Royal Commission on the Pike River Coal Mine Tragedy

Te Komihana a te Karauna mōte Parekura Ana Waro o te Awa o Pike

UNDER **THE COMMISSIONS OF INQUIRY ACT 1908**

IN THE MATTER OF **THE ROYAL COMMISSION ON THE PIKE RIVER COAL MINE TRAGEDY**

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

Commissioner D R Henry

Commissioner S L Bell
Commissioner for Mine Safety and Health, Queensland

Appearances: K Beaton, S Mount and J Wilding as Counsel Assisting

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

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

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

C Stevens and A Holloway for Solid Energy New Zealand

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

G Nicholson and S Stead for McConnell Dowell Constructors

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

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

J Haigh QC and B Smith for Douglas White

J Rapley for Neville Rockhouse

TRANSCRIPT OF PHASE THREE HEARING
HELD ON 23 NOVEMBER 2011 AT GREYMOUTH

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COMMISSION RESUMES ON WEDNESDAY 23 NOVEMBER AT 09.30 AM

MASAOKI NISHIOKA (RE-SWORN)

INTERPRETER (SWORN)

EXAMINATION CONTINUES: MR MOUNT

Q. Yesterday one of the questions I asked you was whether you had any contact with Pike River between February 2009 and the middle of 2010 and yesterday you said that you didn't have any contact during that period. Do you remember that?

A. Yes I do.

Q. Have you since seen some emails that have reminded you that there was some contact during that period?

A. Well every time I was receiving so many emails regarding hydraulic mining and I was not really remember the position of the guy who was sending me the questions and I also didn't know that question, every question to everybody, everybody in the world. That's why I really didn't pay attention who was, you know, sending me that you know, question through email and I really didn't confirm you know, what the guy's status was, the guy belongs to which organisation. I really didn't pay much attention and I was just replying to the question, that she, I was asked. So, probably I was getting some questions from the guy who may be related to Pike River.

0933

Q. So, during that period, the year, year and a half, between early 2009 and the middle of 2010, you now remember it's likely that you received some technical questions from people connected to Pike?

A. I think I may have, yes.

Q. But is it correct that you didn't have a formal relationship with Pike during that period?

A. No, I didn't have any formal relationship with Pike River.

Q. It was just the occasional technical question that you would respond to as best you could?

A. Yes. In fact, you know, there was so many people in the world sending me email asking so many questions regarding hydraulic mining and I was answering, you know, all of that questions, so I don't know, you know, I really didn't pay much attention, you know, who was sending, you know, questions.

Q. Yesterday, at the end of the day, we were looking at the permit to mine document from the 22nd of September which is DAO.001.03567 and if we could put that back on the screen?

WITNESS REFERRED TO DOCUMENT DAO.001.03567

Q. And do you also have a printout of that document?

A. Yes, I do.

Q. You were telling us yesterday that the box in the bottom right hand corner shows the cutting sequence that you designed for Pike, is that right?

A. Yes, that is correct. Except, you know, this retreating distance, which is 18 metres.

Q. Perhaps if we zoom in on the top left hand box for a moment, it might be shown most clearly there. In that diagram we see a series of yellow dots coming back down the face?

A. Yes I do.

0936

Q. 189 metres, 171, 153, 135. So those are the 18 metre retreats?

A. Mhm, yes.

Q. Was that the initial proposal that Pike had to come back in 18 metre sections?

A. Yes, that is correct, you know, Pike River was planning to retreat every 18 metres which I didn't agree.

Q. Yesterday you explained the reason for that I think, that you didn't agree 18 metres was a good idea?

A. No, every three to eight metres, we cannot cut in all that, certainly the distance by waterjet, watergun, that's what, you know, I proposed, you know 12 metres at most. There's actually no, the second retreat, I finally propose you know six metres because I didn't want to leave much coal behind the goaf.

Q. And what is the reason that you wanted to avoid leaving much coal behind in the goaf?

A. Well one is the life of the monitor panel will be shortened and the recovery of coal will be small and another reason is if we are leaving coal behind there is potential risk of spontaneous combustion.

Q. So it is safer to remove more of the coal rather than less. Is that correct?

A. That is correct, you know, it's safer and also it's more economical to take more coal out from one block.

Q. In the diagram we're looking at the moment there are some red lines that intercept the monitor panel diagonally as we're looking at it?

A. Mhm.

Q. Were they in-seam boreholes?

A. I think it's a gas drainage hole they put in, yes.

Q. Now when you say gas drainage, to your knowledge were those holes connected to any active system to remove gas from the monitor panel area?

A. Yes discharge of this methane gas drainage hole should be hooked up to the pipe. That pipe should have vacuum pump system to suck methane out.

Q. Now you say "should have", that's –

A. Well better to have 'cos if we release methane gas naturally, you know, pressure not much methane gas coming out and if we use a vacuum pump that increase the amount of drainage or methane gas amount.

Q. Is it a good idea for methane drainage to have not only a vacuum pump but also to be vented to the surface?

A. Yes, that gas drainage hole should be at least released to the surface instead of, you know, releasing into the return airway and in there we should have vacuum pump system to make sure, you know, we can take all methane gas out through the borehole.

Q. Were you aware of any such system at Pike, did they have that system?

A. I don't think, you know, if they did, they didn't have a vacuum pump system.

0940

Q. If we look at the top of the monitor panel we can see that there is an intersection with an in-seam borehole right around the 189 metre mark, is that correct?

A. Yes that is correct.

Q. What precautions would be a good idea if the monitor panel is going to intercept an in-seam borehole like that?

A. Well what we had to that drainage hole really more methane gas coming out through the monitor face.

Q. Is there any way to avoid that?

A. Well I don't think there is any way to avoid methane gas coming out of this drainage hole.

Q. Is that just a factor when you are planning how to deal with the methane you expect in that area?

A. Well we should have you know, enough ventilation air, airway if we get extra methane gas coming out through this drainage hole.

Q. Still looking at the same diagram, about a third of the way up the monitor panel there are two little boxes that read, "CH4 and CO," do you see that? Do you see those boxes? I'll just point them out for you so I can – just there.

A. Oh okay yeah, yep.

Q. Can you tell us what that indicated in the monitor panels?

A. Well they're a location sensor or (inaudible 09:42:32) and that sensor reading is indicated on the guzzler at the monitor face.

Q. Was there a radio link or some sort of connection between the sensor in the return and the guzzler machine?

A. I think someone capable connected between the sensor and the indicator on the guzzler.

Q. How did that system work? Was there an instantaneous reading that the operator could see at the guzzler?

A. Yes that is correct you know, operator can always watch the indicator panel to take you know gas test level.

Q. To your knowledge was that sensor also connected to the control room on the surface?

A. That is what I'm not sure, I don't think you know, this methane sensor reading was read out to the centre control room outside.

Q. To your knowledge was there any electronic record kept of the readings on that gas sensor?

A. Well it's nice to have you know electronic record that's for sure.

Q. But was there a computer anywhere that recorded a graph or any type of record of what the readings were on that sensor over time?

A. Well it's really nice to have that sort of record but we have to prepare computer system to the monitor face area which makes the system you know, more complicated and the monitor face has to retreat every time after completing 12 metres by 18 metres you know for the extraction so really you know it's nice to have you know sophisticated reading system but in that case we have to accept to handle complicated reading system and recording system at the face.

0945

Q. I take it there wasn't any record of the readings on that gas sensor?

A. I don't think there's any record of that sensor reading.

Q. If it had been connected to the control room, then that would have been one way, presumably, to have a record retained?

A. Yes, but we have to prepare a long, you know, cable up to the outside and control room, and even if, you know, they keep record, the more important part is, after getting, you know, that methane reading, what sort of action we are going to do, you know. That is the most important part, and as long as, you know, operator can read that methane density, he can control the production or productivity of the monitor and reduce the methane density by lowering you know, monitor cutting. But, everything you know we keep reading at the centre control room outside, you know, the operator sitting in the centre control room cannot do anything.

Q. What other information about gas levels was available to an operator at the monitor face?

A. Well, in terms of gas density this methane first sensor is the only device monitor operator can know the density of methane gas.

Q. Presumably some people at the monitor face would have handheld gas detectors?

A. Yes, deputy has had methanometer.

Q. And was there any other information regularly available to the monitor crew to tell them about methane levels in the system?

A. Well, there is a lot of methane sensor on the guzzler that can show, you know, indication of the methane density level and unless deputy measures gas density by using methanometer, you know, they don't have any other way to find, you know, gas density around the monitor face.

Q. If we look now at the top right hand corner of this permit to mine document, there is a table listing a series of headings with some ratings and some comments – I'm sorry, it's quite small and hard to read. You told us earlier that you never saw the permit to mine document, is that right?

A. That's correct, I hadn't seen it.

Q. If we look down this table in the top right hand corner of the permit, it appears to refer to a series of hazards or issues and then the steps that might be taken to deal with them, is that right?

A. Looks like.

Q. Were you ever consulted or spoken to about any of the things on this list?

A. No, I didn't have any chance to talk about this and I didn't know who made it.

Q. The second box down is headed "Ventilation" and the first item under comments is "Ventilation has to follow the approved ventilation plan". Did you ever see an improved ventilation plan?

A. No, I didn't.

0950

Q. Further down that box, third from the bottom of the ventilation box, it says, "Massive cave-in of roof has the potential to push methane from goaf area?"

A. Mhm.

Q. And that appears to have the rating "low"?

A. Mhm.

Q. Were you consulted about that issue or that rating of low?

A. No I haven't consulted anything.

Q. The next line down says, "Follow operating procedures for safe gas monitoring and dilution doors operation."

A. Mhm.

Q. Is that something that you were ever spoken to about at the monitor face?

A. They were talking about dilution doors but normally, you know, if they put that dilution doors in and obviously you know I didn't agree with that idea.

Q. I take it you know what is referred to by the name dilution doors?

A. Pardon?

Q. You know what dilution doors are?

A. Yes I do know, that is exactly same as Spring Creek Mine and when they were talking about dilution doors, several people went up to Spring Creek Mine to have a look at how the dilution doors works.

Q. Do you have an opinion about dilution doors?

A. Yes, sure, dilution doors seems to be working well at Spring Creek Mine but in this particular Pike River Mine, gas emission was such a high and once we use this dilution door to bypass fresh air going back to the main fan, that will disturb the ventilation inbye of the dilution doors. That's why I really didn't agree to put this dilution doors in and even Steve Ellis and say George Mason agreed with my idea.

Q. If we could look briefly at your work record NISH0002 at page 20?

WITNESS REFERRED TO DOCUMENT NISH0002

Q. And if we focus in on the entry for 16 September?

A. Yes.

Q. If you look up on the screen Mr Nishioka you'll see item 4 on your notes from 16 September?

A. Yeah, okay. Mhm.

Q. Refers to a discussion you had about dilution doors. Is that right?

A. Yes that is correct.

Q. And what you noted down for the 16th of September was, "That high methane content is expected when high methane pushed out when roof cave-in in goaf."

A. Mhm.

Q. And you've said, "Enough ventilation air should be provided to cope with this situation instead of installing ventilation adjustment doors." That's your view, is it?

