a first cousin who was in the mine and Steve was acutely aware of that?

20 A. Yeah, Steve shared with me when we were talking, when I first went up to the mine, about who the people were and I knew a handful of them, but, yeah, Allan Dixon I think is his cousin, was one of the men underground.

Q. And notwithstanding that, Steve was recommending sealing by 1 o'clock on the Sunday?

A. Yes, he was, yep, pretty adamant that that was the best course of event.

25 Q. Can you just outline the reasons for why you concluded that sealing was the option that should be pursued, just the key points?

30 A. Well, do I keep this brief of not, there's two issues facing this that need to be taken into account in this decision. One was any survivors, identify whether there are any survivors, whether there's any evidence for survivors, what's the likelihood of surviving which would drive the planning. The other issue was the fact that the mine environment was unstable and would be expected to be unstable after an explosion. There was good evidence from the gas results that there was some extreme gas readings of explosive and noxious gases in the mine. The difficulty was that there'd been disruption to the ventilation apparatus

underground, the stoppings and doors, et cetera, there was clear evidence that the air was short-circuiting up the fan drift which was just positive evidence that there'd been disruption to the ventilation apparatus and I think the reasonable conclusion was that little, if any, air was making its way through the normal ventilation circuit and the results that we were getting were heavily contaminated by the fresh air that was entering the mine.

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Q. And what did you know about the methane make?

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A. Well, as I said earlier, I'm not, I wasn't familiar with this mine on a firsthand basis. I knew that it was relatively gassy and I'd heard anecdotal sort of evidence where incidents when the mine's fan had gone down, or power had gone off, gone down in the mine and the mine had gassed out very quickly.

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Q. Did you know how quickly?

A. Oh, I think nine or 10 hours was quoted, and I don't quite know what gassed out means, but I think it meant it was up to 5% where they had to shut the power off and then re-ventilate the mine, so I was working under that sort of assumption that the mine was relatively gassy, the gas came out of the coal relatively easily and that was confirmed by the results that were getting.

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Q. Were any calculations of that done that you're aware of, of it gassing out?

A. No, I don't know.

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Q. What about its size?

A. Oh, well, the mine footprint is very small and I think that's the – so the ventilation circuit, the amount of air that would be normally travelling around the mine when the mine fan is operating was quite small, so any interruption to the mine ventilation circuit would mean that gas coming from a number of parts of the mine would cause gas build up throughout the mine.

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Q. What account was taken of the duration of the self-rescuers?

A. In determining survivability?

Q. Yes.

A. I understand the self-rescuers were 30 minute duration rescuers.

Q. And you knew that by the Sunday?

A. Yes, I think I probably knew it on the Saturday, yeah.

Q. The Saturday?

5 A. Yep.

Q. And what about your understanding of any refuge in the mine?

A. Yes, I was informed, I think probably again by Steve who have given me the details, that there was a, what they called a fresh air base at the bottom of a drift – top of the drift.

10 Q. Presumably because of what you've said about fire, there was a likely ignition source, was your assumption?

A. After explosion, then ignition sources are likely anyway, in any event. We don't know yet what the initial ignition source was, and whether that would still be present after the initial explosion, so that's always a possibility, and after explosion, if we assume is a methane explosion is likely to be other sources of fire created as a result of that.

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Q. And when at 1 o'clock on the Sunday you're talking about the option of sealing the mine, what process did yourself and people such as Steve envisage?

20 A. I went back to town for the night on Saturday and spent a lot of time thinking about this sealing that was being discussed and despite the fact that the general consensus was that the chances of any survivors was mathematically, I suppose, very remote and was still important at least as a first step to say, develop a plan which can get on top of the fire or the explosive atmosphere underground which could give rise to further explosions. How can you manage to do that while not diminishing the chance of any survivors surviving, and that was the conundrum. And there's no straightforward answer to that.

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Q. But how did you expect that conundrum to be considered adequately?

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A. By assembling a group of people who could paint all the scenarios in an informed way and evaluate the likelihood of those scenarios existing and the proposed remedies, how they would give rise to a good result,

both from a sealing point of view and from allowing any survivor to survive.

Q. And so I take it that your suggestion, and that would be to keep the compressed air running, correct? And what about at the portal?

5 A. Well, when we were talking, thinking as individuals talking amongst ourselves about the sealing options, we were looking at two things. One was the mechanical way of sealing. How do you seal over a shaft using, there's a number of ways of doing it, from steel covers to timber covers to tarpaulins, stone dust, et cetera through to dozing in the intake
10 portal. We're talking about containers with double doors so that those could be put in place to allow entry from both ends and some other people may have come up with this idea as well but I know that I came back on the Sunday talking about if there is still a chance of people surviving is it worth considering a sealing option while leaving the
15 compressor running, and what impact is that compressed air going to the mine going to have on the bringing the fire or the explosive situation under control, and it's obviously not an ideal situation if you're trying to seal. It's the quickest way to inertise the atmosphere and the best way of doing that is to seal both intake and return as tightly as possible and
20 that allows the oxygen to be consumed most quickly. Leaving a compressed airline running was a hazard to that operation and it needed then some analysis. I think as a starting point I didn't think it should get tossed out immediately despite the fact that you are introducing compressed air into a potentially explosive situation or
25 where there is a source of heat, and you are keeping a fire going but it's – I think our back-of-the-envelope calculation was, you know, around about 1% of the air would be being delivered by a compressed airline compared with what was being naturally ventilated into the mine. So in terms of sort of efficacy, you were taking 15 cfm or whatever was going
30 into the mine through natural ventilation. You were reducing that down to, you know, one or two percent of that. So on balance, it seemed to be a better situation if that was what we had to go with, a better situation than the status quo, which was – it was only a matter of time before the status quo situation was undone.

Q. Just briefly Mr Smith, did that formal process you envisaged of considering that, did that ever occur?

A. No it didn't.

5 Q. Why didn't you, if you thought that was important, why didn't you say to Pike or the police if that's what needed to happen?

A. We've all sort of asked ourselves this question, how it could be done more. I wasn't the only person actually making these suggestions. These were being made by others at increasing volume.

Q. And what was the response?

10 A. Just a dead hand. I expected - I think it comes back to this point about competence to make decisions around these issues, and Pike, the Pike representatives who were part of the team, I still wasn't understanding who had responsibility for what here, who was leading what, but they definitely would've had the competence to understand what we were
15 talking about.

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A. I didn't expect the police to understand it but I would've expected the police to have acknowledged that they were in unknown territory, out of their depth from a technical point of view and would have taken steps to
20 defer to somebody who was able to make judgments about this. So the lack of response was intolerable really, and bred by just a lack of knowledge of what we're dealing with.

Q. Did you hear the expression, "Partial sealing," or not?

A. I don't know.

25 Q. No. That's not a term of yours?

A. I don't think, I can't imagine I would've used the term.

Q. And can you confirm that you were aware of the risks of explosion with sealing as well as doing nothing?

A. Yes, that's part of the conundrum that we're facing.

30 Q. Did you hear any reference to the, "Sago Mine explosion," when you were at Pike?

A. No I didn't, I didn't hear that, no.

Q. Were you aware of the Sago Mine explosion when you went to Pike?

A. Yes I was familiar with the Sago explosion, when it occurred, and subsequent reports.

Q. And just briefly, why were you familiar with that?

5 A. Well we're familiar with it as a matter of course. We review all disasters from around the world as they're published to review our own, well maintain our own awareness about things that have gone wrong in other places and learn from them. But it was of particular interest to us at East Mine anyway. Mine manager at the time was telephoned by somebody from Capital who I think was an Australian that was part of
10 the Government inquiry into the Sago disaster and he had informed the investigators in America that East Mine was, I think it might've been around the time they were starting to manufacture mobile changeover stations, or refuge bays, and East Mine had had fairly advanced for the time system of changeover stations at East Mine plus a portable one at
15 the face end. So I think they were using us, it wasn't very prevalent in Austrasia at the time, and I think we were probably sort of at the leading edge of that and subsequently provided information to inform the inquiry. And I think the inquiry made mention of East Mine, its standard or facilities that were being provided.

20 Q. Well we know that at Sago there were some barricaded into an air pocket, are you able to say if there are any similarities between Pike and Sago?

A. I'm sure there were some similarities. The men, I think there were a lot of dissimilarities.

25 Q. Well briefly what are they please?

A. The men at Sago were equipped with, I think, SR60s, but they were actively trained to take refuge whereas in Solid Energy operations in New Zealand we actively train to self-rescue. So that was the difference. The men there were told, "Take refuge, barricade yourself
30 in, tap on the steel pipes, and we've got the ability to detect those rattings and we'll be able to find out where you are." I think the technology wasn't employed or it wasn't functional as it occurred. The other significant difference between probably Pike River anyway and Sago is the size of the operation.

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A. I think Sago was an explosion that killed one man, I think, this is going back a few years, the information won't be accurate, but one man was killed as a result of the blast I think and eight or nine or 10 took refuge in another part of the mine, I think they may have been 900 metres or a kilometre apart so there was significant airway between the explosion and where those people barricaded themselves in and stayed there for sometime. They had sufficient air there, I don't know what the gas make in the mine was, I don't know how big the explosion was, so, I don't have any of those details at my fingertips, but those men survived for some time and one by one expired and very unfortunately, they had their self-rescuers, they could have escaped, they left notes that the self-rescuers didn't work and they were subsequently tested and they were fully functional. So I think the training to actually barricade themselves in was at the risk of actually training how to use a self-rescuer and I think that was their undoing.

Q. In your opinion, would there have been any air left in Pike in terms of its explosion in contrast to Sago?

A. I think all the evidence points to there being no breathable air.

Q. Can I take you to another matter, Mr Smith, and we'll try and do it quickly.

WITNESS REFERRED TO SOL.381667.007

Q. My friend, Ms McDonald put to Superintendent Knowles that the risk assessments for piercing borehole had deficiencies and I quote from 2147 of the transcript at that, "The action being talked about as drilling into ground support a hazard being identified by the Department of Labour inspector as possible explosion, would you accept that a reasonably significant hazard or risk to identify in a risk assessments was possible explosion," and the superintendent agreed, would you just please take us, in that document, to references to where explosion had indeed been identified?

OBJECTION: MS MCDONALD (15:08:11)

EXAMINATION CONTINUES: MR STEVENS

Q. Perhaps, Mr Smith, and I'm very conscious of time, do you accept that the risk assessments contains numerous references to the risk of explosion from breakthrough?

5 A. Well, it's littered with references to it actually, I mean, that both the risk of explosion as a result of causing ignition source as the drill bit breaks into the explosive atmosphere and also the risk of the drillers being exposed to noxious gas and potential inflammable gases as a result of their drilling activities, so, the whole, from my reading of it and I wasn't
10 involved in it, the entire focus, I mean there are some other, sort of, drilling type hazards in amongst this but the whole focus of this risk assessment is around those two hazards.

Q. Yes. And just given the time, have you then had the chance to look at the handwritten notes from, we understand, Mr Poynter in document
15 SOL.381667.008?

1510

A. Yeah I have and, look, as a general comment they're all fine detail to make the risk assessment complete, I suppose, as a document. Some of its putting technical language or abbreviations into layman terms, so
20 somebody else can understand what's being said and assigning risks to some parts of a general hazard and control measures have been put in place, there's lots of words there. I can't see one example where it's actually added to, highlighted a risk that wasn't taken account of or changed the risk rating of one of those hazards or suggested an
25 additional control that would be appropriate. I can't find one instance where that detailed handwritten review of it has helped this risk assessment.

Q. And if we just take the first box, given my friend's comment, and I take that that's, "Drilling into ground support cables rock and bolt mesh and the hazard event identified was friction on ignition". In fact, can we have that brought up please, Ms Basher? You see it on the screen,
30 Mr Smith?

A. Yes.

Q. And there was a rating given as to the proposed controls, so there's a hazard rating and then a re-rating after control, that's how it works?

A. Yes.

5 Q. And holding point 150 metres, could you read out the change that had been made to that?

10 A. Yep. It's a bit hard to read, but I think the initial description by Dean Fergusson I think was the proposed control was holding point 150 metres which meant stop at 150 metres. It's been re-titled as "Plus 150 metre drilling controls and monitoring mud drill", I think. So, confuses, doesn't it? I don't think it adds anything. It probably just adds some confusion as to what the control was. I mean underneath that there's all the things that must be done as a consequence of hitting that.