A. Mhm, yeah, that's correct.

Q. "Or such roof cave-in in goaf shall be avoided by changing mining method."

A. Mhm.

Q. What did you mean by that?

A. Well there is okay, you know, the intention was to keep the roof up without getting in, you know, roof cave. But if we induce cave-in you know we can avoid most of the roof coming down at once.

Q. Then your last sentence says, “Enough safety pillar shall be left in the panel to avoid cave-in in the goaf.”

A. Yes.

Q. Tell us about that?

A. If they really want to keep the opening without getting any cave-in, they should leave more pillar, reducing the extraction pillars.

0955

Q. When you made these comments what response did you have from others at Pike?

A. Nothing.

Q. If we go back to the permit to mine document, DAO.001.03568 and back to the table at the top right-hand corner we were looking at a moment ago.

WITNESS REFERRED TO DOCUMENT DAO.001.03568

Q. The third box from the bottom relates to strata control. Do you see that?

A. Yes I do.

Q. And there's reference under the, “Comments,” heading to an extraction TARP and I think the suggestion is that the extraction TARP will guide the actions of the monitor crew.

A. Well maybe.

Q. Did you ever see any document that was an extraction TARP or trigger action response plan?

A. I think somebody taking that reading but I don’t know what action they were taking.

Q. The last sentence in that box says, “Initial testing of hydro-monitor to establish cave-in characteristics of immediate roof, no failure of main roof expected. Report cave-in characteristics and any geological features to geotechnical engineer and mine manager.” The statement, “No failure of main roof expected,” was that something you discussed with anyone else at Pike?

A. Well I haven’t discussed anything about you know, main roof, or cave-in but probably on main roof doesn’t cave because they set up this extraction panel

only you know 30 metres away, but you know, immediate roof is certainly not fractured rock and not so massive and not so strong so that interburden well if you will let me say interburden between Brunner seam and the Rider seam, that part will cave-in.

Q. Now Mr Nishioka of course you were at Pike only until the 20th of October?

A. Yes.

Q. So you can only comment on the roof conditions during that first month after the monitor became operational. Are you saying during the period that you were at Pike you were not particularly concerned about massive roof cave-in?

A. That's correct. When we started monitor extraction, the roof was quite you know competent and of course you know, some small chunk of rocks are falling down but there is normally the practice and usually that happens in hydro-monitor extraction panel.

Q. Sorry did you say that the roof was quite competent?

A. Yes, not much cave-in you know, coming down because opening of the goaf was not huge, it's very small yet.

1000

Q. If the roof was competent as you saw it during that first month of the monitor operation, wouldn't that create a risk of a very large section of roof coming down, rather than small parts of the roof?

A. Well, I wouldn't expect, you know, large roof, you know, main roof will cave-in, because, you know, this panel as set up, you know, so small, but only, you know, interburden as I said, that part will cave-in.

Q. So is it fair to say that one reason that you were not particularly concerned about massive roof cave in was because of the size of the panel at the time you were there?

A. Yes, when I was sitting at the monitor face, the opening was only down to one or two locations. But once, you know, retreat comes down to say maybe six or seven and retreating, you know, further outbye, more opening will be made in the goaf, and at that time we're not sure, you know, if massive cave-in comes down or not, that is the part, you know, we have to be carefully watching the behaviour of the roof.

Q. Is it fair to say that as the size of the goaf increases, the risk of a massive roof fall also increases?

A. Yes, that is correct.

Q. Are there any other items on the table on the screen at the moment that you would like to comment on or that you see as being important?

A. Well, important or not, and I don't really know, but the capacity of monitor feeder pump system and panel design has to be well matched each other and at this point in time when I was at monitor face, monitor feeder pump system was running up to say around, you know, 30 percent with full capacity and looking at between, you know, that capacity, this panel design is too wide, which means, you know, monitor jet cannot cut, you know, this 25 or 30 metres in (inaudible 10:02:57).

Q. Now we've already seen that the permit to mine was dated the 22nd of September, two days later was the Friday the 24th, and you've referred to the bonus system. If we can just look at DAO.011.22212?

WITNESS REFERRED TO DOCUMENT DAO.011.22212

Q. This is a letter dated the 5th of July 2010, described as a letter sent to all staff Pike River Coal bonuses, hydromining start-up bonus and if we move to page 2, it is a letter signed by John Dow the chairman of Pike River. I take it you were not shown this or given a copy of it?

A. No, I haven't seen this letter because I was not staff of Pike River.

Q. Were you a part of the hydro bonus scheme? Were you liable to receive any bonus?

A. No, no, I'm not (inaudible 10:04:37) receiving any bonus.

Q. If we move on to page 3, there's a schedule that appears to set out the details of the bonus and if we zoom in on the table near the bottom of the page, it appears to show some key dates and you'll see that one of the key dates was 24 September and the amount of the bonus is $10,000 if the date achieved is 24 September, do you see that?

A. Yes, I do.

1005

Q. Were you made aware at the mine site that 24 September was a significant date in terms of the bonus?

A. Mhm, maybe.

Q. If we go back to your work record, NISH0002 at page 23.

WITNESS REFERRED TO DOCUMENT NISH0002

Q. Your second point for the 25th of September, the Saturday was, "After strenuous effort to produce 1000 tonnes by midnight of 24 Friday, which is the due date all employees are entitled to receive a $1000 bonus, several problems were highlighted." You see that?

A. Yes I do.

Q. Did you understand that it was a $1000 bonus not $10,000?

A. Well I don't remember, they were talking about $10,000 bonus but everybody talking about $1000, $1000.

Q. You then have a list of the problems that have been highlighted in trying to achieve the target and the third bullet point reads, "As soon as monitor start cutting coal methane reading in the return airway came up over 5% level and alarm on the guzzler came on. Monitor cutting was reduced to mitigate the methane generation. Note, methane indicator was hooked up on Friday morning." What did you mean, "Methane indictor was hooked up on Friday morning."

A. I think previously there was no methane reading or I don't remember, probably not – there is no methane indicator installed on the guzzler yet and probably Friday they put it on for the monitor operator can see.

Q. The situation you've reported there of more than 5% in the return, obviously that is not desirable?

A. No.

Q. What steps should be taken when the methane reaches that level?

A. Well we should reduce cutting rate or we should stop monitor cutting until methane level comes down way down you know, to 2% or 1.5 whatever you know, it can go down.

Q. Did you ever encounter any resistance to taking steps like that at Pike?

A. No I told the operators, "Don't push the monitor production when methane level came up higher, and just take it easy, and get rid of methane gas first, patiently." And I told them, "Don't care about productivity, just go in safely," you know, that's what I was telling operators every day.

Q. Was that message always well received?

A. Yes everyone understand the risk of high methane.

1010

Q. Your next bullet points reads, “Reinforcement of ventilation shall be done before commencing monitor extraction, main fan not yet operational.”

A. That's correct.

Q. What type of reinforcement of ventilation were you talking about?

A. Increasing the volume of ventilation air.

Q. Was that something you raised with others?

A. Yes, that is what I was telling all the deputies and all staff and also, you know, establish reliably, you know, of ventilation system because ventilation system was always kicking out due to some reasons, such as in power outage or power surge or I don't know what was happening, you know, but quite often the ventilation was cut off.

Q. During the time you were at Pike did the situation with the ventilation volume at the monitor face improve?

A. Well once you know they started trying to commission the main ventilation fan which was installed down the mine, when that fan was running the ventilation volume hadn't increased.

Q. Did it increase to levels that you were comfortable with?

A. Still no, I wanted to have more air but practically you know we cannot to increase ventilation air more than 2000 cubic metre per minute, because you know, when the ventilation fan was running properly we were getting about 2000 cubic metre per minute of ventilation air. But if we could get in more air, I could feel more comfortable that you know when speed increases the working environment at monitor face was getting really cold, and it’s not so comfortable to work at monitor face. So I was (inaudible 10:12:54) on 2000 cubic metre per minute of air, yes, practically, you know. I would say the highest but practically good level and if, you know, we needed more air, that is a time, you know, we should reduce methane emission at the monitor face.

Q. So are you saying that when the main fan was working, it did give enough air at the monitor face, generally speaking?

A. Still you know we had to reduce, you know, cutting rate because if we go in a full capacity of the monitor feeder pump system, 2000 cubic metre per minute airflow cannot washout all the methane to reduce the content to comfortable level.

Q. If we move forward in your records to page 24, you're entry for the Monday on 27 September was that you went to a meeting to discuss what happened the previous week and the first thing noted is that ventilation was not enough?

A. Mhm.

Q. And further down you say that methane density shall be lower than 2% in the main return?

A. Yes.

Q. Are those things that you raised at the Monday meeting?

A. Yes, that's correct.

1015

Q. And then item number 3 for that day, refers to the methane reading on the sensor and you'll see your sentence note, "After stopping monitor extraction, methane reading would not come down lower than 5.65% indication. It must be poisoned after getting over 5%." What is that referring to?

A. Well, you know, I ask, you know, why methane level, you know, methane reading didn't come down and that they said once methane density hit over 5% methane sensor is paralysed and doesn't act properly anymore unless we reset it. That is what I heard from the guy working at the face.

Q. Did you raise any issues about the type of methane sensor being used?

A. Yes, I really wanted to know what sort of methane density actually we were getting in the monitor panel, which means, you know, if methane density was say 60%, I really wanted to know if that was 60%. If it's 70% I really wanted to know that was 70%, instead of up to you know, 5%.

Q. Did you recommend that Pike get a sensor that would give those readings?

A. Yes, I did. Yes, I did.

Q. Did it happen?

A. Well, everybody would say, you know, that will cost, you know, big money, so…

Q. How much money are we talking about for a sensor like that?

A. I don't really know.

Q. If we move on to page 25 of your notes, and the record for 30 September, you can see a table which records progress with the monitor panel on that day. Can you see the entries for 10.40 am and 12.20 pm?

A. Yes.

Q. Is that recording two occasions where the methane levels were high and kicked off the power?

A. I think, you know, methane level was high and that methane level kicked out power. I think that is it, yep.

Q. At the bottom of that same page, the last paragraph, your note says – this will come up on the screen in a moment, it's the last paragraph on that page. "Methane emission was too high to kick out power underground. It was experienced that ventilation air was flowing backward to guzzler when monitor was cutting at full capacity. Monitor operation shall be stopped until main ventilation fan is commissioned."

A. Yes.

Q. Is that something that you raised with others at Pike?

A. Yes. That is what I told them, you know, everybody and at that time if I remember correctly, only small emergency fan they installed outside was running, not to the main fan.

1020

Q. And was it then agreed with Pike that the monitor operation would stop until the main fan became operational?

A. Well nobody told us to stop being a monitor operations and we didn't get any reaction at all. I don't know who was supposed to give us a decision what to do so simply you know, we keep on going by reducing our cutting rate and tried to reduce the methane emission off the face.

Q. Your record on page 27 of an operation meeting on the 1st of October does say in your third point, "It was agreed with Terry that monitor operation shall be stopped until the main fan becomes operational."