15 Q. Okay, could we go to the next page please Ms Basher, and in that under the "Drilling into explosive atmosphere" you'll see that the topic is "Ignition explosion" is the hazard event?

A. Yes.

Q. And the assessment of those that did the risk assessment was that after the proposed controls, it would have a rating of 22?

A. Yes.

20 Q. You'll see that in fact Mr Poynter's reduced that risk?

A. Yes, I see that.

25 Q. Yes. And could we go please on another three pages to page 12 and the hazard there, number 3, is "Drilling into gas drainage line" and it's written, "Are there CH₄ holes (drainage) in area of current borehole, otherwise leave this section out". Do you have any comment on the suggestion that that might be left out – Well that's probably even more likely, so, thank you for the correction. "Are there any CH₄ holes (drainage) in the area of current borehole, otherwise leave this section out." What's your view on the appropriateness of having that in the risk assessment? That is a section on drilling into gas drainage line?

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A. Yeah, well the whole reason for identifying the hazard is to identify all potential hazards and the controls are put in place to, in the event that those hazards are encountered. So, I can't understand why you'd make that conclusion at that point.

MR STEVENS ADDRESSES THE COMMISSION – READING BRIEF OF EVIDENCE

1515

5 EXAMINATION CONTINUES: MR STEVENS

Q. Could you go please to paragraph 64 of Mr Bragg's brief please? And this really reflects some of Solid Energy's thinking in light of the Pike tragedy as to what should happen in the future. Could you read please from 64 to 71?

10 A. "In light of Solid Energy New Zealand's experiences around the Pike River tragedy we have been doing some careful thinking about what the above means. Whether we still agree with it and how Solid Energy can best work with external agencies in practice. Solid Energy is not aware of any legal authority for the police automatically becoming the lead

15 agency under the CIMS model. Nevertheless, depending on the characteristics of the incident at the time, we do think that the police will often be the best and most appropriately resourced agency to (a) help manage a multi-agency response to a large scale incident; and (b) work together with the Solid Energy emergency management team to achieve

20 rescue and recovery objectives safely. What Solid Energy is currently questioning about the underlying passage above is 1. How the police can best work in close collaboration with Solid Energy's emergency management team. 2. The risks around delays and action being taken and decisions made, the overlay of the police command's structure in

25 the CIMS model, and the quality of decision-making where mining expertise is required. 3. The degree to which the police will quickly understand the expertise of those on site, take their advice and rely on it, as opposed to seeking other possibly less qualified, less informed and slower advice from third parties. 4. Whether under the CIMS model the

30 incident controller needs to be from the lead agency. In Solid Energy's view, the incident controller should be the most suitably qualified and capable person in the circumstances irrespective of which organisation, public or private, that person comes from. The incident controller will

then involve the public emergency services under the CIMS architecture the most appropriate way to best manage the emergency response efforts.”

Q. Could you then please just skip to 67 and continue through to 69.

5 A. “Solid Energy’s position that the mine manager or someone appointed by Solid Energy should remain incident controller is based on the following: the mine manager has statutory responsibility for the mine and is, together with Solid Energy, responsible for the safety of the miners. Solid Energy has the capability, including knowledge of the
10 mine, expertise and resources to understand what is happening at the mine, to undertake a comprehensive risk assessment, and based on that risk assessment recommend an incident action plan that ensures the health and safety of all rescue personnel which includes making any decision to request that Mines Rescue attempt to re-enter the mine and
15 to put that plan into effect. Solid Energy understands that in practical terms for a material part of the emergency response at Pike River, the police as incident controller would not approve operations without the approval of the Department of Labour. Solid Energy’s planning does not envisage Department of Labour having such a role and we would be
20 concerned if Department of Labour took or was given such a role during the management of a serious incident at one of Solid Energy’s mining operations. It is for the incident controller to make decisions about management of the incident, including the rescue of miners, stabilisation of the mine and recovery of any bodies. The incident controller’s
25 decisions will be subject to risk assessment albeit that the way such risk assessments take place and the form in which they are captured will depend on the circumstances, will be subject to some degree of peer review as appropriate and possible in the circumstances, and will be guided by Mines Rescue which will ultimately makes its own decision
30 about how any request from the incident controller is responded to. What should not happen is that the incident controller’s decisions become subject to final approval by a group of people that are offsite and do not have access to the best and most up-to-date information. Pike River tragedy was a time critical emergency situation.

1520

- 5 A. In such situations those on site need to be able to make quick and high quality decisions. Solid Energy's understanding is that the fire service does not have to seek the approval of a committee formed by DOL or anyone else before entering a burning building and nor should those managing the emergency response to a mining disaster. To resolve some of the potential difficulties around the management of mining incidents Solid Energy has recently held discussions between its corporate risk team, senior mine management at Huntly and senior members of the police. Further discussions are also being held with the National Rural Fire Authority. In our view these discussions were very productive. Solid Energy would ultimately like to reach an agreed position on how any serious incident would be managed and led and have that agreement formalised in a memorandum of understanding or similar document. Solid Energy is also keen for representatives of the police and other public emergency services likely to be first responders to become more familiar with and periodically visit its mining operations to establish good trusting relationships with mine management and to participate in exercises. Solid Energy's tentative view, and we're still working on this, is that all mining operations should engage with the police and other emergency services so that each appreciates and understands the expertise of the other and prior agreements are reached about how the emergency response to a serious incident will be managed and led. Solid Energy plans to seek engagement with the police in relation to emergency response management at Spring Creek soon."
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- 25
- 30 Q. And just given the time, could you then please just go to paragraph 79 and can you just read out there what you think the emergency management team would consist of, page 25?
- A. "Duty cards would be handed out to set up the emergency management team and other staff would be tasked with the duty cards specific to Huntly." So this is an example around Huntly. "The emergency management team would consist of an incident controller, and this would typically be the mine manager. Logistics, this would typically be

the mechanical project engineer or more likely the engineering manager. Operations, that would typically be led by the production manager. Planning and intelligence, and this would typically be led by the technical services manager. And liaison and safety, and that would be under the leadership of the health and safety manager.”

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1523

Q. Continuing.

A. “I am aware of comments about the size of the incident management team or IMT meetings that were held at Pike River, while it is now known that the Pike River IMT was not equivalent to Solid Energy’s emergency management team, on the basis of my understanding that the police incident controller was in fact based at Greymouth Police Station. I note that in accordance with the CIMS model, Solid Energy emergency management team would consist of, at most, seven individuals. The incident controller, plus the manager of operations, logistics, planning and intelligence information, safety and liaison. Emergency management team meeting may grow to around 10 people where the managers of operations and planning and intelligence to attend with key experts such as ventilation engineer and a Mines Rescue representative. The crisis duty manager would be notified and he or she would activate the crisis co-ordination team under the crisis plan. Mines Rescue and other emergency services would be notified and asked to report, initially, to the liaison safety duty card holder. If the incident was not immediately resolved, for example, men underground failed to self-escape and/or it was known that men were trapped, the planning and intelligence duty card holder would bring together a team of experts who were already familiar with the mine. For Huntly, this might include the nine Solid Energy employees who hold first class mine manager certificates, the Solid Energy employees who are ventilation engineers, gas technicians, analysts, mine engineers, geotechnical engineers, geologists, health and safety risk managers and specialist equipment operators and tradesmen, Strata Control Technology Limited for geotechnical advice is an Australian consultancy that we use, Andy Self and Roy Waughby for ventilation advice these

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again are consultants from Australia and the UK that we use for ventilation, peer review. CRL Energy Limited for gas analysis, Mines Rescue, SIMTARS New South Wales Mines Rescue.

5 Q. Thank you and I think we'll take the rest as read. Are you aware of MEMS in Queensland Mr Smith?

A. Yes I'm aware that it exists. I'm aware it stands for Mine Emergency Management System.

Q. And you've got a general familiarity with it?

10 A. Yes, I've seen some training notes and I understand that it's similar in structure to the CIMS model.

Q. And is it fair that Solid Energy are certainly favourably considering that as a model?

15 A. Yes, East Mine and Stockton Mine as I understand it have, in the past, looked at it and, yes it's on the table again for us to undertake some training to see whether it works for us.

Q. Time to take training in Queensland?

A. Yes.

1526

20 Q. Yes, and what do you see as an advantage, is there any key advantage you'd like to point to with that model, or either CIMS?

A. I think the structure is similar to CIMS which makes an easy transition, I imagine, it just doesn't have the confusion over lead agencies and what lead agency confers on the lead agent in the event of a mine emergency.

25 Q. And just finally, you decided to fly out of the Pike Mine site on the Sunday, while you stayed on the West Coast, you didn't go back. Why did you leave?

30 A. I could not contribute anymore to the exercise. I was not effective. The responsibility for the operation was being held by a combination of Pike and police and I was at a loss as to how I could actually change the direction, change the focus of the management team. It was in progress, there were, they had an agenda, a process that they were running which was completely out of step with what I could contribute.

**THE COMMISSION ADDRESSES COUNSEL – APPLICATIONS FOR
LEAVE TO CROSS-EXAMINE – ALL GRANTED**

THE COMMISSION ADDRESSES MS SHORTALL – TIMING

5 COURT ADJOURNS: 3.29 PM

COMMISSION RESUMES: 3.46 PM**CROSS-EXAMINATION: MS LUMMIS**

- Q. Mr Smith, you'd accept that drilling in fact never stopped to borehole 43. It was either held up by numerous assessment processes.
- 5 A. Yes that was the case.
- Q. And certainly in the first few days you can't do any particular risk assessment that held up anything in particular in those first few days?
- A. No I can't think of anything in particular.
- Q. I think you would have been present for Mr Watts' evidence yesterday
10 when he accepted that some of the criticisms of the risk assessment and the one in the institutional brief for Mines Rescue is a spelling error, certainly appear to be rumour or myth and no one can actually point to that particular risk assessment. Do you accept that that does appear to be the case with some of these criticisms of risk assessments?
- 15 A. Well I think the criticisms are that the risk assessments didn't actually add value and that it was, it diverted the attention and the time of the people that were doing them.
- Q. In paragraph 56 of your brief of evidence you state, and this is talking about your observations when you left the mine on Sunday night, and
20 perhaps just before we get to that, can you confirm you were only at the mine site on the Saturday and the Sunday, is that right?
- A. Yeah, that's correct.
- Q. And on the Saturday, I think you just attended one IMT meeting, is that right?
- 25 A. No, I think two.
- Q. Two IMT meetings. Certainly not the 8.00 pm IMT meeting because I think you left the site at 7.00 pm?
- A. Yes, I can't remember. Perhaps that could be right.
- Q. That is the time you have given in your brief, is that right?
- 30 A. Yeah, that's right.
- Q. And certainly in that 8.00 pm IMT meeting there's lots of discussion. In fact that's where the GAG appears for the first time. That's not something you were aware of?

A. Aware of?

Q. In terms of you weren't aware of any discussion around GAGs –

A. No, I was aware of the discussions.

Q. – on the Saturday?

5 A. If I didn't attend that meeting then I wasn't aware of the discussion at that time.

1549

Q. In the IMTs you were present and there weren't discussion about GAGs?

10 A. I don't recall discussing the GAG.

Q. And on the 21st, was that just the one IMT meeting that you attended, or was it more than that?

A. No, I can't remember.

Q. So you think maybe it was just the one on the Sunday?

15 A. I can't remember.

Q. It's certainly your observations are limited to, we'll say three or four IMT meetings. Would that be fair?

A. The significant one on the Sunday that I recall was the discussion around the sealing and the Department of Labour making the edict that there'll be no sealing until there's zero chance of survivors. That one's very clear in my mind.

20

Q. Are you aware, or were you aware, prior to the Commission commencing that in fact there had been an inflatable seal ordered from Perth on the 21st?

25 A. No, I don't know.

Q. You weren't aware of that?

A. I've become aware of it, I don't know when I became aware of it.

Q. But you weren't aware of it at the time things were happening on the 20th and the 21st?

30 A. I think my point about the things that were happening, and the inflatable seal is a good example I think, is that things were being done by the police or others, such as sourcing robots, an inflatable –

Q. Sorry, I can't hear. "Such as?"

A. Such as sourcing the robots and inflatable seals et cetera, but that their effort was not directed at the key issues. These things were being done and were being promulgated as examples of activity of a well organised control group but those were not the critical things that needed to be focused on.

5

Q. Would you accept that the critical issue, and I think it appears throughout the IAPs, the more critical issues, was in fact trying to work out exactly what the atmosphere in the mine was actually doing. That was a critical issue wasn't it?

10

A. The critical issue that people could do other than analyse was get the borehole down. That was the single thing that could be done to better knowledge. Just go back to your first question. In the event it took 50 hours to drill that hole even though the original estimate was some 30 hours. So as you say, the risk assessment process, as convoluted and time consuming as it was, didn't actually slow down the drilling. It definitely took Dean Fergusson, who would've otherwise been actively involved up at the site, it took his attention away, made him very fractious about that process rather than utilising his abilities where they could be brought to best use.

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Q. But on that point - and you have accept that the key focus of the IMT was on ascertaining further samples. They made decisions about getting a further borehole down and then they did everything they could to make sure that that happened?

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A. Well, I don't know what the IMT did to make it happen actually. I think that Dean Fergusson and his team of 20 or so drilling contractors and other staff that he mobilised or was doing a lot of the doing and some of the Mines Rescue team were determining where those holes could be put to best effect, I think the point I was making about the risk assessments was that it was over the top, time consuming and didn't add any value.

30

Q. Okay, but certainly the initial risk assessment for that drillhole, you said in your brief it went through police and Department of Labour, can you name any police officers who saw that initial drilling assessment?

A. No, look I wasn't involved in the preparation of that risk assessment. Dean Fergusson did that with a number of other people.

Q. You've put that in your brief, but there seems to be no evidence that any police officers saw that drill assessment, do you think perhaps you could be wrong about that?

A. Well –

Q. Given it's not in your personal knowledge?

A. No, well, I don't know.

Q. Well you made that statement in your brief, I'm just wondering where that comes from?

A. What's the point of the question?

Q. You have said – I'll just find the relevant paragraph, 55.

WITNESS REFERRED TO BRIEF OF EVIDENCE

Q. At the end of that paragraph, this is talking about the risk assessment for the drilling being typed up at about three to 4 o'clock in that day. And it went through subsequent drafts and approval rounds, and you've got, "Including meetings with Pike River Coal, Mines Rescue, New Zealand Police and the Department of Labour."

A. Yes.

Q. Is that something you in fact don't have any direct knowledge of?

A. I don't have any personal knowledge of that.

Q. So where did that information –

A. That came from Dean Fergusson.

Q. Dean Fergusson?

A. That came from Dean Fergusson.

Q. Because certainly the hold-up in getting the drill rig up there that afternoon was in fact weather related and helicopters flying out, as I think you've also mentioned in your brief?

A. I'm not holding anybody else to account for the delays in getting the drilling equipment up to the site, or the actual rate at which the drill could be, the rate at which the hole was actually drilled. All the point I was making was that the risk assessment process was done very competently with the resources and expertise that Dean Fergusson mobilised and had knowledge of the task, knowledge of the hazards and

that he should've been facilitated to do that in the most efficient way possible to allow him to get on and do the job as quickly as possible.

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5 Q. And certainly, what you're talking about is what happened later on the Monday or the Tuesday, but the Sunday process there doesn't appear to be have been any hold-ups in that risk assessment process?

A. No that might be right.

10 Q. And just in terms of that risk assessment process, are you aware at paragraph 37 of Steven Bell's brief of evidence that suggests that in the haste to start drilling, the copper methane protection hadn't in fact been fitted? Are you aware of that?

15 A. No I'm not aware of that and I don't know whether it was a hazard or not. I know the drilling went ahead on the basis of normal standard operating procedures for drilling until they reached there, sorry, when this risk assessment came into effect.

Q. It certainly appeared from Steven Bell's brief of evidence that there was perhaps some concern there that it was really an omission that the copper methane protection hadn't been fitted to the drill?

A. Whereabouts?

20 Q. At paragraph 37 of Steven Bell's brief of evidence.

**WITNESS REFERRED TO BRIEF OF EVIDENCE OF STEVEN BELL –
PARAGRAPH 37**

A. I can't comment on it.

25 Q. Perhaps a mistake there in terms of starting without a methane protection.

A. I don't know how that defect was actually identified so I don't know whether it was part of the risk assessment process that had already been - I can't confirm that.

Q. Can't confirm?

30 A. It may have been as a result of the risk assessment process that that deficiency was highlighted.

Q. Well, it seems from your evidence gathered from Dean Fergusson that the drilling process had started after a risk assessment and then

Steven Bell suggesting that it had started, so – it appears that Sunday risk assessment hadn't taken that into account.

A. I understand that the initial drilling down to the 150 metre mark was covered by standard operating procedure.

5 Q. Looking also at the specialised mining vehicle that you've mentioned Solid Energy took up to, or arranged to have taken to Pike River.

A. The SMV.

Q. The SMV, yes. That's paragraph 13 I think of your brief of evidence, and that was authorised by Greg Duncan, is that correct?

10 A. Yeah, Greg's the mine manager of Spring Creek Mine, he authorised that.

Q. And so he's one of the first class mine managers that's been mentioned?

A. Yes, that's correct.

15 1558

Q. And he knew the purpose was that they wanted it to be taken up and put in the portal?

A. I don't think he was involved in anything other than releasing the machine to the site.

20 Q. Did a Solid Energy personnel remain with the machine at any time or in terms of delivering it up there and driving it once it got up there?

A. Look I don't know who actually operated it. Quite likely that there would be somebody from Spring Creek, either in the Mines Rescue brigade or otherwise that drove it on and off the low-loader. Once it was positioned
25 in the drift nobody stayed with it then.

Q. And I think you'd accept probably as Trevor Watts accepted yesterday, that that perhaps wasn't a great decision driving that into the drift?

A. I think it was a conscious decision to drive it into the drift. Whether it was a good decision or not, I don't know. Hindsight suggests that it probably wasn't, but I think it was positioned there to allow ventilation
30 apparatus to be installed that may have been required during the course of the emergency. So I think it was a conscious deliberate decision to park it there to facilitate subsequent operations.

Q. And it's removal which you talk about at paragraph 76 of your evidence, there were no delays in having it removed from the portal were there?

5 A. No I don't. I think, yeah I think it was proposed to move it because it would be in the way for any subsequent sealing operations, and I think that was an activity that could be taken, that could take place at any time, and I think, I don't think it was held up.

Q. And I think Stephen Ellis, he still had authority to manage that particular action. That's what in fact happened, as you said in your paragraph 76?

10 A. Yes, he was – his approval was sought to allow it to happen so it was a process.

Q. You've also mentioned in your brief of evidence a portable infrared gas analyser set up at the grizzly and Alan Morris' involvement in that. Do you recall that, paragraphs 41 and 44 of your brief of evidence? Just in general terms, you're aware that that happened as well?

15 A. Yes.

Q. And there were no hold-ups that identified with that particular action that you were aware of in terms of risk assessing or police interference?

A. No I'm not aware of any interference, any delays there.

20 Q. So those are really the decisions that Solid Energy was involved in on that Saturday and Sunday. Having looked at those, do you accept that really for those practical mining matters, things were just got on and done in those early days without any hold-ups from risk assessments? I'm talking here about Friday, Saturday and Sunday.

25 A. Yes. I think – yes I'm not quite sure what the point you're making is. I think my evidence is about the effort that those particular mining people should have been put to.

30 Q. Certainly when you make that broad statement in your brief of evidence in paragraph 56, that police had no mining expertise and decisions were not being made quickly. That's your Sunday night observation. Then it seems to me there's no particular decision that you can point to that's not being made quickly?

A. Well the critical decision was analysing, discussing, testing whether and when the place should be sealed. That was a critical question in front of people that was being sidelined because it was an uncomfortable

decision to have to make. That's the point of my evidence, if you like. That's my main observation.

Q. You didn't raise that in the IMT meetings? You didn't see it was your place?

5 A. I raised the issue about sealing. Yes, I was involved in the discussions and I distinctly remember the Department of Labour responding with the "No more arguments until there's zero chance of survivors. We're not going to talk about sealing," and that's from Wellington. And I had the discussion with Johan Booyse and Dave Bellett about can we discuss things like the container with double doors in the entranceway to allow people to continue to escape if they can. Can we talk about compressed air supplies to allow people to survive because we need to be dealing with two objectives here."

10

1603

15 A. So we had that discussion at that IMT on the Sunday. And that failure to confront that issue and to prioritise it and to sit the right people down, not in a cast of thousands, but on a cast of half a dozen, and actually go through the scenarios, through the options, and decide, "Yes or no," to any or either of these options. That was not done, and that's not the fault of the people that were raising it, it didn't get somebody by the throat and shake them, no, it was the fault of the organisation that was responsible for doing those things. And we, I, Mines Rescue, can't be held accountable for the lack of understanding or the ignorance of the police if they were making the decisions, the ignorance of them in seeing what the hazards were. That's not our responsibility. Somebody else was giving their direction.

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Q. And you're aware that the sealing, the final discussions around the sealing, I think on survivability, took several days on the 24th, 25th and 26th of November, have you been here for any of that evidence?

30 A. No, no I haven't.

Q. So not an easy decision which you've obviously accepted?

A. I've never said it was an easy decision. You had to make a decision. The decision was either to seal or not to seal. What happened was that no decision was made. The discussion was not held. I'm not saying

that if a properly constructed and exhaustive discussion was held about that issue, and the outcome was that, "No, there's still not sufficient evidence that there couldn't have been survivors," then that might've been the decision that that group came out with. My main point is that, not the police, charging the police with making that decision. The only responsibility, in my view, was to allow that discussion to be had on an informed basis and they should've had the knowledge about who present could best undertake that analysis. I think that the police should be held accountable, or should've been accountable for doing that. I can't hold the police accountable for making mining specialist decisions but they were accountable for identifying that it was a critical decision that had to be made here and that we need to give it time and resource and focus and have it. And if the outcome was, "Let's sit on it for an hour and have another discussion about it after we get some more information," fine. But my absolute frustration and annoyance was that nobody in control, in command, who could actually bring together those resources could direct people to do things and give them some decision-making authority or recommendation authority, whatever, that wasn't done. So you're left with people going away and in some half-baked way producing sort of contingency plans. That was an atrocious outcome.

Q. And I think you would certainly accept that decisions in terms of survivability certainly had to have the involvement of the Coroner and certainly high level decisions. When Solid Energy, for example, that would certainly be something that would go to either the COO or the CEO of that organisation?

A. It's not my call as to whether the Coroner would be involved in determining survivability questions in the middle of an emergency. I would think that it'd be under a MEMS structure, how we would see the the CIMS structure working in fact is that the incident controller has a team that he had pulled together, has responsibilities to ensure that he's got sufficient high competent resources, all points of view, all potential intelligence judgment experiences brought together in the question, I wouldn't be, and that might include the COO and CEO of the company

of course but it's a company responsibility about making those hard decisions and you can't decide to shuck off that responsibility because it's too hard a decision to make, so we won't make it, there's no point at which the company and the mine manager has the luxury of being able to say, "Oh, it's all too hard for me, I'll let somebody else make that decision," it's irresponsible.

1608

Q. Okay, well if we can perhaps look at the Solid Energy structure in your, I think, health and safety management system plans for Spring Creek, for example, which is SOL3H4003.004/39.

WITNESS REFERRED TO SOL3H4003.004/39

Q. That shows part of the organisation and management in level 2 or 3 incidents. This, the type of scenario we're dealing with here is clearly a level 3 incident, you'd agree?

15 A. Yep.

Q. And the operation manager would report directly to the emergency management team, and that would be in Christchurch, is that right?

A. Yeah, the COO's based in Christchurch, whether he would stay there in an emergency situation, I'm not sure.

20 Q. Well, this is an emergency response plan, so it seems to assume that he would remain there in Christchurch and that's where the crisis management team would be set up. Does that appear correct?

A. Yeah, that's what it says there. What would be the outcome is, time will tell.

25 Q. Sorry, that's why you had your phone conference I think, that's where the person was when that sort of structure was set up for Pike –

A. Well, the COO stayed in Christchurch because this incident did not require or would not benefit from his being over closer to the action, that might not be the same situation in the event of a Solid Energy emergency.

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Q. And certainly for that telephone conference you mentioned in your brief, or sorry, in Mr Bragg's brief, I think there were 17 attendees to that telephone conference. Paragraph 25 of Mr Bragg's brief that you read out to us earlier. Does that sound right?