A. Yes.

Q. And .6, "No monitor operation due to methane gas issue."

A. Mhm, yes.

Q. Was it agreed between you and Terry Moynihan that the monitor operation would stop until the main fan was operational?

A. Really I don't know if we decided to finish you know, or monitor operation but obvious you know, if there was not enough you know, ventilation air to wash out all the methane to keep methane level at a comfortable level, Physically you know, we cannot operate the monitor and I really don't know you know, who the key man to decide not to operate the monitor or operate the monitor, but everybody at the face agreed not to run the monitor. The situation was that bad.

Q. Sorry, I think I missed the last thing you said.

A. The situation of methane gas content underground was that bad which everybody working at the face agreed not to operate the monitor.

Q. If we move down the page to your notes for the Monday the 4th of October. We've already referred to the test run on the main fan where sparks came out from the shaft, but there is reference to the fact that the monitor was operated on the Sunday for an hour even though the main fan was not running.

A. Mhm.

Q. Now your notes indicate that you hadn't been present at the mine on the Sunday.

A. Mhm, yes.

Q. Did you have a view about the fact that the monitor system was run even though the –

A. We didn't – on the 3rd of October I was – oh I didn't go underground, I didn't go to work.

Q. Yes.

A. And Monday's I reported you know I received this information.

Q. Did you have an opinion about the fact that the monitor was operated on the Sunday even though the main fan was not working yet?

A. Yes that is what they reported, mmm.

Q. What did you say about that if anything?

A. Sorry?

Q. What did you say when that was reported to you if anything?

A. Well they were not supposed to operate the monitor but I don't know who decided to operate the monitor but probably there was deputy in charge at the monitor face so he decided or some management people told them to run the monitor, I don't really know.

1025

Q. The fourth point on your notes for the 4th of October refers to the main fan damper on the surface being damaged 12 months ago and not having been fixed. Can you just explain what that means?

A. I don't know what exactly happened, but when I was talking to Peter Whittall, you know, I explained to him all trouble underground and also all the trouble over the ventilation system, and I think he said, you know, some structure with a surface fan was damaged or broken, but it hadn't been fixed for more than one year, or two years, you know, that is what he told me. And he was quite, you know, disappointed.

Q. "Quite disappointed," did he say?

A. Yes.

Q. Is it possible to give us a simple explanation of what the damper system on the fan was meant to do?

A. Well, damper system if we look at that diagram –

Q. On page 28, next page, yes.

A. Yes, when the underground fan is running, you know, this damper which indicate – I think, when this main fan is running this should be closed and this should be opened to release, you know, all ventilation air, and when this emergency fan is running this damper should be closed and taking the old air through this emergency fan. That, you know, on and off are close and open, that is what this damper is supposed to do.

Q. Is it a system that directs the air, depending on which fan is working?

A. That is correct.

Q. Back to your notes on the 4th of October, the previous page, you referred in number 5 to the capacity of the VSD not being enough for the main fan. What does that mean?

A. Well, this is what I was told, you know, the capacity of variable speed drive, was not enough to operate main fan, ramping up to 100%, you know, speed. That's what I was told. I don't know exactly what was wrong in the system.

Q. And then number 6 refers to George and Matt establishing an operating procedure when methane content comes up high at the monitor face, and also Mike Scott preparing an automatic shut-off system for the monitor pump interacting with the methane detector. Did you know whether those things were done?

A. Well, this is what we discussed to establish, but I don't know what they did and I haven't received any outcome.

Q. So the 4th of October was a day when the main fan had a test and sparks came out and it needed to be repaired, is that right?

A. Yes, that's correct, that was reported to me.

Q. So then the next day, if we move on to the next page, 5 October, your notes tell us that the monitor was operated for about four hours reasonably continuously the previous day, so does that again suggest that the monitor was run even though the main fan was not working?

A. I don't remember if main fan was running or not, but probably not, or running, you know, intermittently or if – No, it's not recorded anything about, you know, ventilation fan. But probably you know face was getting decent amount of air because the methane density was only 1.2% so it's you know level. So probably main fan was around, might have been running, I'm not sure.

1030

Q. You're not sure. If we move to page 29, this is still your record for the 5th of October and point 2, just underneath the table, when waterjet was shooting in air at the cross-cut, methane density at the return airway was increased over 5% instantaneously. As the waterjet was not cutting coal, methane has not come out of newly cut coal. It means almost all methane was staying at the top of upper sub-level or at the monitor face. It is considered that air induced by waterjet pulled out methane accumulated in the cutting face." Can you explain that for us?

A. Well, you know, after stopping, you know, monitor operation, you know, waterjet, I thought you, okay, waterjet induce also ventilation air which means I

thought waterjet increase the air volume going through the monitor face. But actually no it's increasing the ventilation air going through the face but we tried not to cut coal and tried to emit it or get rid of, you know, methane gas around the monitor face. That's why I try to shoot in the air with waterjet but you know that increase you know disturbance you know, put out you know more air around the monitor face. I think you already know, upper side of the entry. So I thought, after stopping monitor operation for a while. But methane gas was rated in the void, well opening higher side of the monitor face. That's what we found. So I thought, you know, it was not a good idea to actually to that the opening to push out methane gas with waterjet.

Q. One of the things you talked about in your written statement at paragraphs 69 to 70 is the approach that should be taken to ventilating the goaf, depending on how much gas is in it?

A. Mhm.

Q. I wonder if you could just explain for us what you mean?

A. Well eventually you know that mined out area will be getting, you know, larger and larger as monitor productions proceeds. In eventually you know that opening will be full of methane so if they want to keep the goaf open without getting in-cave they should ventilate that you know opening by providing some breather system.

Q. So if Pike intended to leave the goaf open, your view is that methane was likely to accumulate inside that open area?

A. That is correct.

Q. And did you say your view was that Pike should have used a bleeder system to deal with methane?

A. That is correct.

1035

Q. How would the bleeder system work?

A. Well once – we can see. Like this area is getting wider and wider after taking an all callout –

Q. Pause there a moment Mr Nishioka, we'll just find a diagram of the goaf so that you can refer to it. I'm just trying to think whether we might in fact go back to your statement NISH0001.

Q. In fact what we'll do is we'll go to a diagram which is on FAM00056, page 10.

WITNESS REFERRED TO DOCUMENT FAM00056

A. Well it does show a little bit more wider area so it's hard to explain but in here okay you know, its opening is getting wider and wider and larger and larger as coal operator tries to proceed to where you know, outbye. Then the methane gas reader accumulate in this area and the roof is hanging already (inaudible 10:36:40) without getting in a cave-in. Then if Pike really want to keeping with goaf open they should put you know, put it up all in which will be connected to the pipeline and going to the surface. Well actually no, they should return airway entries to be developed and we should've put the bleeder here from this return airway then hook up the pipeline going up to the surface then there should be a big blower system to suck you know, all of this methane gas and air through the pipeline to outside. That system should've been installed.

Q. What I think you've just described is another roadway off to the side of the monitor panel and then a borehole driven into the top of the goaf connected to a pipe to the surface with a fan or a vacuum system to extract the methane?

A. That is correct you know, according to their mine plan there will be two entries in to the future, to develop you know, future monitor extraction panel. So there would've been entries somewhere around here when I was there and –

Q. Pause there for a moment Mr Nishioka. Can you just read out the document reference on the top of the piece of paper you've got? The DAO number.

A. DAO number. Oh DAO.001.03567

Q. Now what – if we look at the diagram on the top left-hand corner?

A. Yes sir, according to the mine plan there will be a roadway you know, developed you know, two entries and the going up, let's see, yeah going up to you know, this way. And once the roadway or entry I should say is developed, they should put you know, breather hole in to take you know, all of this air out to the surface. Well of course they can really start air into the return airway but problem with this methane gas content is quite high and the problem-wise it's quite serious so they should hook up you know, this breather hole to the pipeline then which is going to outside and they should prepare big blower system to extract you know, this methane gas to the surface outside.

Q. Did you talk about that system to anyone while you were at Pike?

A. Well at that time you know, goaf was hadn't been, you know, getting no larger yet and so I was not –

1040

Q. Mr Masaoki, if you just face me while you're talking. It'll make the microphone pick you up better.

A. Yeah, okay. I was not sure, you know, what sort of mine plan they doing, but I talk to long time mine planning guy, we need bleeder system a bridge assistant eventually, but it depends, you know, how things goes.

Q. So it was something being talked about for the future, but it hadn't happened, is that right?

A. That's right. It's so premature to talk about details.

Q. Given that there was no bleeder system –

A. No, no, there's no roadway developed yet.

Q. In your view, how – what would be the best way to manage the methane likely to accumulate at the back of the goaf?

A. Well, usually what we do is just induce, you know, cave-in and the pack up through the mined out area, which is goaf and minimise the volume accumulated in the goaf area.

Q. Now, in this case, Pike said they couldn't do that or didn't want to do that because of the subsidence requirements in that area, is that right?

A. Yes, originally they wanted to keep this goaf, you know, wide open so if that is their intention, they should put bleeder in and install, you know, sucking out system.

Q. So your first two options for managing that methane, neither of them was carried out at Pike. No bleeder, no caving?

A. No.

Q. So given that those two things didn't happen, what else could or should have been done in your view?

A. Well, really, you know, Pike River should have decided, you know, which way they really wanted to go, then if they really want to keep the goaf open, they should install that, you know, extraction – sorry, you know, vacuum pump system or blow out system to take the methane gas out of goaf and keep, you know, goaf opening ventilated. And if they want to pack up the goaf area to

minimise the opening, they should have induced cave-in, like starting, you know, extraction from close to the fault. That area is easy to get, you know, cave-in, so once, you know, we get initial cave-in, the rest of the part is much easier to come down.

Q. To your knowledge, did Pike have a plan for how they were going to manage that methane at the back of the goaf?

A. I don't think, you know, anybody had any idea how to handle methane reading in the goaf.

Q. If we move on in your work records at page 29 to the 6th of October, your entry first records that the previous night there was a problem with the surface fan?

A. Mhm.

Q. And you say, "Even methane detector is unable to indicate the density as there's no power."

A. Mhm, that's correct.

1045

Q. And then your point 6 says that you understood that one of the blades had come off the surface fan?

A. Yes. I clearly remember. This happened on this day, you know, and okay. I work towards trying to commission the main fan and he started main ventilation fan going through the surface emergency fan and probably not that, okay, surface fan was a fairly small thing and underground fan capacity was much larger than the surface fan and once we started big fan going through the small fan, that gave extra stress to the blade of the small fan. I think fairly what's wide, that blade was broken off but if you know the ventilation fan is small and not well made. You know that shouldn't happen but somehow you know this surface fan was getting always trouble in the past and this was the first time blade came off and as I said, okay, last fan started and pouring more air through the small fan and that gave extra stress to the small fan and blade came off and that made unbalanced in the rotating assembly of the fan and eventually that damaged the bearing. And the first when I received the report, surface fan bearing got trouble so I thought, you know, it's something strange and even if you know, we put more air through the small fan, bearings shouldn't be damaged, you know, that is what I told, you know, instrumentation

engineer but eventually you know what I found was blade came off first, then bearing got you know extra, bigger, you know, unbalanced and the bearing was damaged, you know, that was a sequence, what happened.

Q. The result of that failure on the surface fan was that mine gassed out. Is that right?

A. Yes, that is correct.

Q. Did it then take some time de-gas the mine?

A. Yes, that is correct. And this is a time what I found, you know, this surface fan got trouble, you know, two times before because I don't know what they did but Peter Whittall walked in my office and asked about, you know, ventilation system and I told him, you know, surface fan on the blades came off and Peter Whittall told me, this was the third time and surface fan got trouble, you know, two times before.

Q. After the mine was de-gassed, did attempts start again to extract coal with the monitor into mine coal?

A. Yes, I think monitor operation started after de-gassing.

Q. But did problems continue with the fans and with the ventilation system after that?

A. That is correct because you know they were trying to operate the main fan but operation was not quite stable and that fan was kicking out you know quite frequently.

Q. For example, if we look on page 34 of your notes, which is a note for the 12 of October, fourth bullet point down from the top, on the 12 of October were both the underground and surface fans tripped requiring workers to be evacuated?

A. Mhm. Yes, that is correct, yes.

1050

Q. Is this something that in your view was a consequence of having the main fan underground?

A. Yes, underground fan and as well as you know, surface fan. Those fans are not so reliable and always you know, causing trouble you know, tripping out, tripping out. I don’t know the reason why but that could be related to the problem of VSD or power supply or some sensors which is kicking out power

when the methane levels comes up to higher than the preset you know, density. No I don't really know the reasons.

Q. In your view where should the main fan have been at Pike?

A. Well firstly you know, this very vital you know, important main fan should be installed outside where we can get you know, really good access and the main fan is supposed to be running whatever happening underground. That is the most vital you know, feature of the underground coalmining operating.

Q. In your view, would it have been possible to locate the main fan at the portal?

A. Well if I could do you know, I would insure that main ventilation fan outside of the portal area probably not somebody say you know, there was not enough space or once, you know, turning of fan at the portal you know. We have to install may be two or three ventilation doors at the portal so it cost and the other way with the staff for you know, transportation and such things but I would install a main ventilation fan outside of the portal then using you know, blow ventilation system which is blowing air into underground and pushing out all air after washing all underground working faces and return airway will be pushed out through the ventilation shaft. That is an approved ventilation system so if you're using all that system you know, no matter what happen underground still you know, we can keep on sending fresh air into underground and even when we go into underground after something happened, that makes you know, rescue work much easier.

Q. If we move forward to Friday the 15th of October, a few days later. Was there an operation's meeting on that day as usual?

A. 15th?

Q. Down the bottom of the page.

A. Yeah okay, yeah.

Q. And was there some discussion about using the monitor to extract coal on the right-hand side of the panel as well as the left-hand side?

A. Mhm. I don't clearly remember what was discussed but probably that was one of the items we discussed.

Q. Your note says, "Right-hand side extraction was approved by Doug and started monitor extraction."

A. Yeah, yes, yes that is correct, yeah according to my record.

Q. If we look at DAO.001.03568.

WITNESS REFERRED TO DOCUMENT DAO.001.03568

1055

Q. Can you see in the bottom right-hand corner it's dated 15 October 2010?

A. Yes, I see it.

Q. And on the top left hand corner the blue shaded area extends out to the right of the roadway in the monitor panel as well as to the left?

A. Yes, I see it.

Q. Can you remember what the reason was for that change of approach in the monitor panel?

A. Well, by this time we found monitor waterjet capacity was not strong enough to cut up, you know, 30 metres. Everybody, you know, realised and they wanted to take more coal out from one position with the monitor, to increase the production and recovery of the face. That's why, you know, they decided to take, you know, right-hand side coal pillar.

Q. It was a way to get more coal out?

A. Yes, that is correct.

Q. Was one consequence of that change a possible widening of the goaf area?

A. Well, actually, you know, it's not quite to widening the goaf, because we was supposed to cut up, you know, 30 metres on the left-hand side, but actually, you know, we can cut possibly up to, you know, 20 metres, so it means, you know, 10 metre of coal pillar still left behind, so instead of that, in order to make up, you know, that portion, we just cut, you know, right-hand side, maybe 10 metres. That keeps, you know, goaf opening all the same, you know, amount.

Q. So because of the performance of the monitor being less than expected –

A. That's correct.

Q. – are you saying that extracting to the right-hand side might actually only have brought Pike back to where they'd expected to be in the first place?

A. That's right. That is correct.

Q. If we move now to the 19th of October, which is Tuesday in page 36 of your notes, the bottom half of the page, you say, "Yesterday, day shift, large roof

rock came down. Push right-hand pillar extraction as much as possible and watch the timing of monitor pull back." Can you just explain that for us please?

A. I think the size of the rock came down is about, you know, two metres, you know, square, and once, you know, we get, you know, that lump of coal ahead of the monitor, waterjet cannot wash out coal sitting behind this rock, so what I told the monitor operator was to dig out the right-hand side of the big rock and the rolling of that big rock toward the pillar on the right-hand side, then they make, you know, opening where water jet can reach behind that big rock. That is what I told operator and take, you know, as much coal out of the face, then after finishing that operation, that was the time to pull back the monitor. I think that is what I told the operators.

1100

Q. The fact that this rock had come down from the roof, did that raise any concerns for you about the potential for massive roof collapse?

A. Well this small fall, this rock must be interburden between Brunner seam and Rider seam, so it's not major happening. It's normally not happening which happens in monitor extraction operation.

Q. You've noted in your second bullet point that the main ventilation fan stopped the previous night?

A. Yeah, that was reported to me.

Q. Did you know anything about the reasons for that or was it just part of the ongoing problems?

A. No, just they reported, you know, a fan was stopped last night and I asked the reason but obviously most the monitor face guys didn't know what happened.

Q. And then your point five on the screen, 2.30 pm ventilation fan motor trips due to high methane content as they left drainage drain valve open?

A. Yes. That is what I found, yes.

Q. Can you just explain that for us please?

A. I don't really know what exactly happened but somebody you know drained the water up inside within a borehole and methane drainage hole and drained you know that water and after draining that water, somebody forgot to close that valve. That's why, you know, methane was coming into the return airway from

that breather holes, in that high methane content tripped out the electric motor of the ventilation fan, that's my understanding.

Q. Now that was your last day at the mine site, the 19th of October. Is that right?

A. Yes. That is correct. It was my record has finished here.

Q. If we go back to the last permit to mine we were looking at DAO.001.03568 and zoom in on the small diagram on the right-hand side?

WITNESS REFERRED TO DOCUMENT DAO.001.03568

Q. Can you tell us roughly how far the extraction had gone by the time you left?

A. How far?

Q. Yes.

A. You mean probably know when I left to the mine site monitor was sitting the location number 2 and they must be extracting coal from number 2 position and the cutting up to probably number 1 under number 2 in a block.

Q. And can you describe for us the state of the goaf at the time that you last saw it?

A. Well goaf was reasonably you know open and some rocks sitting in the goaf which is just normal you know condition of the monitor extraction and the steering of face one not getting abnormal, you know, ground pressure yet. Usually after opening the goaf ready to move, a roof start moving and showing some indication, rock is coming down a little bit but this in this particular you know monitor face when they left this height, everything was standing you know very well.

1105

Q. Apart from the rock that you described coming down on the 18th of October, had there been any other significant roof collapses, while you were there?

A. No not major in the roof cave I experienced and the roof possibly coming down yes as I said you know, interburden between the Brunner seam and the Rider seam. So we, well I really didn't expect you know, really much rock coming down you know, through this extraction.

MR WILDING ADDRESSES THE COMMISSION – ADJOURNMENT

EXAMINATION CONTINUES: MR MOUNT

Q. Now you left Pike on the 20th of October Mr Nishioka, is that right?

A. Yes that is correct.

Q. When you had been asked to come to Pike, was the initial period discussed about three months?

A. Yes two months to three months, yes.

Q. And you had come around the 25th or 26th of July?

A. Yes that is correct.

Q. So you were coming up to roughly three months at the mine, is that right?

A. Yes that is correct.

Q. So were you scheduled to leave at about that time anyway?

A. Yes after finishing the three month I was – well initially no, I decided to leave you know, that was my contract dating of period.

Q. When you say, 'contracted period," had you been given a written contract or anything like that?

A. Well I just receiving you know, a purchase order from Peter Whittall.

Q. Was the reason that you left Pike because you had –

OBJECTION: MR HAIGH (11:07:50)

EXAMINATION CONTINUES: MR MOUNT

Q. What was the reason you left Pike?

A. Well on the – my time has been completed and so from the beginning to the end I didn't feel comfortable to stay with Pike at all, that's why I was pleased to leave Pike River Mine site.

Q. Now have you just talked about two things there, it was time for you to go, is that right?

A. Yes.

Q. And also you were not comfortable?

A. That's correct.

Q. Can you tell us about the reasons that you were not comfortable at Pike?

A. Well on the – none of the systems had been designed properly and equipment is almost all in a wrong selection and mining condition, it's really gassy, more than I expected and at the same time you know, ventilation system was not

working properly and it's really risky to go underground and it may be okay when we were doing construction work because you know, they were not processing any coal which means less methane gas was coming out, but once you know, we started coal extraction, sure you know, methane, more and more methane gas coming out and at the same time you know, ventilation system hasn't been improved at all.

1110

A. It's not quite a good you know, operate, working environment I mean to underground and so I really couldn't understand the commanding structure of the Pike River and nobody seems to be working under good supervision and I couldn't even find who was responsible for the, you know, particular area to accomplish, you know, why work, why one construction work, and contractors are coming in and going out, and coming in, going out, doing some work, but who is controlling them, those contractors, and it's not comfortable at all for me to stay at Pike River's Mine site, because when I found something, you know, or rectified, but I tried to look for the person to talk to, but I couldn't find anybody to report and Peter Whittall came to the mine site, but he was always busy, doing some of paper work. Of course, you know, we had conversation from time to time whenever, you know, he has time, but you know, that operation was not, you know, very organised and also, you know, when I go underground, there weren't enough, you know, cap lamps. Well, of course, you know, I was using Peter Whittall's, you know, cap lamp, because he was not at the mine site, so that cap lamp was used and there's methanometer. I really wanted to have, you know, methanometer when I go underground, because I knew that mine was really gassy and getting, you know, lots of, you know, methane gas, but very few times, you know, methane, I got, you know, methanometer, and almost all time, you know, methanometers were not available for me to get one. So, well, also variety of reasons, you know, I didn't feel comfortable to stay Pike River, but before I, you know, staying three month, you know, I couldn't leave the mine site, because that was sort of, you know, promise a contract, you know, between Peter Whittall and myself, so at least, no, I should stay Pike River Mine site and point out, you know, what is wrong and what is unsafe and, you know, they didn't know how to commission

the monitor feed pump system and I did some re-engineering of that system, even though, you know, everything was wrong, still no, we had to make it, you know, operational, somehow, and which we did. They're certainly, you know, all reasons, I really, I felt, you know, really happy to leave, you know, Pike River Mine site.