A. I'll take your word for it.

Q. Is that as you remember it, you were on the phone conference I think as well, were you?

5 A. Well, as I said earlier in my discussion I wasn't aware of who was on the phone call when I was talking.

Q. And just flicking over a couple of pages in the Spring Creek plan, looking at /42 in that same document Ms Basher, that sets out the emergency response structure that Solid Energy would have in a level 3 incident, is that right?

10 A. That looks correct.

Q. And the incident controller appears to be on the bottom level, on the left of that diagram and is that where you'd see the emergency services as fitting in under that part of the structure?

15 A. I think it's only on the bottom to squeeze it in. If you follow the lines down, I think he, it's the, reports to the emergency manager commander control. Yes, that's where the operation –

20 Q. So am I right that the Solid Energy structure would have perhaps four levels. That you have a scene controller and an incident controller and then at the site, emergency management team, then the crisis co-ordination team, then on top of that the senior management group, does that sound right?

A. Yes, that's what this shows, yes.

25 Q. And those big decisions, I take it, would be the senior management group would have an input to those as the CEO and COO would. Is that right?

A. No, it's likely not right.

30 Q. But certainly the plan outlines where I think the other crisis and emergency response document outlines that if they're unhappy with something being done at the site, that they retain ultimate control as the employer, obviously?

A. The first responsibility of the company is to ensure that the sufficient resources and qualified people are actually managing the incident at the mine and that there's an operations controller there and the incident management team are competent and capable to exercise judgement.

There's obviously going to be communication but not at the expense of pushing decisions up that need to be made at the mine site.

Q. But do you accept that survivability, sealing in particular, is one of those decisions that would of course have to be escalated to the highest part
5 of the company?

A. Yes, the survivability question has to be, as I said earlier, it has to be absolutely analysed to get the best answer possible.

Q. And I take it your thinking around the Saturday and the Sunday was
10 really based on the gas results of Robin Hughes and what Robin Hughes had told you about his analysis of the gas results?

A. Well they were the gas results that were being collected and ferried down to the Mines Rescue station for analysis.

Q. And you're aware that Darren Brady has perhaps a different view to
15 Mr Hughes as to how the analysis of those results took place, or what those results in fact meant?

A. I think there was some discussion about what the results meant.

Q. And are you aware that Mr Ellis was one of the ones that perhaps had a
more conservative view along the lines of Mr Brady's view?

A. Yeah, I don't know what Mr Ellis' opinion was.

20 **CROSS-EXAMINATION: MS MCDONALD**

Q. Mr Smith, did you believe that the risk assessment for the piercing
borehole was sent to Wellington Police and Wellington Department of
Labour as a separate communication? Did you think it actually went to
Wellington in sequence, rather than being copied to Wellington?

25 A. How do you mean, can you clarify the question? What do you mean?
1615

Q. Well you've said at paragraph 65.3 of your brief of evidence that the risk
assessment went to the police at Wellington to the Department of
Labour of Wellington, before coming back unapproved. I'm asking you
30 whether you believe it went to Wellington as an additional step in the
process?

A. Yes I think I did believe that.

Q. Do you know that's wrong?

A. No.

Q. Where did you get that information from?

A. I think this came from Dean Fergusson.

Q. Sorry?

5 A. From Dean Fergusson.

Q. Right, so he told you. Did all of your information about this risk assessment and the process, second-hand effectively having been told to you by Mr Fergusson?

10 A. Yes, virtually all the information around the borehole is as a result of Dean's discussions, recollections and discussions with me about it, yep. But I've got no reason to believe that Dean's inaccurate in his conclusions here.

15 Q. Well, he's inaccurate in that respect, at least, because the evidence is clear that it didn't go to Wellington, it was cc'd to people in Wellington as part of the process but it didn't go to Wellington.

THE COMMISSION:

Sorry, what's the distinction in that?

MS MCDONALD:

20 As a separate step sir. That it didn't go to Wellington as a separate step that delayed a process.

THE COMMISSION:

It was copied to Wellington, it must've been copied there for a purpose, and wasn't the purpose for it to be looked at in Wellington. Are we playing with words or is this a...

25 **MS MCDONALD:**

No sir, well it was never considered by Wellington it was all dealt with at Greymouth the fact that someone cc'd into an email.

THE COMMISSION:

What was just sent to somebody in Wellington so that they were aware it existed rather than to do anything with it?

MS MCDONALD:

5 Yes sir, and they didn't do anything with it in this particular case.

CROSS-EXAMINATION CONTINUES: MS MCDONALD

Q. Now, I take it from your answers to Ms Lummis that you don't seem to accept that risk assessments should be reviewed, is that right or not?

A. I don't think I said that.

10 Q. No, that's what I took from one of your answers, so you do think they should be reviewed?

A. It's horses for courses, actually, that's what I believe. The review process can be conducted as part of the risk assessment process. I mean risk assessment follows detailed planning. People have got this view, I think, they trot out this term, risk assessment, to mean some sort of faultless exercise, in actual fact it's just a term for reviewing the plan that's been arrived at, so it's a step in itself, it's distinct from the actual planning of the operation so you've already got a review step in place and depending on the severity and the seriousness of the task that's being undertaken, will determine what resources are brought to bear in the initial planning as risk assessment and whether a third level of review is required, so it will need to be totally open and also take into account the urgency of the decision that's required. What are the real risks that we are actually dealing with here?

15

20

25 Q. So you do believe it should be reviewed and you do believe, I take it, that it's an important process?

A. Yes, the planning and the assessment of the risk is obviously important.

Q. And you believe all information on hazards should be reviewed as part of a risk assessment process, all risks, appropriate controls?

30 A. All hazards need to be identified and you need to determine that the controls in place to minimise the risk of those hazards is properly dealt with, with having regard to the level of risk, the level of hazard and the

upside potential, what are we trying to do here? Need to have some balance as to what resource is brought to bear on it.

5 Q. And you've said that, haven't you, at paragraph 65.1, "An ongoing process of evaluating all available information and hazards so as to ensure that all risks have been identified and appropriate controls are in place." You see that in the middle of that paragraph?

A. Yes.

10 Q. Are you aware that the Department of Labour officials were asked to assist with the risk assessment process, it wasn't a process that they put in place or designed, they were simply asked to assist, are you aware of that?

A. No.

Q. And they were asked to review the risk assessments, that was something they were asked to do by police? Were you aware of that?

15 A. No. I'm not aware of their relationship between the police and DOL or what the DOLs accountabilities were.

1620

20 Q. Now, your – I just want to cut through this fairly quickly given the time but paragraph 63.5 of your brief of evidence, I'm going to put some times to you that have been taken from the email exchanges, and if you want me to put the emails up I will do that. The only reason I'm not is in the interests of saving time, so –

A. Which clause are –

25 Q. Paragraph 65.3 of your brief. So you tell me if you want the documents up on the screen if you don't accept what I'm putting to you or you want to check me. Now the evidence, as I understand it from reading the documents, is that the particular risk assessment, and it's the one that you've referred to as having been the final draft that was signed off at 1.55, that that went to police at Pike River, an officer by the name of
30 McGurk, at the site at 2.08 am. So it probably lines up with you saying it was signed off at 1.55. Thirty-one minutes later at 2.39 am it went from the site, from police at the site to the police at Greymouth. About an hour and a half later, so it stayed with police in Greymouth for about an hour and a half. It then went at 4.12 am from the police in Greymouth to

the Department of Labour in Greymouth under cover of an email where the police officer was expressing the point that it was a bit too technical for police to understand. Were you aware of that?

A. No.

5 Q. The Department of Labour inspectors were then asked to look at it, given that communication, and they worked on it along with another risk assessment in relation to the robot that they were doing at the same time between 4.12 am and 8.54 am. So it was with the Department of Labour people for four and three quarter hours. Were you aware of that?
10

A. No, but I take your maths to be correct.

Q. And then it was sent back to the police at Greymouth with some questions and some suggestions on it, and you referred earlier to the risk assessment. You put that up on the screen and I'll come to that in a moment. You've said it was rejected by the Department of Labour hadn't you?
15

A. I said it came back with a whole lot of corrections to be adopted or considered.

Q. Well no, actually you have said it was rejected in your brief?

20 A. Same thing I think.

Q. So, but you agree with me it came back with a whole lot of handwritten comments, in fact all of the handwritten comments that are on that document are the comments of the Department of Labour people. Do you understand that?

25 A. I understood that to be the case.

Q. Now, I'm not going to spend a lot of time with you on this point because there are people, particularly Commissioner Bell, who will know far more about what should go in a risk assessment than me, but I just want to highlight one or two matters with you. Could we have
30 DOL7770020002-08. Well, first, page 11 of the risk assessment. You'll see there the risk ratings that have been entered by the Department of Labour personnel?

A. Yeah, I can see those.

1625

Q. And that's appropriate to put those risk ratings into a risk assessment document isn't it?

A. Well –

Q. It's not?

5 A. Well it's superfluous to this case. These are all subsets, are they an assessment that took into account the proposed controls that are already there. And the risk assessment team has considered all those proposed controls around the single hazard and has come up with a total residual risk rating. You know, to try and fill in all the gaps down
10 here is fine but doesn't add anything and it doesn't suggest that the original total assessment of all those controls that the team identified in the first place was incorrect.

Q. So you're effectively saying that really there wasn't a place, in your view, for this risk assessment to actually be reviewed by the Department of
15 Labour people. It should've just simply been left with Mr Fergusson and not referred to the Department of Labour people at all, so the request for their assistance wasn't appropriate. Is that what you're saying?

A. Well I think we're agreeing actually, yeah. I think that given the expertise of the risk assessment, the Department of Labour people that
20 were assessing this and taking the comments as some sort of indication of their value add, I do agree with you. And I think that they would've been better to have assessed the competency of Mr Fergusson and the team that were involved in doing this, were very competent to arrive at the decision that they did because they haven't added anything. So I
25 think –

Q. It's a little unfair isn't it Mr Smith for you to, if you hold that view, for you to criticise the Department of Labour people when they were asked to review this risk assessment?

A. Well maybe, I don't know who asked them, maybe they should've said,
30 "We've looked at the credentials of the team that are doing this and all we can see is excellence across the board. And, I don't know, 500 years of accumulated combined experience in drilling in mineral, in coal seams and petroleum drilling and drilling in seam gas drilling, every activity that this risk assessment is actually covering, we think that

they've got a lot more experience than we have and they're qualified to determine it."

- Q. So this is really about a concern that you have that your Mr Fergusson was being reviewed or second-guessed, as you've put it in the brief, by a Department of Labour person. Is that right?
- 5 A. No.

THE COMMISSION ADDRESSES MS MCDONALD - QUESTION

CROSS-EXAMINATION CONTINUES: MS MCDONALD

- Q. Well I just want to take you to two parts on the risk assessment, but before I do you'll understand my point, I'm putting to you that it is unfair for you to blame the Department of Labour people for all that –
- 10

THE COMMISSION ADDRESSES MS MCDONALD - QUESTION

CROSS-EXAMINATION CONTINUES: MS MCDONALD

- Q. There's two parts in the risk assessment that I do want to take you to, that's page 14. You'll see there the addition of, "CO poisoning and CO explosion?"
- 15 A. Yeah.
- Q. Adding CO poisoning rather than just the description of personal injury, do you not accept that that is a better description of a hazard from this activity?
- 20 A. I accept that there's elaboration, originally it was personal injury, and it's correct that CO is a poisonous gas and it's an explosive gas so, yes, it's correct. Whether that clarification was necessary I don't know. I think that the people that did the original assessment figured out that it was both a poison and an explosion and the measures they put in place dealt with both of those hazards. It might've been a bit more accurate to identify them as two separate hazards in fact, rather than lumping them together, but it hasn't changed the controls that were proposed and were subsequently put in place.
- 25

30 1630

Q. And coming along to the proposed controls, the Department of Labour inspector has added a, what's called, I think it's a TARP, isn't it, a trigger, action, response and then withdraw when CO reaches 25 ppm?

A. Yes.

5 Q. And that's quite a useful and helpful trigger response, isn't it, rather than a general one that was there before?

A. Well, I'd need to know what the detector there would trigger at. Normally in a mining situation, and I'm presuming this is the setting would be the same, they do trigger at 25 ppm anyway. That's the
10 trigger that we use in the underground environment, so I'd say that's just a point of fact. Don't know whether it's actually changed the actual control that they set on that machine.