COMMISSION ADJOURNS: 11.13 AM

COMMISSION RESUMES: 11.32 AM

EXAMINATION CONTINUES: MR MOUNT

Q. Mr Nishioka in your written statement you talked about six reasons that gave you concerns about the safety of the mine, that was at paragraph 50 of your written statement. Now we have covered most of these topics already and so I don't want to ask you to repeat any of the things you've already said but I do want to make sure that we've given you an opportunity to tell us all of the things you want to say about each of them. So I'll just go through those headings with you, if that's okay. the first is the topic of high methane levels, particularly in the area of the hydro-monitor. Do you have a comment about Pike's overall approach to methane management? How was that dealt with at Pike on your observation?

A. I think methane gas and management, they didn't have enough system to drain out you know methane gas prior to starting, start monitoring you know coal production. It's you know methane gas content is really high when we come close to the fourth area and deeper area, you know, that is a general rule of coalmining and they're not supposed to set up you know first extraction panel across to Hawera Fault and also the area where we expect you know a lot of methane gas and if they really want to start coal extraction in that really gassy area, they should do enough methane drainage prior to start coal extraction. That is my view.

1135

Q. You've told us already about the gas sensor in the return of the monitor panel. Were you ever made aware of other methane sensor readings from within the mine that might have indicated whether the ventilation system overall was dealing with methane efficiently?

A. Well method sensor is really handy to get a methane reading you know, continuously but sensor is located in very dusty environment underground and we cannot really rely on the methane sensor to getting a total feature of methane gas distribution or ventilation system underground. That is one of the way to get you know, generally you know, monitoring underground and no matter you know, how many sensors we have underground, still you know, the

guy who is charged ventilation or gas monitoring should go into the site and taken a actual measurement and make sure those sensors are showing you know, proper reading. And if we are sitting in the office and watching a computer screen then if you're thinking of that is the actual fact and they're thinking their monitoring all underground you know, carefully you know, that is not the way, proper way to go. And no matter how we get you know, methane reading underground or even airflow reading by using sensors and monitoring system, still no – somebody has to go underground to take you know, gas reading, ventilation reading regularly every day, every shift and the report to overhead but to make sure you know, that monitoring system is working accurately, that's my view.

1138

Q. Did you see anyone at Pike doing that?

A. I really didn't see anybody doing, but deputies are supposed to be doing it, but I didn't see, you know, any particular person doing an actual reading. I wasn't, I was not, you know, underground, you know, 24 hours per day.

Q. While you were at Pike, did anyone ever draw to your attention high methane levels from other sensors within the mine?

A. Well, I don't think any would, care, report it, you know, high methane reading to me.

Q. If we can look at CAC0112?

WITNESS REFERRED TO DOCUMENT CAC0112

Q. Mr Nishioka, this is a graph recorded on Pike's system and at the top you'll see that the date is 30 September to 1 October. Do you see that?

A. Yes, I do.

Q. And at the bottom it says, "Auxiliary fan shaft methane scale 0 to 5%"?

A. Yes, I see it.

Q. I take it you were never shown any readings like this while you were at Pike?

A. No, no. Well, one time when I asked George Mason to printout, you know, gas reading chart, but he didn't know, you know, how to print it out, so I didn't get any, you know, record.

Q. Why did you make that request?

A. Because, you know, I was not sure, you know, where that methane was coming out. It's from monitor face or somewhere else, you know, that is what I wanted to make sure. If it's coming through, you know, well – monitor face sometimes make, you know, high peak, that's for sure, but even development face, I mean a continuous mine face makes, you know, spike, this sort of a spike, you know, quite a few times, from my experience.

Q. What sort of printout did you ask for?

A. Well, George, you know, I knew, you know, the centre control room is keeping all sensor reading, so I knew, you know, some reading chart was available.

1141

Q. Had you seen computer screens in the control room?

A. No, not particularly regarding you know methane sensor and I was checking the methane reading at the top of the shaft, ventilation shaft, you know, every morning before I go underground.

Q. How did you do that, how would you make that check?

A. Well you know the methane reading was on the computer screen in the control room.

Q. So in the mornings did you go and ask the control room operator what that reading was at the top of the shaft?

A. Well no even I didn't ask any you know information, I can see on, you know, the computer screen to find you know the density of the methane.

Q. Were there other readings from other sensors in the mine also able to be seen in the control room to your knowledge?

A. I don't think I read any other sensor reading or any other sensors or (inaudible 11:42:20) I don't know. The reading I took on the computer screen was only the methane density reading up to the shaft.

Q. And that was the top of the shaft on your understanding?

A. I think that is top of the shaft.

Q. If we look at the record on the screen at the moment, it appears to indicate a spike over 2.5% on this particular day. Were you ever made aware of a spike like that at the top of the ventilation shaft?

A. No, no, I haven't seen any high methane reading other than the screen.

Q. Did anyone talk to you about that type of reading having occurred?

A. No, nobody told me but I knew they were getting you know some spike because (inaudible 11:43:30) generating okay, happens you know in a coal mine. And those went okay. If we, I was keeping watching that monitor screen, I may have been able to coincidentally see you know the high spike but I didn't stay in the control room you know that long period.

Q. A reading of over 2.5% at the top of the shaft would that indicate a much higher level of gas underground?

A. That is correct. You know when we speak about methane density reading, you know, they got, you know, that got high density methane but we don't really know the volume, you know, how much volume high density methane was going through the roadway, that is what we don't really know and even say one cubic or two cubic metre, you know, high density methane, heat of the sensor, that shows in a peak which means you know, it, high peak doesn't necessarily mean, you know, whole mine is high methane gas content, density.

1145

Q. To your knowledge was there any system at Pike to investigate this type of reading to find out whether it indicated a problem or whether it was something that did not need to be addressed?

A. Well usually we don't really have to have you know very sophisticated system to find you know if the mine is really gassy or not. If one goes underground and they're taken a ventilation reading and a methane reading, all over the you know, underground working, then they can usually find what sort of a methane gas level you know, that particular mine is getting and we don't really have to rely on this modern technology. Modern technology is not always you know reliable.

Q. So in your view a more effective system would involve somebody taking responsibility for gas readings underground as well?

A. That's right, as far as I'm concerned from my experience monitor, computer monitoring system and the recording system is you know a really good system but still you know, we cannot forget manual type of investigation underground and survey, ventilation survey underground. You know, we cannot admit to this conventional type you know, of ventilation survey and gas monitoring survey.

Q. I'll very briefly show you three more results from this record, firstly page 7. This appears to have been recorded on 6 or 7 October.

A. Mhm.

Q. And then the next page, page 8 and then page 9 and these are just the subsequent days through to the 9th of October.

A. Yeah if the duration of that high methane reading is far too long a period mainly you know that methane gas was from monitor face. And if you're not – I don't know the direction of it you know, on a site scale but if you know that's morning of peak that is probably coming from you know, development face because I guess for you know monitor face that opening is such I know wide and if we get you know, high methane reading the duration of that high methane reading is much longer than development face.

Q. These readings are all recorded during a period where you were at the mine. Did anyone ask you anything at all about what might have led to readings like this?

A. Well they didn't show me any gas reading you know chart but probably this long period you know, we were getting over 2.5% of methane gas. That was a time I think we have gassed out or I don't know, I have to go back to my work report, record to – oh yes you know, ventilation system was not running properly to get that high methane density reading for that longer period.gas reading you know chart but probably this long period you know, we were getting over 2.5% of methane gas. That was a time I think we have gassed out or I don't know, I have to go back to my work report, record to – oh yes you know, ventilation system was not running properly to get that high methane density reading for that longer period.

Q. Again, if Pike had had a ventilation officer or someone responsible for the ventilation system would you expect that they would have a job of looking at these types of records to investigate?

A. Yes, yes that's his duty.

Q. The next item on the list in your statement was, "Production pressure," and you've already talked about this and I don't want to ask you to repeat what you said, but to your knowledge was there any issue about a shipment of coal that was due to be produced?

A. Yes.

1150

Q. What did you know about that?

A. Well, I knew they had to ship out at least, you know, 20,000 tonnes if I remember correctly. That is a minimum tonnage to fill up the boat going to possibly, you know, Indian customers, and that due date was coming soon, when I was there and that's why, you know, everybody was getting together and if we could achieve, you know, that tonnage, and Peter – the other Peter, I forgot his name. Pieter William –

Q. Van Rooyen.

A. Yeah, and also Doug White got together and they called me in and started to ask me, you know, where we can get, you know, high tonnage, like, you know, two tonnes per minute, to, you know, and when we can get that sort of tonnage from monitor face. Well, originally I couldn't answer that question, because I was not sure when they could give us, you know, reliable, you know, air supply and when we could possibly turn up the monitor feed pump system which was running only at 30% of the capacity, you know, total instead of capacity, so I really couldn't give, you know, that answer to those guys.

Q. Was there a daily meeting at Pike you were involved in?

A. Yes, I was supposed to be (inaudible 11:52:09) to attend that daily safety meeting, or whatever, you know, they call, but sometimes, no. I had to give them answer because all staff, you know, particularly, you know, George Mason was getting, you know, strong word from the guy who was leading, you know, that, you know, morning meeting so I had to back up, you know, George Mason and I felt very sorry to George, because George doesn't know much about, you know, hydromining and you know, even if, you know, he got, you know, that sort of an impression strong word, still, you know, he couldn't even answer that question.

Q. What were the strong words about?

A. Well, why, you know, production was that low. When production we can get, you know, more production, you know, that sort of, you know, questions asked to George and who possibly George can't answer, and there's, I said, you know, old system was not to designed and installed properly, that's why, you

know, we cannot really push production and there's, you know, if we push production, too much methane gas coming out and I said, "Why not correct it, if there is anything wrong? Correct it." Well, it's easy to say correct it, but what sort of, you know, time in duration we would need to correct it and what sort of money would be involved and how we supposed to be authorised to stop the production, or are we authorised to decide to carry out the modification which may take, you know, a month or two month, you know, mining operation stoppage. We are not allowed to do anything, you know, just to – no matter how strong word they give, you know. Of course, I was an observer so, but still no, I was feeling sort of you know, pressure, because I was backing up, you know, George Mason and the other guys. Well, it's easy to say, you know, to modify, correct it, but it takes time and money. That is a part, you know, management should realise.

Q. What were the main ways in which that production pressure, as you've referred to it, were communicated to people?

1155

A. Well, one, okay, Pieter Rooyen it's not really pressure but he was concerned about, you know, tonnage to ship out and those, Doug White, he was keeping on asking me when we get higher tonnage and there's all workers expecting some sort of you know bonus system and those are the pressure I felt, you know.

Q. Is there anything else you want to say on that topic?

A. No.

Q. The next on your list was gas drainage and you've already talked about that. Can you summarise for us what your concern was about gas drainage at Pike?

A. Well we actually no gas drainage hole not enough for that you know high volume of methane and so many gas drainage holes were released into the (inaudible 11:56:20) which is not quite you know right way to go and they were supposed to install you know, a gas extraction system to suck all - drained all methane gas out to the surface and the natural pressure already cannot take, you know all methane gas out so we need some vacuum pump system on the surface which they didn't have.