Q. So really, what you're effectively saying is that your people would've known all of this anyway and it didn't need to be added to the document,
15 is that right?

A. I'm pretty confident of that, yes.

Q. You're confident of that?

A. Yep.

Q. The other matter, just briefly, relates to your comments from the brief of
20 Mr Bragg that you referred to, about paragraph 68 of that brief, where you talk about the department's role or not the – what you see as not being the department's role. Can I just be clear with you Mr Smith? The department are not advocating such a management role as you're contemplating in paragraph 68, except to the extent that they needed to
25 carry out their statutory responsibilities. Is that not what you understood the position to be?

A. I don't – I'm not quite sure what your point is, what?

Q. Paragraph 68?

A. Yeah, yeah, yep.

30 Q. You said, "Solid Energy understands that in practical terms for around material part of the emergency response at Pike River, the police would not approve operations without the approval of the Department of Labour. Seems planning does not envisage DOL having such a role and we would be concerned if DOL took or was given such a role."

Now, I'm suggesting to you, the Department of Labour are not advocating that they have such a role, other than to be able to carry out their statutory responsibilities?

A. We're on the same page then, there's no disagreement between us.

5 Q. Right, so again, that was something you hadn't understood prior to giving evidence today?

A. Well, it's not something I understood after listening to the evidence yesterday actually.

Q. From who?

10 A. The argument, the discussion mostly, I think, it was the examination by Mr Stevens around what constituted the ability to use their prohibition powers as opposed to approving and not approving things. I think it was very confusing, so if what you're doing is merely stating the status quo that Department of Labour have got the ability to prohibit, but otherwise
15 have no involvement in decision-making, then we're on the same page.

Q. Good.

CROSS-EXAMINATION: MR WILDING

Q. Mr Smith, in your opinion was assessing survivability a critical matter that ought to have been considered on and from the 20th?

20 A. Yes. It should've been a continuous assessment right from the outset.

Q. And in your opinion, would contingency planning for potential inertisation of the mine fall into that same category?

A. Yes.

Q. Am I correct in surmising from your evidence that an underground coal
25 mine emergency will often require expertise that Mines Rescue's not equipped to provide? For example, in relation to evaluation ventilation system?

A. Yes, there are lots of skills required to manage an emergency that aren't held by the Mines Rescue Service.

30 1635

Q. And do I also take it correctly that it's not a function of mines emergency to perform the role of incident controller?

A. No, I don't think it is. They have often fell into that position as being the, especially in smaller mines, being the best qualified to do that, but it's not a desirable, it's not part, it's not their automatic role, it's not what they are there for.

5 Q. It's not something they are trained for by Mines Rescue?

A. They have a lot of knowledge about incident management but and that's good to have, but it's not their role to manage and lead incidents on or responsibility that I think belongs to the mine owner and the mine manager.

10 Q. Do you agree that there are circumstances where it wouldn't be appropriate for the statutory mine manager to be the incident controller?

A. Yes. Yeah, there's likely to be incidents. The mine manager might be involved in the incident himself. He's likely to get taken out of the play in terms of managing the situation. It's a stressful operation I spoke earlier

15 about, and he may prove not to be able to continue to take all those responsibilities of the incident controller. It may be that it's outside his area of expertise and it may be better use, he'd be better deployed doing a particular activity rather than being the incident controller. And so there's a number of situations where the man himself and the company and the man, supervisor in particular, would need to take account of the requirements of the role and act accordingly.

20 Q. In that circumstance, would you support a first class mine manager from another mine being involved as incident controller?

A. Yes, of course if there's nobody available at the mine that has the skills and the aptitude, experience, the qualifications if you like, then somebody else has to be found to be put into that role and that person might come from outside the organisation. I think that's especially likely

25 in the New Zealand environment. We have small mines where Solid Energy would no doubt find itself stepping up to the mark to offer its services. The only caution I would make is that the appointment of that

30 person has to be the owner of the mine. They have to say, "We want, we see that you've got the skills and the abilities to do that job. If you're able to discharge those, we would be happy to appoint you." But, you know, effectively he's appointing those people to act on the company's

behalf. It's not Solid Energy or somebody else coming in to take over the responsibilities.

5 Q. Is that essentially because the incident controller will be making decisions about the staff, equipment and plant and mine of that operator?

A. Yeah, the serious decisions and the mine owner has to, when he's making those appointments, has to know that, what he's actually delegating.

10 Q. You've referred to Solid Energy having changeover stations. Can you just describe, by way of list perhaps, the key components of those?

15 A. Yeah. They've been referred to at Pike as fresh air bases, which I think is an incorrect term. We've previously used a term, "refuge bay" and my evidence around Sago today describe why we call them changeover stations, and it's important that everybody understands that's what they're for. They're there for people to self-escape. So they are equipped actually and will function as a refuge bay and in an emergency where people can't get out they will function as a refuge bay, but they are – our system is designed around them being a changeover station where men can go in there and change their self-rescuer into a new one, and we've got two systems. They're broadly similar in terms of componentry resources. East Mine is designed around self-rescuers and Spring Creek's is designed around CABA, which are compressed
20 air breathing apparatus.

1640

25 A. So there's advantages of both, pros and cons for both but currently we have two different systems but they both rely on the people at the face in an emergency donning their self-rescuer and they wear it on their belt, they don it in the event of an observed need or are instructed to do so, make their way, following a lifeline if necessary to the first
30 changeover station. East Mine currently has five, because it's a large mine, there's five kilometres from the face, so there's two transportable changeover stations and three permanent changeover stations. At Spring Creek there's currently two, one serving the western district and one serving the southern district which is due to be disestablished.

They're located well within the duration of the belt-worn SR60, gives you 60 minute duration, they're located generally much closer to the face than that so the person can escape from the face into the changeover station, which, if I can talk about the permanent ones which are more important, I think. They are designed to withstand an explosion and a fire so they're equipped with concrete walls built into the mine itself, quite large rooms, equipped with an airlock so that the contaminated air doesn't enter the changeover station itself. It has, in the case of Spring Creek, has a cache of cable which people can exchange their self-rescuer for a CABA. In the case of East Mine, they can go in there and exchange their self-rescuer for another self-rescuer. It's also equipped with borehole connection to the surface which, if I can just talk about East Mine which is where Spring Creek is aiming at, currently this current changeover station at Spring Creek aren't equipped with a borehole to the surface. Difficult country to get in, but that's what we're planning on doing within the next month or so.

Q. Well, I wonder if we can just focus on those at east Huntly?

A. Yep.

Q. They have a borehole at the surface?

20 A. Yep.

Q. Does that have a compressor attached to it at all?

A. Yep, each borehole has an independent air supply so it's a compressor connected to a borehole, the borehole also can be used to transport food, it's got communications down it. We're in the process of putting a tube-bundle system around it so it can sample the air, that's a recommendation out of here.

25 Q. And is the compressor located at the surface or down below?

A. It's located on the surface, it's can be activated from within the changeover station, it can be activated from the control room or it can be activated from the compressor itself. It's a reasonably fail-safe system. The latch connected to a number of – to remain within the changeover station with a large number of face masks which are connected to the air supply which can be activated and people can sit in

30

there for as long as they like, or until they're instructed to move out or until they're rescued.

Q. And aside from the air which can come down the shaft, is there also a compressed airline?

5 A. Yes, it's connected to the mine compressed airline but there's potential for that compressed airline to be disrupted in a serious explosion. That's why we have a borehole connecting, making the changeover station independent of what's happening in the mine itself.

Q. Is there a communication system?

10 A. Yeah, I think there's two or three communication systems, I think it's connected to the mine telephone system and it's able to be connected to the Mines Rescue radio system and I'm not quite sure where there's another dedicated phone system as well at the borehole. It's as fail-safe as we have been able to make it at this stage.

15 Q. I won't go into more detail now, given time constraints, but I'm assuming that you can supply the Commission, if it wishes, with details of the various emergency systems and training?

A. Yes, we can do.

20 Q. Are you able to comment about the use of brattice as the doorway for a fresh air base or changeover station?

A. Yeah, sometime ago, decades I guess, and I think that's what Sago used, the instruction was to find a cavity or find a dead-end somewhere, take a bit of brattice and try to seal yourself in and make use of what air you can seal in there. It's a very rudimentary system, you know, fraught with problems really, I mean, it's an absolute last resort. We train our
25 men to be comfortable and well conversed with how to escape from the mine and to utilise our changeover stations to keep themselves safe.

1645

Q. And I'm presuming brattice wouldn't be explosion proof?

30 A. No, it's designed to be fire-proof, fire resistant anyway, but no it would take a lot of time and effort to make it air-tight actually, except in a very small regular opening it'd be, as I say, very rudimentary and there's no possibility of making it explosion proof.

Q. Are you able to comment on the practicality of a person using a series of self-rescuers one after another in order to preserve an oxygen supply?

5 A. Yes, it's theoretically possible that if a person found themselves with a large number of self-rescuers and wasn't unable to do anything else, that they could sit there and work their way through them.

Q. Are there any limitations on how long someone might be able to do that for?

10 A. I don't think there's any physiological reason, a person falling asleep would pose a difficulty but, you know, in terms of getting breathable air out of a self-rescuer I don't think there's a limit as to how many you could go through.

Q. And I presume there'd also be a need to work out how you'd be able to drink water or eat food as well?

A. Yes, I don't think it's a long-term survival option.

15 Q. And would that same comment apply to use of a compressed airline for oxygen?

20 A. Yeah, compressed air, and we've talked about it, and it's a sort of a place to go to in an emergency. I think the practicalities, especially in a high concentration, high carbon monoxide atmosphere, I think that, I don't know whether there's any records of people actually surviving in that situation, it's quite hard to avoid breathing in external air while you're actually breathing through a compressed airline. So I think it's a short-term fix option as a last resort but not a long-term survivable solution.

25 Q. I presume you'd either have to have a mask or else hold your nose to make sure you didn't breath in the atmosphere?

30 A. Something like that. And even, you know, there's been occasions with masks on, BG174s which have the same sort of situation. You've got a face mask full of compressed air, if that's not a good seal then you do breath in outside atmosphere and if that's high concentrations of carbon monoxide that's not a good outcome.

Q. Did the police used to conduct familiarisation visits to Huntly East Mine?

A. Yes. We have had those.

Q. How long ago would it have been last before Pike River?

A. Yes, well we did have a meeting post-Pike River. But before that I think it was something initiated by us actually to familiarise, I think we took them through a mine induction, took them underground to show them what went on. And that was really to allow them to attend low level incidents. If someone was hurt we needed St John's to assist in dealing with an injury or police to deal with something that needed their attention, that was to allow them to actually enter the mine to do that. And I think, to answer your question, it is likely to be two to three years ago from memory. It hasn't been a regular annual update.

5
10 Q. Did that include any training or discussion about how Solid Energy and the police might interact with each other in the event of an underground mine emergency?

A. There was likely to be discussion around that. I think it would've been like the recent one with Assistant Commissioner Nicholls and Superintendent Carpenter, I think, post Pike when they were looking at our operation for their own benefit I think. We talked about our operation and our emergency system and how we would operate, pretty much along the lines of the evidence I've given actually. We did get into the odd argument about what the police's involvement would be but we decided to leave it to here. But, yes, in the previous instances, yes we would've talked about how we actually would run an incident.

15
20 Q. Did it result in any written agreement?

A. No, I think police were happy to understand how we would run the place and to be ready and able to provide any assistance. And that's sort of been our experience at previous incidents as well they've been, the local police have been happy to attend and to provide assistance as requested.

25
1650

Q. Do Solid Energy have a mutual assistance scheme with other mine operators?

30 A. Well, not as such, no we don't. I think we responded from locally and as an organisation immediately in this incident, and put every resource to bear that we could possibly think would be useful, people and physical resources, including consultants that we had, consultants and

5 contractors that we had on-call, on-tap, we don't – we would do that again in any future circumstance of course, big or small, but I think a reciprocal arrangement, we're not looking for that. We organise ourselves so that we're capable of managing our own resources required, but whether there is a thought within Solid Energy of having something more formal, I don't know, but we would respond in a similar fashion in the future.

QUESTIONS FROM COMMISSIONER BELL:

10 Q. Mr Smith, I've just got a couple of short questions. What do you actually see would be the role for a Department of Labour in a future emergency?