Q. Why do you say that venting gas into the return is not the right way to do it?

A. Because you know there is increasing methane density higher and you know ventilation fan was exposed to higher density methane which is not quite safe and I don't know what if you're setting point to kick out power supply to underground but you know if we release methane into the return airway you know that (inaudible 11:57:33) exposed to a higher content of methane and I really didn't know, you know, that ventilation fan system was not a flameproof.

Q. The next topic is management issues. Are you able to summarise for us, what if any issues you had with the way that the mine was being managed?

A. What I found was there was no strong leadership to carry out, you know, construction work as well as operation. It, it was very difficult to find and you know keep us and who, all the responsible for each area and even I ask, you know, who are the responsible for, for instance you know, ventilation. I couldn't really find, you know, a guy practically you know, responsible for that area and there was so many contractors working on the round but I don't know who was commanding you know those contractors. It looked like contractors were spontaneously working by themselves but otherwise you know they do underground work. They should be under the supervision of proper Pike River employee or staff I should say. This is what I felt and also no, I couldn't find anybody who knew the total mining operation from the beginning to the end which means, you know, ventilation, production, development face, rock driveage, (inaudible 11:59:40) transportation, coal quality control, who is looking after the total picture, there should be one strong, leader, the guy having a strong leadership who knows, you know, total system.

1200

A. Otherwise you know, even if we do any modification or improvement in one area you know, it doesn't work at a whole because a mining operation is a totally you know, exercise and once you know one area is modified that would affect to the other area and all the modification of area has to be done based on the concerning you know, total picture of the mining operation but there wasn't such kind of an organisation in Pike River.

Q. In your observation did the management at Pike promote a culture that would allow the reporting of safety concerns freely?

A. Well everybody scared of management people and –

Q. What do you mean there?

A. Well they didn't want to be involved in any trouble with management and if one report to the management he may get some extra work or I don't know extra pressure or I don't know why, but everybody trying to avoid to contact raising a management, that is what I felt.

Q. In your view what type of culture for the reporting of safety concerns should be in place at a mine?

A. Well there should be you know safety officer, at least one safety officer in the mining operation. That is usually you know, we have in underground operation or even surface operation I think but I don't know who was safety officer and I don't know what safety guys were doing you know, I really don't know and I don't know if what guys are reporting some safety concern to that officer, I don't really know. But really you know, I couldn't find actually, you know, organisation working at high level operation. I really don't know who was responsible for that particular area and who was responsible you know, the development face, who was responsible for letting a contractor work underground, I don't really know. What I knew was probably you know, George Mason was responsible for monitor face, that's all I noticed but I was not quite sure George Mason was responsible for the monitor face because he was the co-ordinator of monitor face. That's what I know, that is one of the reasons I didn't feel comfortable to work underground at Pike River.

Q. In the daily meetings that you observed what priority was given to safety issues compared to production issues?

A. Well mainly you know, the forecast did you know, somebody not wearing you know safety glasses or somebody forgot to you know have his jacket or that sort of issue and not quite coming down to fundamental you know items of safety such as ventilation or and wanting somebody in a, bloke you know, that get to rock system, you know that card system. Such kind of things you know, small bits and pieces.

Q. Apart from the things that you've already mentioned, were there any other just general safety issues that you noticed while you were at Pike?

1205

A. Well safety issue, well before talking about only safety issues they should go back to fundamental you know safety issue, such as ventilation system and cleaning you know, or maintenance of the roadway and setting up (inaudible 12:05:02) or sealing in the cross-cut, I mean a cut through and like, you know, operating reliability of ventilation fan on the driving system, which is VSD. They should completely sort out the problem and modify or re-engineering or replacing with a fan and that that sort of action should be taken first. They should really go back to the starting point and everything, you know, when I was there, it was too late to do anything because everything in place and even if we say, you know, we should go back to improve ventilation system including the main fan outside of the portal, well, can we do that at that time, after everything in place and the people are working underground? Can we really do that and if we really we wanted to do, you know, they had to stop, you know, all operation for at least say, I would say six month to one year, which is not allowed probably.

Q. Another concern you have referred to is the second egress. What was your concern?

A. Well, you know, they said, you know, ventilation shaft was second means of egress, but well, maybe okay on the paper but, practical, you know, nobody can go up, you know, that ventilation shaft. Particularly when they get, you know, trouble like, you know, there smoke is coming out, you know, ventilation shaft is just like in a chimney, when something happen underground and practical, you know, that is not to be egress. So, they should prepare, you know, another egress, you know, as soon as they could.

Q. By the time you left, how serious were your concerns?

A. Well, it was very serious, you know, I felt, because, you know, anything related methane gas issue, it's very serious for underground coal mine. And even, you know, we are getting really high methane concentration underground, there's still no ventilation system is running, you know, strongly and reliably and robust, you know, we could manage, but in case of Pike River, you know, ventilation system was not working properly and kicking out and coming in again, kicking out and the power is off and that sort of thing, you know, trouble is one after another, you know, every day, you know, every week, so, without,

you know, reliable ventilation system, I didn't feel confident at all, you know, I really wanted to get out, you know, that operation.

Q. Did you have any concern about what might happen?

A. Well, the worst case, that is everybody knew, the worst thing could happen, could happen in that operation. That's why, you know, I told – I gave, you know, strong words to Peter Whittall when I met him last time in my office. Well, he stepped in my office and he asked me, you know, how the things are going and I told him, you know, strongly, you know, "Everything wrong. Everything wrong. This mine wouldn't go." And he started to ask me why and I said, you know, "Lots of methane coming out and ventilation system is not running properly." And he said, you know, that surface fan – or, you know, surface, part of the surface fan stretcher was broken two years ago, and it hadn't been fixed yet and he was quite disappointed.

1210

A. Also whatever I told him, yeah, right, he asked me you know, what Pike River was supposed to do, what were the priority number 1 and I told him, set up reliable you know ventilation system, that is a priority number 1 and making a second means of egress. Then we can come back to tune up you know monitor face system which is a main production equipment. Then, you know roadway development because you know if the roadways equipment is through, you know, we won't be able to get you know a second means of egress really soon. Those are three items I gave him a really strong word.

Q. I think a moment ago you said words to the effect that you were concerned that the worst thing could happen or something along those lines. What were you referring to there?

A. Well no, the most you know was to think I was really afraid of here was, after you know, what happened, and I gave that warning or word to George Mason 'cos he was always staying with me and also several you know mine deputies.

Q. Just pause there. Before we move on to who you spoke to, are you saying you were worried about an explosion?

A. Yes I would worry about you know explosion when we were getting you know that high methane concentration underground and not reliable enough you

know ventilation system, sure everybody feeling you know the worst case. Unless the guys didn't have experience in underground coal operation.

Q. How serious was your concern about a possible explosion?

A. Well it's really you know hard to say if that would happen or not, you know, nobody can say that but the situation was really you know scary, that was my feeling.

Q. We'll move on now to who you spoke to about those concerns and what you said?

A. Yes. When I arrived in a mine site, you know, we had a talk with George Mason and I told him, you know, very straight, this mine could explode. Well sure no, I couldn't guarantee you know that it would explode or not, you know, but that's the situation was as bad as what I said, the risk, you know, I talk to I think -

Q. Just pause there, sorry. That conversation with Mr Mason was how long before you left the mine?

A. Well the day I left the mine site, you know, the last day.

Q. What was his response?

A. Well he said he would be careful and what I was expecting, you know, I was an employee of Pike River and I couldn't, you know, I was not supposed instigate, you know, everybody's fear but, you know, I think it was, I told, you know, this very bad situation to the staff of, you know, Pike River. I wasn't expecting that staff would do something, you know, talking to management people, that's what, what why, you know, I talk to you know George Mason.

Q. Did you say anything else to him?

A. Well I told him to be careful and you know you should protect, you know, all the guys working at monitor face 'cos we were working together, you know, for a month or two months, yeah, of period.

Q. Did you speak to anyone about your concerns?

A. Yes, well I've said, I came across to Lance McKenzie and I told him, you know, well, actually he was a good friend of mine and I told him frankly you know, this mine could go, you know, anytime so please be careful here. You know, that's what I told him and as for, I told, you know, Andy Sanders he was a contractor and I didn't tell him anything about an explosion because he didn't have any

experience underground and he's an instrumental engineer so what I told him is to be careful to go underground and try to minimise going underground that is what I told him.

1215

A. And before that, even I told him you know Terry Moynihan that the underground situation was really bad, they should do something you know, that is what I told Terry several times and also Peter Whittall and Doug White. They must know you know this already bad condition because I didn't want to talk to those guys same thing you know, over and over again you know. Peter was the president of the company. Doug White who was responsible for holding aspect of the mining operation. Those guys should have more than 10 years, 20 years underground coalmining experience and once or twice we said and he should understand what is going on and what they were supposed to do.

Q. Did you speak to Mr van Rooyen?

A. Who?

Q. Mr van Rooyen, Pieter van Rooyen?

A. Van Rooyen? What is he, pardon?

Q. Did you say anything about your concerns to Pieter van Rooyen?

A. Oh yeah that guy? Yeah okay. Yeah Pieter came from South Africa or – yes you know, we were having a conversation frequently because his office was very close to my office and whenever I came out of the mine I told him monitor face was getting tremendous amount of methane gas and it’s quite dangerous and if there is any source of ignition it will go instantaneously. I told him more than five, six times whenever I came out of the mine because we were having conversation quite frequently because I thought you know, when I expected he could convey my message to somebody you know high above and he said it was so scary and he wouldn't go underground, that is what he replied to me.

Q. Could I ask you to repeat what you just said, the last thing you just said. What did Mr Van Rooyen say to you?

A. Well he said he wouldn't go underground.

Q. Why?

A. It was so scary.

Q. Was there anyone else that you spoke to about these concerns before you left the mine?

A. Well several people like Matt Coll because he knew underground was getting tremendous amount of methane gas and ventilation system was not aligning properly and there was – I don't who I told but I cannot recall the name.

Q. On the day you left did you send Mr Whittall an email?

A. Yes.

Q. We'll pull this up on the screen CAC0140

WITNESS REFERRED TO DOCUMENT CAC0140

Q. We'll see your email at the bottom half of the screen. Is that the email you sent Mr Whittall?

A. Yes I think it is.

1220

Q. In that email, you didn't say anything about safety concerns that you held. Tell us why?

A. It's just sort of, you know, sorry within the type, you know, email, showing my (inaudible 12:20:33), and so all my concern was given to Peter Whittall when he came into my office the last time. That was, I don't remember what date, but that day, you know, I gave him the strong word and I think he already knew what the problem, problems were at Pike River and it was not surprise to repeat, you know, all sort of problem in this final, sooner or later, so I didn't reiterate to anything on this letter, but I said, you know, all problem will be solved, you know, that is what I hope, you know, and he must have understood what I meant, you know,.

Q. Now Mr Nishioka I just want to ask you a couple of questions about possible sources of fuel for the explosion on the 19th of November, sources of gas.

A. Gas, okay.

Q. For 19 November and possible sources of ignition, but with the qualification that of course, you have not investigated the cause of the explosion, have you?

A. No.

Q. Just from your knowledge of the mine as it was when you last saw it a month before the explosion, do you have any view about the possible sources of methane for the explosion on the 19th?

A. Source of methane, yes, source of methane was all over the place underground, but the most gas was coming out from monitor face, because monitor face was extracting more coal, and the next location that is development face, which is the continuous miner face because I receive it, you know, in one report saying that, you know, they put other ones (inaudible 12:23:01) into the face and methane gas spewed out, you know, from the holes, which means that coal seam and, you know, that continuous miner face was getting, quite, you know, high volume of methane.

Q. Did you say, "Methane gas spewed out from the holes," is that your word?

A. Yes, that is what I was – I got report, so it means when they were cutting the coal seam to make roadway, you know, quite a bit methane gas must be released into the roadway.

Q. So if you're listing possible sources of gas, number 1 is monitor face, number 2, is development face?

A. Well, I was in a possible location is, as I said already of underground, where coal seam is exposed, but the most high volume must be coming out from monitor face. Second, okay, continuous miner face, because even gas or is coming out lots, still, you know, the coal, you know, exposed is the size of roadway and possible, you know, there is the site of underground sump construction. That area must be getting, you know, methane emission quite a bit.

Q. Were you aware of any other possible sources of large volumes of methane underground?

A. Yeah, large volume of methane gas, yes, monitoring face. Monitor extraction face.

1225

Q. Now in terms of a possible ignition source, obviously there'll be some degree of speculation. I assume you don't know for sure but can you tell us from your experience of Pike River what you consider to be the possible ignition sources underground, that should be considered?

A. Well one thing you know came to my mind after knowing, you know, the explosion. I thought that was continuous miner face, because if, I don't know, I'm not sure now if there any, you know, (inaudible 12:25:50) sitting in the coal seam and if you know cutting peak hit her that, you know, coal band, that generation of spark and also I understand working at mine face was getting quite high methane gas and they were, when I was, you know, with Pike River, they were always getting shortage of ventilation duct, not sure I should say and I was not sure if they were extending, you know, that vent tube as closer to the face as decided by you know, mining regulation. That is the one potential source of ignition and the, another one there's, this is what I learned you know later but main ventilation fan, that was not in a flameproof, that could be a source of ignition and those areas, potentially, you know, ignition source and monitor face is, you know, always wet and waterjet is always running and there is no source of ignition and I've been running hydro-monitor in very very gassy environment but I never had any, you know, explosion in my life so I don't think there is any ignition source at monitor face. So possibly if there were any, you know, chance to get an ignition, that is continuous monitor face or non-flameproof equipment underground which is main ventilation fan, 'cos you know high density methane gas has to go through, you know, that ventilation fan. So those are, you know, items I would suspect.

Q. Now finally after the explosion, did you exchange a number of emails with your friends at Pike?

A. Mhm.

Q. I just want to refer one of those to you CAC0141?

WITNESS REFERRED TO DOCUMENT CAC0141

Q. Was this an email, if we can perhaps zoom in on it a little bit, was this an email that you sent to Matt Coll on Tuesday the 23rd of November?

A. Yes, yes, I remember this. Matt Coll, you know, sent me email saying, you know, I was safe, you know, and I replied, you know, his email, that is, you know, this one.

Q. You said in that email, “It is very sad what had happened but it was expected as you know and we have been afraid of.”

A. Yes.

Q. What were you referring to there?

A. Well Matt Coll has been a good friend of mine and you know we were having you know also, you know, casual and competition theory and we, Matt Coll, were aware of the problem, the methane problem underground and so I knew when a problem of methane issue and the ventilation system was not going very well, that is our - not common understanding so we were having, you know, lots of conversation during the course of my stay at Pike River operation and you know we were expecting you know worst to think could happen, you know, that was, we were talking, you know, quite frequently. That's why I said, you know, yeah, it was expected, as you know.

1230

THE COMMISSION ADDRESSES COUNSEL – APPLICATIONS FOR CROSS-EXAMINATION OF WITNESS – ALL GRANTED

THE COMMISSION ADDRESSES WITNESS – PROCESS

CROSS-EXAMINATION: MR DAVIDSON

Q. Mr Nishioka, good day again. I'll just record for the record that I have had a chance to speak with you briefly before we began today.

A. Well, could you speak up, it's hard to listen, or maybe can I use interpreter? Can I use interpreter now?

LEAVE GRANTED FOR INTERPRETER

Q. First of all, can you hear me?

A. No, no.

Q. Can you hear me now?

A. Yes, better.

Q. Mr Nishioka, you know Mr Paul Caffyn?

A. Yes, I do.

Q. And you took him to the Sunagawa Mine in Hokkaido?

A. Yes.

Q. That is a very deep gassy mine?

A. Yes, it is.

Q. Is it a mine with faults in it?

A. Yes, there are lots of faults.

Q. How does the amount of gas at Sunagawa compare with Pike River?

A. Well, methane gas generation was about, you know, 100 per cubic metre per tonne of production and when I talk to long time planning guy at Pike River, he said methane emission was much more than 100 cubic meter per tonne of, you know, production coal, so it means Pike River has more methane gas Sunagawa Coal Mine.

1235

Q. Do you regard Pike River as a very gassy mine?

A. Yes I do.

Q. There were two things which you could not change about Pike River which you thought were wrong and the first was that the goaf would become a methane pocket?

A. Yes.

Q. And it would sit there for the life of the mine?

A. That is correct.

Q. That means men and machine would be working inbye of that goaf if the mine had been developed?

A. No, nobody goes into goaf.

Q. But inbye into further workings in the mine, further into the mine?

A. Yes, a mine will be capable to inbye of the goaf.

Q. And the second issue which you thought was wrong was the closeness of the goaf to the Hawera Fault?

A. That's correct.

Q. In your words it was too late to do anything about those things?

A. That's correct, it was roadway was partially developed.

Q. Did you discuss those two elements with anyone in management?

A. Yes I did. I discussed this issue with Doug White as well as Peter Whittall.

Q. What did it mean for you, what did those two things mean for you?

A. Sorry I don’t understand.

Q. Those two things were of concern to you, you told Mr Whittall and Mr White?

A. Yes I did.

Q. What was their response?

A. Well actually you know they started talking about mine planning, getting together with long time mine planning engineer.

Q. But nothing could be done about those two things?

A. No.

Q. When you left the mine in October had you told anyone that you were thinking of leaving?

A. Yes I did. I talked to Terry Moynihan because I was supposed to report to him and also I talked to if I remember back correctly now, Doug White.

Q. Yes. How long before?

A. Well I think two days or three days before leaving the mine site.

Q. Had you been thinking about leaving before then?

A. Yes. I was thinking of leaving as, another I finished three month period which was told by Peter Whittall.

Q. When you told them, told Mr White you were leaving, did you explain your reasons?

A. Well I just simply told him it's three months has been completed so that's why I was leaving there.

Q. You've told us today that you had a meeting with Mr Whittall. I think you said a chance meeting?

A. Yes.

1240

Q. Where did that take place?

A. Well when I talked to Peter the last time I don't really remember the date but he stepped in my office and we had a conversation in my office.

Q. Do you recall if it was in October?

A. I think it's in October.

Q. Did you tell him clearly what you felt about the safety?

A. Yes I did.

Q. I think you used the word, "strongly."

A. Yes.

Q. You discussed the methane levels?

A. Mhm.

Q. The lack of ventilation?

A. Yes.

Q. And your concern about the experience of the men?

A. Well I'm not sure if I discussed about the capability of the employees.

Q. Did you explain to Mr Whittall how dangerous you felt the situation was?

A. Yes I did, well I told him about ventilation system and the gas level underground, yes I did.

Q. Now on this topic you have told us about your discussion with Mr van Rooyen.

A. Mhm.

Q. You have told us in your evidence that it was a scary situation for you?

A. Yes it is.

Q. And your written evidence records that by the time you left you were too frightened to go underground?

A. Yes, that's correct.

Q. Did any other men express themselves or tell you that they were frightened?

A. Well I don't remember for explain talked about in a fear going underground but Pieter Rooyen, he said you know it was very scary and he wouldn't go underground.

Q. Now I want to now turn to another topic. Ms Basher could you bring up please DAO.001.11057/4

WITNESS REFERRED TO DOCUMENT DAO.001.11057/4

Q. Now using the pointer could you identify the panel that was being worked?

A. I think this is the panel.

Q. Yes and if you'd bring the pointer down to the roadway, right down.

A. Yeah monitor face was here.

Q. Yes and we can see on this diagram the other panels 2, 3 and 4?

A. This one?

Q. Yes.

A. Yes.

Q. And on it there are a set of lines which I think you regard as of the topography, is that right? It shows the typography?

A. Pardon?

Q. The lines you see there?

A. Where?

Q. The wavy lines, yes.

A. These lines?

Q. Yes.

A. I think these are contour line, showing

1245

Q. Contour lines.

A. Floor level.

Q. Now I put this up because and perhaps mistakenly, there has been evidence about the cutting against the cleat. Do you recall that evidence?

A. Well this map doesn't show any cleat direction.

Q. Yes. Now having said that, I understand your evidence is that, it is not possible to identify exactly where the cleat will be and in a small mine it goes against you sometimes. Is that right?

A. Yes, we have to layout mining plan, you know, within the variable, you know, area, no matter which way cleat is running. Still we have to layout a mine plan or extraction direction too much with the variable, you know, space or area.

Q. Yes. So in this panel you might expect to come against the cleat sometimes?

A. Well it could be or couldn't be, because you know, I don't think you know anybody take all this away to check up that direction with a cleat and also the magnitude of the cleat.

Q. So there is some luck involved?

A. Well I don't think anybody, you know, concerned about you know the direction of the cleat.

Q. Now I want to turn to the question of the goaf and just on two points. In your evidence you refer to the fact, you say, that a massive rock fall was not likely to happen because the monitor panel was designed not to cause extensive caving in, in order to prevent surface substance?

A. That is correct.

Q. That's what you were told?

A. Yes.

Q. You were concerned that in due course as the goaf extended there could be a caving in?

A. So you usually you know try to induce you know cave-in to make goaf opening as small as possible.

Q. Was that something you were thinking about when you left the mine in October?

A. Well that was not the big concern for me when I left the mine.

Q. There had only been about 18 metres of lift at that time?

A. Yes, that was correct.

Q. Ms Basher could you bring up DAO.001.03567 please? No, that one can go, I don't need that.

WITNESS REFERRED TO DOCUMENT DAO.001.03567

Q. What I'm going to ask you Mr Nishioka is you were taken by Mr Mount to some Pike River statements about windblast. Do you recall?

A. Mhm.

Q. And one of the statements recorded that there was a low potential for windblast once 2000 square metres of the panel had been extracted.