15 A. For me it depends on the people. If the Department of Labour has well qualified inspectors or other staff that are able to be made available, then they would be welcomed as people with those qualifications and that experience and those benefits. As far as the Department of Labour as an organisation, I think I agree with the Department of Labour themselves, that they would be seen as having the power to prohibit action that they do have under normal day to day activities.

20 Q. Because Ms Haines yesterday talked about the advisory role of a mines inspector and she also mentioned the new structure coming in with a chief inspector and three inspectors below him. Would you see that as a more useful structure to help in an emergency situation?

A. Yeah, as I say it all depends on their ability to actually resource and recruit people that have got the sort of experience that'd be useful.

25 Q. And just a tiny one, we had that risk assessment up before talking about CO explosions, what's the chances of a CO explosion coming out a borehole?

30 A. Well, I sort of got, dragged my memory, going back to when I did a gas test last, but I think CO's explosive from 12% upwards, so on ultra high concentrations of carbon monoxide it's an explosive gas, so it'd have to be a serious heating or a serious fire to produce that amount of CO, but.

Q. It would be almost nil, really, would be the answer?

A. I think methane explosion is probably the greater thing to worry about.

Q. Well that's what I would've thought you'd been a methane explosion rather than a CO explosion?

A. Yep, I think the remedy for both is the same, so yep.

QUESTIONS FROM THE COMMISSION:

5 Q. Just one matter Mr Smith, in paragraph 70 of Mr Bragg's statement, there's reference to this initiative that you said was under way between your corporate risk team and others including the police in order to try and reach a memorandum of understanding or something similar in relation to an emergency response structure. Is that ongoing, that
10 initiative?

A. Yes, it's definitely started. We've had, as I just referred to, we did use the opportunity when Assistant Commissioner Nicholls and Superintendent Carpenter visited East Mine and I'm not personally aware of what discussions been had at a corporate end, but we did
15 have discussions about that and said –

Q. Well, can I stop you? I just wanted to know, it is ongoing?

A. Yes.

Q. Thank you, and obviously you'll be happy to let us have further information about the initiative as it develops?

20 A. Yes.

Q. And can I just state publicly on behalf of the Commission that the fact that there is a Commission which has terms of reference and extend to aspects like this, should not be seen as any inhibitor on your taking such an initiative and pursuing it. So that's understood?

25 1655

A. Yes we do.

Q. In fact the opposite is the case. We welcome the fact that organisations such as Solid are looking at issues arising from Pike and pursuing them of their own volition in parallel with this inquiry?

30 A. Yes, we're definitely looking to learn whatever we can from it.

WITNESS EXCUSED

COMMISSION ADJOURNS: 4.56 PM

COMMISSION RESUMES: 5.14 PM

THE COMMISSION ADDRESSES MS SHORTALL – EXAMINATION

5 MS SHORTALL CALLS

PETER WILLIAM WHITTALL (SWORN)

Q. Mr Whittall, can you state your full name to the Commission please?

A. Yes. Peter William Whittall.

10 Q. And you presently hold the position of CEO of Pike River Coal Limited (in receivership)?

A. I do.

Q. And were you appointed as chief executive officer just six weeks before the 19 November explosion in early October 2010?

A. Yes.

15 Q. And prior to becoming CEO of Pike River Coal Limited had you held the position of general manager mines since 2006?

A. Yes.

20 Q. And have you prepared and filed a 56-page statement of evidence recording your involvement in the search, rescue and recovery operations after the 19 November explosion and specifically in communications with the families of the deceased?

A. I have.

Q. And is that statement marked, "PW0061"?

A. Yes it is.

25 Q. And do you confirm that the statement is true and correct?

A. Yes I do.

30 Q. Let's start with your qualifications and experience, and I don't intend to go into this in real detail given that you've already given some of this evidence during Phase One, but can I start by confirming that you achieved your first class mine manager's certificate in New South Wales in 1996?

A. That's correct.

Q. And your first class mine manager's certificate in New Zealand in 2005?

A. That's correct.

Q. And that certification also enabled you to be a tunnel manager, is that right?

5 A. There's two separate qualifications. A first class coal mine manager's certificate and I also achieved my first class metalliferous mine manager's ticket and it's the metalliferous mine manager's qualification that enables me to be an A grade tunnel manager.

Q. And you have a Bachelor of Engineering with honours in mining engineering?

A. That's correct.

10 1709

Q. And an MBA?

A. Yes, I do.

Q. And you're also registered in both New Zealand and Australia as a mine surveyor?

15 A. That's correct.

Q. You're a fellow of the Australasian Institute of Mining and Metallurgy?

A. That's correct.

Q. And is it fair to say Mr Whittall that you have around 30 years experience as a coalminer and mining executive?

20 A. Yeah, I started in February, 1981, so yeah, coming up 31.

Q. Now before joining Pike River you were the manager of underground coal mines for BHP Billiton in New South Wales, is that right?

A. I was a manager within BHP Billiton, Illawarra Coal System, yes.

25 Q. And you were involved in the development of the Greenfield Dendrobium Mine in Illawarra?

A. Yes.

Q. And an operation of the Tower and Appin Mines in New South Wales?

A. Yes.

30 Q. Did you have any experience in New South Wales of emergency exercises?

A. We ran emergency exercises at the mine sites that I worked at, both when I was an undermanager, and undermanager in charge and also a mine manager so I'd run emergency exercises, but I've never been involved in an actual emergency.

Q. Let's turn to positions and reporting lines. When you joined Pike River in 2005, who was the general manager?

A. Gordon Ward was the general manager of New Zealand Oil and Gas and he also was the general manager of Pike River Coal as a subsidiary company.

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Q. And what did you understand Mr Ward's involvement to have been up until that time with Pike River?

A. It was essentially his project, he'd been with New Zealand Oil and Gas at that stage for about 15 years or so, and I think he'd first got involved with the Pike River Coal lease when New Zealand Oil and Gas bought in the 80s and he'd essentially taken it through from the mid-90s through all of its environmental, Environment Court consents, et cetera, so he was the one who recruited me.

10

Q. And did Mr Ward subsequently become CEO of the company?

15

A. Yeah, he transferred across from New Zealand Oil and Gas to Pike River Coal full-time in January 2007.

Q. And did Mr Ward hold the position of CEO until early October 2010?

A. That's correct.

Q. And when did he leave?

20

A. Yes, I think he left in the first week of September, he resigned on Friday morning and left about an hour later and I filled the role as acting CEO for three or four weeks before I was appointed to the role full-time.

Q. Until Mr Ward left the company, did you report to him?

A. That's correct.

25

Q. And until January 2010, did you live in Greymouth and work at the mine site?

A. Yes.

Q. In 2009, just to orientate us before we talk about emergency response planning at the company, can you describe generally the nature of your job as general manager of mining?

30

A. Yes, the role evolved a little bit. Initially the general manager of mines had as direct reports each of the functional departments of production and coal prep plant and engineering, safety department, human resources, those sorts of things, I think we've gone through in Phase

One. Later in 2009 with the appointment of an operations manager, then there was a subgroup that reported through the operations manager, which included engineering, health and safety and the coal prep plant as well as production and so through 2010, my departmental reports were the human resources, environment, tech services and that operations group headed by the operations manager, so that was my onsite function, but my function was probably, possibly 60-40 split, 40% was at that stage dealing with head office issues, capital raising shareholder briefings, travelling to Australia to talk to investors, so basically I worked with Gordon Ward, talked to him sometimes four or five times a day. He was based in Wellington and he also came down to site every week. That's when I met with him when he was down there and we shared an office next door, so I had a split site and corporate role.

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15 Q. And did the general nature of your job change when you were relocated to the company's head office in Wellington in January 2010?

A. It did, not of its own essence, I still had responsibility for the same departments, but with the employment of Doug White into the operations manager and Mick Lerch into the mine manager's role, it was the first time I'd had a proper double layer of reporting below me, so I had a mine manager and an ops manager as well, so that gave the board and Gordon comfort for me to relocate to Wellington to the head office but I still travel down the mine site each, most weeks, usually for two days and still kept up my direct reports which were human resources, tech services and the environmental department as well
20
25 Doug White.

Q. Did the statutory mine manager's report through to the operations manager of the company, is that right?

A. That's correct.

30 Q. Now, after Pike became a coal mine in late 2008, did you ever hold the position of statutory mine manager?

A. I did for a few months. We had an operations manager who worked with us from April '09 till about September, I think, late September 2009, and when he resigned, he'd resigned several months earlier, and when

he left at the end of, September, we were in the process of recruiting a new mine manager, but I couldn't get one to start before the end of the year, so I agreed to take on, I was currently the general manager, and I got Greg to take on the role as mine manager as well.

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A. But, we also brought in a very experienced mine manager, a chap by the name of Russell Howarth, who was from Australia from New South Wales and he acted on site as, like production manager, he dealt with the day to day issues because obviously I was based in, sorry I was still based on site but I was still doing the general manager's job. But I didn't appoint him to be the statutory manager, he didn't have a ticket in New Zealand, and we were going through a lot of, mostly Strata control, optimisation processes, and I thought it was unfair to ask a part-time mine manager to take responsibility for those issues. So I took that ticket on.

10

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Q. And just so I'm clear, is Russell Howarth the individual that you're talking about?

A. That's correct.

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Q. Now Mr Rockhouse has given evidence about an attempted climb of the vent shaft in late 2009 and has stated that you failed to show up, or sign off on a risk assessment related to using the vent shaft as an exit way. Do you understand that that evidence has been given?

A. I recall Neville saying that, yes.

25

Q. I just wanted to clarify a couple of things here. First, Mr Rockhouse told the Commission, and for the record this is at page 1355 of the transcript, that he has an email dated 1 October 2009 from Russell Howarth suggesting a test escape. Do you recall Mr Whittall that Mr Howarth was looking into matters involving use of the shaft as an escapeway in late 2009?

30

A. Yes, and before him Nigel Slonker was the mine manager, operations manager had been dealing with the matter with Mr Rockhouse and then so in the interim after Mr Slonker left Russell took that issue on, on my behalf, or on the mine's behalf.

Q. Did Mr Howarth raise any particular concerns about this matter with you?

A. Not of significance, no.

Q. Do you recall being unavailable for a test escape in late 2009?

5 A. Yes I do.

Q. And do you recall why you were unavailable?

A. Yes, I was at the mine site that day and they'd previously arranged it a couple of weeks before and I was unable to attend the site so they rescheduled it for a day that I knew I would be on site. And on the day I was given alternate work by Mr Ward that he saw as more pressing and I was required, I was actually dressed to go underground and spent the rest of the day in my office in my overalls, and had to attend to corporate matters.

10

Q. Did Mr Rockhouse come back to you following the test climb about any issues with it?

15

A. Yes he did. We had a discussion on the work that was done on the representative group that was involved in that exercise and the need to go into start doing a risk assessment process and to start looking at the whole process of that use of that egress, fresh air bases, a whole range of issues which had already been dealt with months earlier between Mr Slonker and Mr Rockhouse.

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Q. Now Mr Rockhouse has also given evidence that he did everything within the constraints of his job to prevent the shaft being declared a viable means of egress. Do you have any comments in that regard?

25

A. I was somewhat confused by Mr Rockhouse's comments about everything within his powers or whatever terms he used. I don't have it written down in front of me. He was the health and safety manager, or safety and training manager for the mine, I'm not sure which restriction he saw on his powers in that regard but I don't see any restriction on his powers as a health and safety manager.

30

Q. And Mr Rockhouse also gave evidence that he was, and these were his words, "Not involved in any way, shape or form in the design or planning of the mine." Is that consistent with your understanding?

A. Mr Rockhouse was the safety and training manager, he wasn't the mine planning manager, that's true. But from 2000 and probably 2005, maybe 2006 onwards we'd been running management team meetings every week and the intention of the management team meeting was not for my benefit so much because they all reported to me and I understood what was going on. But they're actually initially and continued to be run for each other so the managers could actually get together every week and discuss all the issues of the mine. Mr Rockhouse was part of the management team from December 2006 onwards continuously. He attended, to my knowledge, if he was on site every management meeting. Mine planning was a key issue. Mine scheduling was a key issue. Neville also happened to live across the road from and travelled to work with the technical services manager who was responsible for all that planning. So I do accept that he wasn't the departmental manager for that process, but to say he had no input, involvement or understanding of, would be different to my expectation of his role and also my knowledge.

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Q. Now, Mr Rockhouse also gave evidence that the shaft was only ever intended to be used as a maintenance access way for the auxiliary fan. Do you recall that evidence?

A. I do.

Q. Is that consistent with your recollection?

A. No. The shaft was planned to be used as an egress from the '90s when the original, well, one of the original feasibility studies was done. It had been tendered as such in the 2005 tender for the tunnel and shaft and it had always been intended to do so, the contract was let on that basis to McConnell Dowell and they did the construction work for that. I do accept that it was only ever intended to be used for several years while the rest of the mine was designed for 20 year life, roadways, et cetera. I think the ladderway was designed for several years, or five years maximum, or something I can't remember the exact detail, because the plan again, from the 1990s, right through and never changed, was to excavate to a sub-crop slightly west of pit bottom and hole out into one

of the valleys to create a second means of egress, so it was meant to be used for a period but it was always meant to be used.

Q. In his evidence, Mr Rockhouse also said that he reported to you and Mr White, is that evidence consistent with your understanding?

5 A. No that's not true. Neville reported to me several years ago and then briefly for the period in 2009 when I held the manager's role but once Doug White came on as the operations manager, Neville was clearly his direct report.

10 Q. Now, Mr Rockhouse also complained about your response to him giving you some information about a refuge chamber. Do you recall that evidence?

A. I do.

Q. And what do you say to that?

15 A. Well, I do recall Neville coming to my office and standing in the doorway one day and then coming in and talking to me with a couple of pieces of paper in his hand and he said that he'd been doing some research on the Internet, I think was the term he used, and he'd found some stuff about a refuge chamber that he wanted me to have a look at and I asked him a bit about it and said, "Have you spoken to anyone," he said,
20 "Yes," I think I recall he said he'd spoken to Terry Moynihan, and I said, "Okay, well, Terry's a hard rock guy, have you spoken to anyone else," and he said, I don't recall, what he said, I don't believe he had anything. What he gave me was basically a print out from the Internet, he'd
25 Googled refuge chambers or something and found some information. It wasn't a proposal, it didn't come from the mine manager, it had no funding, it had no justification, I also had knowledge of refuge chambers generally, I'd seen them at mining shows et cetera and I knew there was a lot of controversy about their use and we've just listened to
30 Craig Smith about men being trained to escape the mine rather than go to a purpose-built refuge chamber to sort of live there for weeks on end, it's not typically what's done in coal mines. It may be in hard rock but not typically in coal mines so, I accepted the paper, I think, the phone rang and as Neville said in his evidence he walked out. He did ask me, I believe, sometime later what I was going to do about it and I just said,

“Well, you’ve left me a couple of pages from the Internet, I haven’t progressed it.” He said that I refused, I don’t recall that at all. I just hadn’t progressed what was pretty much a general, “Here’s a couple of sheets of paper from the Internet on a topic that I’m interested in.”

5 Q. Now, according to Mr Rockhouse’s evidence, you declined the refuge chamber because you believed that using the Alimak raise to gain access to the portion of the main vent shaft that had not collapsed and where ladders had been installed would suffice as a second means of egress. Is that consistent with your understanding or recollection?

10 A. I don’t recall giving a particular reference, I don’t have any recollection of that.

Q. Had Mr Rockhouse come back to you with a full proposal that had considered the risks and benefits of a refuge chamber, what would you have done with it?

15 A. Well, I get a lot of proposals, a lot of recommendations. We’ve spent several hundred million dollars on the project and all of its been done through capital submissions and justifications and that was, as Neville had already been there for nearly four years, he very well understood the system, so had I been given something that was logical, had been
20 researched, actually looked at the risks associated with putting something like that underground and had the support of the mine manager, then I absolutely would’ve reviewed it and probably discussed its merits and possibly progressed it if it was something that the mine manager and Neville both believed we needed.

25 1725

Q. And why would’ve you looked for the support of the mine manager?

A. Because he’s responsible ultimately for the health and safety on the mine site.

30 Q. Mr Couchman also gave evidence that after he was moved from the safety department into the human resources department at Pike River in a training role, no one was conducting underground audits at the mine. Do you recall that evidence?

A. I do.

Q. Were you aware of that?

A. No.

Q. Mr Rockhouse also gave evidence that the harnesses purchased by the company for use in connection with climbing the vent shaft were stored above ground. Were you aware of that?

5 A. No.

Q. Did you understand the harnesses were stored underground?

A. Yes.

Q. Let me move into the third topic Mr Whittall, as the general manager mines at Pike River were you involved in emergency response planning of the company?

10

A. To some extent I was, I had been involved in the original emergency response management plan being put together. I'd supplied I think it was Neville at the time with a copy of the BPH Billiton one which I'd used at previous mines in Illawarra Coal which is why it's different to the Queensland ones we keep seeing coming up. So, if it's placed on a model it's come out of New South Wales and I was involved in discussing that with Kobus Louw who is a mine manager and the fact that he'd come out of South Africa and they had slightly different systems and we discussed what system might work best of us. I probably, most likely, had some editing functioning, I wasn't approving the document, it was signed off by the mine manager, but I no doubt read it. I certainly was familiar with a duty card system and everything because I'd used that at several mines that I've managed. I was involved in the 2009 escape exercise that both Neville and Trevor Watts spoke about and I was, I believe I was the incident controller in the control room for that exercise, if memory serves me correct.

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20

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Q. Now prior to Mr Rockhouse joining the company, is that correct that an individual by the name of Rob Storey had had some involvement?

A. Rob Storey was brought in as a consultant. When I first look to recruit the senior management team in the middle of 2005, my first line of recruits were the engineering manager, the human resources manager and the safety and training manager all to come on in October. And technical services actually. I was only able to recruit the HR, tech

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services and engineering to start at that time and I, frustratingly interviewed dozens of safety and training managers to no avail.

Q. Why do you say, “frustratingly?”

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5 A. Because I kept being significantly disappointed by the quality and the calibre of people being put forward to do the role. I was looking for specific skill sets and specific qualities.

Q. What sort of qualities were you looking for?

10 A. Safety, I wanted to be very practical, someone who actually understood the industry, or at least heavy industry, and I got a lot of people out of corrections and hospitals et cetera applying, which just didn't seem to relate to our industry. I was looking for someone who was passionate about safety, who saw it as the absolute priority. I was looking for someone who would take it seriously and would show leadership in that

15 area. My whole career has been in the underground coal industry, it's something I take extremely seriously. And so I was frustrated. I actually met, I think Neville said in his evidence that I first met him in 2005 and he impressed me. I think I met him down here at the movie theatre. They were holding an expo, a recruitment expo. And I spoke to Neville

20 then but he was engaged in a consultancy which he couldn't get out of at the time. And I think in his evidence also he spoke about the fact that we kept somewhat in contact and got back together again later the following year when I'd still been unable to fill the role. So in the interim we still needed to progress a health and safety management system.

25 There's a requirement at law to have one. We were only doing some preparatory surface works, we hadn't even started very much at all. We then started the road during 2006, which was all using contractors but we needed a health and safety management plan to deal with that so we engaged Rob Storey to fulfil that function and produce that plan.

30 Q. So there was a plan in existence before Mr Rockhouse joined the company?

A. Yes.

Q. Now is the CEO, was Mr Ward involved at all with the company's emergency response management plan until he left last year?

A. He was aware of its existence. He didn't have any duties under the emergency response management plan. The duty card system goes as high as the incident controller and makes reference, I think I recall it makes reference to the general manager or some other function. But basically that's to report through to the corporate end of it, there's no functional role. So Gordon's role was not under the emergency response management plan. But he was CEO, he attended the weekly management meetings and he would've been well aware of what our response capabilities were.

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10 Q. There has been some criticism in the evidence offered to the Commission by others that the company's emergency response management plan did not plan for an explosive event. Do you have any comment in response to that evidence?

A. To my knowledge it specifically does deal with explosions. Emergency response management plan is supposed to be a frontline document. It's supposed to be pulled out when an incident occurs to be used by an incident controller, the control room operator, and all the duty cards we've heard about, the guy to go to the portal, the person that deal with emergency services et cetera, the document allows for the escalation of certain responses. So it could be a first aid response, which wouldn't really kick in the whole incident management team, through to the subjective view of the incident controller, which should be the senior mining official on site, or usually is the senior mining official on site, to actually establish an IMT. That IMT would be headed by the incident controller.

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25 Q. Now there has been some evidence also put before the Commission to suggest –

A. Sorry, could I just interrupt.

Q. Of course, please.

30 A. I don't think I actually fully answered your question. The role therefore of the IMT is then to deal with whatever the situation is. So if it's a small explosion, large explosion, they don't know, then the IMT is a dynamic team to be made up at the discretion of the incident controller with whatever experts he needs. So whether it's a small or large incident it

should be a dynamic team. We've heard a lot of evidence from a lot of other people in the stand talking about what they think should go into an IMT and I haven't probably disagreed with any of them. They've all had merit.

5 Q. Now there's also been some evidence before the Commission to suggest that gas sampling following the 19 November explosion may have been easier had there been a tube-bundling system installed by that time. Do you recall that evidence?

A. Yeah.

10 Q. And do you have any comment in that regard?

A. I would think any additional system would add some value if it had of survived the explosion. The real-time monitoring system, I also heard someone say that it was useless because there was an explosion. That's not true. It probably had its communication cable severed but it was run off a separate power supply from the surface, which had the communication from those sensors not been damaged, then it may well have worked as well and tube-bundle the same. If it had of been damaged by the explosion, then it wouldn't have been any use either.

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20 Q. Did you have any involvement with the company's trigger action response plans?

A. It's a fully generic term, TARP, so there's a trigger action response plan sitting underneath a large number of management plans, so yes, to an extent that there were TARP's for strata control, ventilation, a whole range of issues, then I would've over time reviewed many, probably hasn't signed off on many, because I don't actually sign off on a lot of the management plans in my role. They sort of sit within departmental managers, but, yeah, I'm familiar with TARP's and how they work.

25

Q. And were TARP's part of the company's emergency response management planning, or would you see them separate?

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A. Emergency response management plan itself deals with responding to that emergency, I know it's the obvious statement of the words, but it's actually responding to the initial event. A TARP would be used to look at escalating it beyond a certain level, and therefore that's one use of a

TARP. Within that, the incident management team would then set up TARP's if they needed to for a whole range of issues as we've heard done with gas analysis etc, so it's a tool. It's just another tool.

5 Q. And let's turn to the company's corporate crisis management plan. Did you have any involvement with that document?

A. I had limited involvement with it in its inception. I remember a conversation with Neville about the need for one, given that we had an emergency response management plan on site but –

10 Q. Do you recall how far back in time that conversation may have occurred?

A. 2007 maybe, 2008, I recall because when we established Pike River Coal as a separate company outside of New Zealand Oil and Gas, there was a perception, and quite a right one, that we needed some sort of corporate document for Gordon Ward to be able to use in the event of a site emergency, where he could initiate a corporate exercise where – it doesn't have duty cards or anything. It's more dealing with notification of stock exchange, board of directors, freezing of, you know, special trade, those sort of issues.

20 Q. And do you recall what followed on from your conversation with Mr Rockhouse regarding a corporate crisis management plan?

A. Yes, an initial document was put together, did I say 2007, maybe it was 2008, because I remember that Nigel Slonker and I were asked, which, and he was there during 2009.

Q. And what was his role?

25 A. He was the operations manager and he was a statutory mine manager, so Nigel and I were asked by Neville to comment on it and provide feedback and add bits, which we did and then he sent it out again I think at some stage, some months later, to Gordon and I and I remember discussing it with Mr Ward and suggesting that it was his document and
30 I was still working on the mine site so he needed to finalise it and take ownership of it as he was the CEO, and that's the last I recall having a conversation on the matter.

Q. Did you have any reason to believe that Mr Ward was not following up to finalise the document?

A. I just don't recall having any further conversation and I have no reason to believe one way or the other.

Q. Did there come a time when you discovered that the corporate crisis management plan had not been finalised?

5 A. Yes, I asked for – I dug out a copy of it in preparation for the Royal Commission and found that it was still in draft.

Q. Did you not consider the corporate crisis management plan in connection with responding to the 19 November explosion?

10 A. In consideration of it, I had read it and I understood it, and I understood the contents of it. It wasn't a, as I said it wasn't a duty card type thing. It was more a guide for the CEO or the company, and I had the benefit of having John Dow attend the company's offices within the hour of me learning of the explosion, so I was able to deal with the corporate issues directly with the chairman and we divided the roles and all of the things,
15 which I was very pleased when I actually went back and read the corporate crisis management plan a month or so ago, that we'd actually covered everything that was in it as I would've expected to, given that between the two of us we had a good knowledge of our responsibilities in the company itself.

20 Q. Now I just wanted to touch very briefly on emergency response training at the company, and I think you've already mentioned a drill in 2009, is that right?

A. That's correct, I think October, somewhere round there.

25 Q. And was that around the time that you were covering the role of statutory mine manager?

A. Yeah, it was in that three month period.

Q. Do you recall whether an emergency drill was run in 2010, after you'd relocated to Wellington?

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30 A. I'm not aware of one but I was aware that through management meetings that Neville and Doug were talking about holding one but as of the 19th of November I'm not sure that it had occurred. There had been an understanding that we'd run one every year, so given that it was

coming up to a year or a bit over a year, I would imagine that there was one planned for about the time.

Q. Mr Whittall, I now want to move into my fourth topic with you which is your immediate response to the 19 November explosion, so if I just start by asking you where you were on the afternoon of 19 November 2010?

A. I was in my office in Wellington.

Q. And can you just give us some context, give us a sense of what you'd been involved in that day?

A. That day was a sort of an extension of the week, it was fairly horrendously busy, we'd had our AGM up at the mine site on Monday and then followed by several shareholder briefings, so I'd travelled around the country. I'd been to Greymouth once, I'd come back again on the Wednesday. We were in the middle of a capital raising so on the Friday, specifically, I'd been back here on the Thursday again, I think.

On the Friday I'd had meetings with our main share brokers from Auckland in Wellington and I was dealing with a \$70 million capital raise. That was my main activity that day. A number of other corporate issues as well, dealing with some debt equity issues with major shareholders.

Q. And how did you learn of the explosion at the mine site on the 19th of November?

A. I received a phone call from Rob Ridl, the engineering manager onsite at 4.45, to my office.

Q. And do you recall what Mr Ridl said to you at that time?

A. Yes, he said, actually I think it's in my brief so I'll correct the words, if you want me to paraphrase it I can.

Q. Yes, if you head to paragraph 7 of your brief and there's no need to read from it Mr Whittall, but if that helps refresh your recollection.

WITNESS REFERRED TO HIS BRIEF OF EVIDENCE – PARAGRAPH 7

A. Yeah, so he did specifically say at the time there'd been an explosion because now, well, as we know by the other evidence, is that by 4.45 they'd had a number of phone calls and other communications at the mine site so Rob told me there'd been an explosion. My first response to him was, "Is this a drill," because I knew we were ready to do another drill and I'd never had a phone caller tell me there's been an explosion

before in my life so, my first thought was it was just an exercise and then he said, "No, it's not a drill, we believe there's been an underground explosion," and he went on to give me a few facts about it as they were known at the time.

5 Q. And how did you react to that call from Mr Ridl?

A. Initially I was quite numb, I hung up the phone and gathered my thoughts. I was standing in my office by myself. We were, as I said, I think I had people in the office, not in my direct office but it was quite a small office complex, there's only five or six or seven of us in that office
10 and we had share brokers et cetera, in the office as my CFO was dealing with the capital raising issues when I took the call, so my first thought was to contact John Dow, the chairman, because I knew he was in Wellington, I'd already seen him earlier that day and so I did so. And then I called my staff together in the office, as I said it was already, by
15 this stage, nearly 5 o'clock on a Friday afternoon as well, but there was still half a dozen of them there, and that's, I think, all of them apart from our public relations manager and I explained to them what I knew which was very limited. We'd had one phone call at that stage and asked them all to stay at work and just standby because I didn't know what
20 was going to happen, I didn't know what extent there was to be an emergency.

Q. Did you receive additional calls from the mine site that evening on the 19th of November and if it helps, I'm at around paragraph 8 through 15 or so of your brief?

25 A. Yes, on that first phone call Rob had told me that they, I asked him how many men were underground, he said, they didn't have the number underground confirmed but there was about 35 guys on shift and that's as close as he could tell me at that stage and I asked him what was being done about the men underground, how do we know what was
30 going on with them and asked him a number of other questions about operations onsite, who had been called, what emergency services had been initiated, who was being made contact with. All those sorts of questions. I then got another phone call.

Q. Paragraph 13 of your brief.

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A. Yes, so I've made notes in my, there's more detail in my brief obviously but I'm conscious, we won't go through that.

THE COMMISSION ADDRESSES MR WHITTALL – REFER TO BRIEF

5 EXAMINATION CONTINUES: MS SHORTALL

A. I gave my phone, my mobile phone to the IT manager and asked him to take all calls for me and just write down who they were, but then John Dow returned to the office and he was able to filter some of those calls and make returns if he needed to. Obviously, like a number of other people I've mentioned, I was becoming inundated by media already, people within minutes of me finding out myself, I was getting comments from other executives of other companies saying they'd got tweets about it and other ways of knowing, so it was all quite busy very very quickly. The second call I got was from Dick Knapp, the human resources manager about 5.15. He was able to give me a little bit more detail that I didn't previously have. He told me that Tess had gone underground at 4.07 and he also was able to tell me that there was a juggernaut, that he'd driven up and seen a juggernaut, he didn't know how far it was into the mine. And that's about all I knew at that stage. I had been told originally, I think from my recollection, it was in the original call from Rob, he'd told me that the reason they knew there was an explosion was that Daniel had rung out at about 4.15 from B1, which I knew where that was, and reported the explosion. So I continued to get a number of updates. I got another one at 5.35 and then he told me that Daniel and Russell were outside the mine on that call. Would you like me to stop there?

20 Q. And at 5.50, did you get another call from Mr Knapp, it's in paragraph 16 of your brief?

A. That's correct. I made a couple of calls obviously between them, we've now gone on nearly an hour. It was quite frantic in the office.

25 Q. I'll come back to those calls with you?

5 A. Yes. So I did receive another call at 5.50 from Mr Knapp. He was able to give me again more detail as I was coming in. He explained that Daniel had been at A1, told all the things we've now heard from Daniel and others, gave me a bit of detail, told me that the emergency services, fire, police, Mines Rescue, and the rescue helicopter had been mobilised. I don't know whether he told me any of those had arrived on site at that stage. John Dow arrived at some stage during the evening. Dick called me again at 6.01 and clarified that Daniel had been at pit bottom. I asked him who the crew was because I didn't have a feel for who was actually at work, and often the guys move crew, so the fact that Daniel was on shift didn't really mean a lot to me as to who else might be there. So he told me it was C crew and told me a number of the personnel who were on that shift to give me a feel for who that group of people were. At that stage I didn't have a complete list of the people that were presumed to be underground.

10 Q. And did you recognise some of those names?

A. Yes, obviously, I did.

15 Q. And why do you say, "Yes obviously?"

A. Well I knew everyone that worked at the mine. I didn't know a lot of the contractors, most of them I knew to say hello to, and I'd recognise their faces. There was a few faces I didn't know names for but certainly all of our workforce I knew well. So I knew who they all were.

20 Q. Now did reporters and journalists start arriving unannounced in the reception area in Wellington?

25 A. Yes they did. At that stage we hadn't had any need to lock our floor off so, we had behind a glass petition, we had a number of television crews had come up in a lift and we're standing outside my office.

Q. And how did you react to that?

30 A. Well I suppose I realised that someone had to be spoken to. All I had in Wellington office was finance team basically, I had no other mining staff, and everyone onsite was up on the site physically and dealing with an emergency. I understood from my dealings with shareholders that the mining industry is very much a misunderstood industry and they don't really understand the terminologies or things that are going on, so I was

very concerned that people would very quickly have a completely wrong idea of even the most basic concepts. So I thought it was my obligation to front the media and actually tell them the little that I knew at that stage and try and get some sense of it. I didn't at that stage know what
5 families knew or who had been contacted or who was contacting who, so I wanted to make sure that anything that went out on the news was as factual as it could be so that I could start managing the flow of information if I could because I didn't think anyone on site would be able to manage that into the media very well.

10 1748

Q. There's been some suggestion that you may have had professional media assistance following the explosion. Can you respond to that suggestion?

A. Yes, on the Friday afternoon we got a lot of offers of help. I was out, I
15 think I was out maybe doing one of the first media talks. I'm not sure, I did one in the foyer and then it got to 7 o'clock and I did the – it's probably after the 7 o'clock One's downstairs with the sort of 7 o'clock current affair programmes, and I came back to my office and there was a number of people in there that I was introduced to. I think they may've
20 come with, and introduced themselves to John Dow. I'm not sure. I think John was there at that stage. They were a company called BRG, I believe they're Solid Energy's public relations company, if you'll call them that, and Solid Energy had asked them to make themselves available to us and so these guys turned up in my office and started
25 explaining who they were and what they did and asking would we like some assistance from them, so they were one of many, so we actually said, thank you very much. The fact that our own public relations person had gone on maternity leave – well, she hadn't turned up for work that day, but she'd gone on maternity leave effectively the day
30 before, and had rung up and said she'd seen it on the news but she wasn't available to come to work, so I didn't effectively have any assistance and it stayed that way. So, BRG filled a hole. They assisted by knowing who some of these people were who were ringing, eventually fielding some calls to try and schedule my time, to say, "Look,

you've got, you know, 10 calls from things, you can't do them all. May we suggest that you do this paper? If you do this paper it will be syndicated here, so you don't need this other journalist." Things like that, so they effectively acted as a media logistics people and I was very grateful to them. I think Solid Energy paid their bills for the first couple of weeks, which was very generous of them, but they acted in that logistics capacity.

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Q. Did you have contact with Air New Zealand on the evening of 19 November?

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A. I did. I had – I don't think I took the call originally. I think John Dow may have. It was from Rob Fyfe and I rang him back, the CEO of Air New Zealand and he explained to me that they had quite a comprehensive crisis management team set up and based on individuals that worked in their normal roles, but had been trained as liaison people, and he offered very generously to make that whole system available to us. I had no idea what that actually meant at the time, but sounded fantastic, but we were getting so many offers I was being swamped with people wanting to do things for us. So, John Dow and I discussed it and said, well, we couldn't see any reason why that wouldn't be effective for us and that stage we didn't know exactly how many people we would need or what that meant, so I rang – I was given the number for David Morgan, I think his name was, the chief pilot for Air New Zealand and I rang him back and had a good conversation with him. He explained in detail what it was Air New Zealand would like to do for us and for our families and one on one et cetera. He said he had a team in Christchurch that could be mobilised immediately and they'd be able to, over the weekend, get as many people as we needed to go one on one system, plus a structure above that which I, to this day, am eternally grateful for their offer of assistance and the fact they followed through so comprehensively and I know that all the families have said continuously how much they appreciated it, and obviously so did I and everyone else.

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Q. And did Air New Zealand also assist by arranging flights for you to get to Greymouth as soon as possible that night?

A. Yes, I was going to try and come down by helicopter but it was already getting too dark, so I had to come down by commercial flight out of Wellington into Christchurch is as close as I could get, yes, but they did arrange that.

5 Q. Just one more question before we move on to your arrival at the mine site, Mr Whittall, do you recall saying to TV One on the 19th of November that you'd contacted everyone's family?

A. I did hear Bernie say that. I don't recall ever saying anything like that. I can't imagine why I would have because I hadn't contacted anyone's family. To my knowledge I hadn't even discussed that issue with the mine site, it's part of the emergency response management plan and I just assumed, obviously now wrongly, and I'll obviously speak to that as well, that that was being done, but no, I don't recall saying that.

10 Q. So let's come forward to your arrival at the mine site, that was around 2.40 am on the morning of the 20th of November, is that right?

A. That's correct, I flew into Christchurch and drove over.

15 Q. And I'm going to ask you to generally describe what you did upon arrival and to the extent it helps, that's laid out in more detail at paragraphs 26 through 29 of your brief?

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THE COMMISSION ADDRESSES MS SHORTALL - TIMING

1753

THE COMMISSION ADDRESSES COUNSEL – APPLICATIONS FOR LEAVE TO CROSS-EXAMINE – ALL GRANTED

25 **COMMISSION ADJOURNS: 6.00 PM**

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