A. Mhm.

Q. What do you understand by that statement?

A. Well I don't know who made you know this statement but the panel really is only you know 30 metres and actually the monitor was cutting up to you know 80 metres. You know, that span is not quite wide enough to get, you know, massive, you know, cave-in in the goaf because the main roof it's competent, you know, stand strong, massive stand strong, and before that main roof comes down, probably you know, all interburden which is a lock in between the Brunner seam and Rider seam will fall down.

1250

Q. You were told by the company, someone at Pike, that it was designed not to cave-in?

A. That's correct.

Q. What was the design feature that you saw that would stop it caving in?

A. What they were supposed to do to avoid any cave-in in the goaf, is that what? Well, you know, they should make opening as small as possible, you know, leaving more (inaudible 12:51:11).

Q. Was that the design feature?

A. Yeah, that is what they are supposed to do if they really want to make roof cave-in stop.

Q. Did you see plans which showed that, small entries?

A. Which small entry is –

Q. Well, what you're talking about now, what you say you need, did you see any plans that were drawn to show that?

A. Well, this is all, you know, plan I saw.

Q. Well, did you consider in the work you observed that they had done anything to keep the roof up?

A. I think Pike River decided to go in on this mining plan and based on this mine plan, they were thinking goaf cave-in wouldn't happen.

Q. Do you know why they thought that?

A. Well, probably, you know, the main roof is very competent sandstone, and width of the pillar is only 30 metres, and which is not quite wide enough to induce, you know, cave-in.

1253

Q. What did you think?

A. Main roof may not cave in but it's hard to predict and that's why I said if they really want to keep the main roof up without cave-in, they should leave more pillar in this panel.

Q. Who did you say that to?

A. Who did I say it to?

Q. Mmm.

A. Well I told my planning engineer and but you know, they were confident on this mine plan and said you know this mine plan wouldn't cause any matter cave-in.

Q. In your experience have you observed a massive cave-in?

A. Yes I did, several times.

Q. Can you identify just one for us?

A. Well which one got cave-in?

Q. Yes.

A. Well I don't know which magnitude cave-in you know, we are talking about but at the final stage of monitor extraction roof caves in and the face is rocked out

and you know, I was running big hydraulic mine in Canada, Palamalai Mine which is located in British Columbia, Canada.

Q. And did that see a lot of gas come down?

A. Well not much, not much because again you know, what sort of magnitude cave-in we talk about and if you know that every retreat of the monitor and the final stage we get quite a bit you know, cave-in but still, you know, we don't consider that is the really massive you know, cave-in.

Q. Now you've described in detail in your diaries the number of trip-outs of the fan?

A. Mhm.

Q. And the gas readings sometimes above 5% in the return?

A. Yes, yes.

Q. You were aware of the intention to commission a new fan. You knew a new fan?

A. Yes when I pointed out strongly to make ventilation system reliable you know, Doug White was working on the commissioning of the main fan so I thought or you know, I was expecting something on main fan would be coming on.

Q. Well we know that the main fan commissioning process began shortly after you left – leave?

A. Yeah that's right, yes.

Q. Were you involved in discussing that fan and it's performance?

A. No, no that is not the area I was in charge.

Q. No.

A. I had to concentrate in the monitor feeder pump system.

Q. Did you know the capacity of that fan that was to be commissioned?

A. I think I do because I got you know performance card of that main fan.

Q. Did you think about that new fan when you decided that you were going to leave?

A. Did I decided to – no I was not thinking anything about you know, ventilation fan because it was already purchased and it was already installed underground.

Q. My question is did you think that new fan would fix some of the problems that worried you?

A. Yes once we put that main fan in operation it was true you know, ventilation, the volume really increased.

1258

Q. But it was not enough to make you think you would stay?

A. Oh it's hard to say it was enough or not because if they put more methane drainage whole thing, then methane drainage system in, we may not need as much ventilation volume as they had, but it's not only the issue of ventilation fan capacity, it's again, you know, that is a total exercise of whole mine ventilation system and methane control system.

Q. Now, have you read Mr Caffyn's evidence before this Commission?

A. No, I don't think I did.

Q. Now, I'm going to refer Ms Basher to CAF001/1?

WITNESS REFERRED TO DOCUMENT CAF001/1

Q. And would you got to page 5 please Ms Basher, thank you. Mr Nishioka, Mr Caffyn is talking about discussions with you, right?

A. Mhm.

Q. And in paragraph 15, if we could bring that up please, he says that he had discussions with you and you expressed concerns about ventilation air bypass systems which stopped fresh air ventilating the development faces to reduce the methane content at the main ventilation fan sensor. You see that?

A. Yes.

Q. And you did have that conversation with Mr Caffyn?

A. Yes, I did.

Q. And as he records it, your concern was that methane would accumulate higher than 5% in the rise development places or the guzzler panel, see that?

A. Yes, I do.

Q. Is that correct?

A. Yes, that is correct.

Q. And he goes on to say that, he calls you "Oki, expressed extreme concern that this was a very risky operation particularly for CM or RH development places where the risk of a spark from cutting head striking sandstone partings was high."

A. Yes, that is correct.

Q. So you're talking to a mining, or geologist there, aren't you, an engineer, Mr Caffyn?

A. Mhm.

Q. This seems to be a matter of very great concern to you?

A. Yes, that is correct.

1301

Q. Was anything done to make that better, that problem?

A. I don't know, yes, certainly you know this is talking about some bypass system to dilute high concentration methane going through the main ventilation fan. The purpose of ventilation is not protecting you know ventilation fan but sending enough air to the face to keep methane levels you know safe enough, you know, low enough, you know, level and once we put in this you know pipe system in, you know, this area is going up the working face, like continuous monitor face and roadheader face and obviously you know this method can prevent ventilation fan kicking out but main purpose of ventilation is sending enough air to the face, not to protect the main fan.

COMMISSION ADJOURNS: 1.02 PM

COMMISSION RESUMES: 2.01 PM

CROSS-EXAMINATION: MR HAMPTON

Q. Ms Basher could we please have up NISH002/27 and Mr Nishioka these are, this is a page out of your notes.

WITNESS REFERRED TO DOCUMENT NISH002/27

Q. And I draw your attention for a start to the bottom paragraphs about 4th of October please, if I could have those highlighted Ms Basher, thank you. You spoke this morning to Mr Mount about the time you spoke to Mr Whittall and warned him about what you thought were the real problems with the mine. In that paragraph 7 of the 4th of October, "Discussion and explanation of status to Peter Whittall," Is that the occasion on which you said those things to Mr Whittall?

A. I think this is the time I explained everything to Mr Whittall and gave him a really strong, you know, expression.

Q. And when you said in your evidence about the last time, were you meaning this occasion was the last time that you spoke face to face with Mr Whittall?

A. I think it was.

Q. Ms Basher, if while we've got that page there, could you go to the top please, the very top four and five which are the last entries Mr Nishioka about the 30th of September, they continue from two pages before but just looking at number 5. In talking with Mr Mount earlier, you said about, when talking with Mr Mount about likely sources of methane, you spoke about methane spewing from drill holes. Is that the sort of instance you're talking about there in number 5?

A. Yes, that is what reported to me.

Q. And you used the words there, "spewing methane gas?"

A. Yes.

Q. And was that always a concern to you that when they did intercept these advance drills holes that they going to release quite considerable quantities of methane?

A. Yes that is correct and that data was during, we are predicting how much methane would be coming out of the cutting face.

1404

Q. No ability to predict how much was going to come out, is that what you're –

A. It's hard to estimate, you know, the volume of methane gas coming out.

Q. In evidence yesterday, and it's at, just for point of view of reference, 3494/3495 of the note, you talked about the variable speed drives, VSDs and them being non-flameproof, and you were asked, "Was that potentially an issue as well" and you replied, "Well, based on New Zealand regulation, which I don't, which I understand we don't have to use, a flameproof type equipment 100 metres outbye at the last cross-cut, that is what I was told." Do you recall who told you that, please?

A. Sorry, recalled? I don't know who I got any of this information, but probably, you know, one of the staff of Pike River Coal or probably, you know, Terry, if I could get, you know, that information.

Q. Terry?

A. Terry, yeah –

Q. Moynihan?

A. Moynihan, yes.

Q. Just then while I've got that name in mind, can you help me please, what was your understanding of the hierarchy you were in? Who did you report to directly?

A. Well, officially speaking then I should talk to Terry, because he was project manager.

Q. Was that ever spelt out to you either orally or in writing, what the reporting chain was?

A. Well, it doesn't necessarily mean or writing, but Peter Whittall told me to report to Terry Moynihan.

Q. Can I just go back for a moment to non-flameproof type equipment, I take it you were concerned about the VSDs being in the mine not in a restricted area, is that correct?

A. Sorry?

1407

Q. Were you concerned that non-flameproof equipment such as the VSDs were in an unrestricted area of the mine?

A. Well you know, particularly the equipment which is related to ventilation system which takes on a high density methane from time to time. But vital equipment is supposed to be flameproof.

Q. Can I take you then to just one reference about equipment in your notes, /7 please Ms Basher and it's a note you made for the 9th of August and if I could have highlighted please the monitor P pump system section. At letter, "F," you say, "As the pump room is in coal there is a potential methane gas emission from the strata. Extreme care must be taken after getting into the operation." Can you explain what you mean there please?

A. Well once you know, electric gear is installed in the coal seam entry made in coal seam, there is potential possibility methane gas is coming out of the coal seam so in that case we have to make sure you know, that electric gear will not be exposed to that high or you know, any methane gas.

Q. And were the monitor pumps potentially exposed in that way?

A. Well that monitor feed pump installed in that core so well if you know, not methane gas is coming out of the coal seam but usually a coal seam discharge you know, emission some amount of methane gas so we have to be very careful to keep you know decent amount of ventilation in that vital electric equipment.

Q. If I could take you over page in the notes please Ms Basher /8. First under, "Roadway general," and this relates to your notes for the 9th of August, if we could highlight, "Roadway general." Number 1 you note, "Roadway is muddy and water is flowing, two stone drives should have lightings?"

A. Yes, that's correct.

1410

Q. And then, just retain those mind and just go down a little further Ms Basher, if you would, to 10 August, underground inspection, could we highlight please, can we get them both on that, no, that's all right, just leave them both up. And you say, "Water is flowing on the floor making roadway muddy. Roadway maintenance and water drainage shall be done, many contractors are working underground, some of them do not know the way to go out of the mine to stone drive. A simple sign showing the direction, arrows shall be installed to guide workers to the fresh airway. Ventilation air may not be enough for the diesel

equipment" and you go on about that. Were those matters as to roadway, as to lightings, as to contractors, as to directional signs to the fresh airway, as to ventilation air and the diesel, were those rectified during your time there?

A. I don't think that was rectified during my stay at Pike River Coal.

Q. So those stated things that you noted underground remained in the same way?

A. Yes except you know ventilation airway was increased after main fan was started and all running.

Q. So got the main fan going?

A. That's right and at that time you know diesel equipment was not too bad to operate.

Q. Just sorry, I should've done it before but if I could go back a couple of pages to please Ms Basher number /6 under 5th of August, item 2, "Attending mine planning meeting, second egress was discussed." Do you recall who was at that meeting and what was discussed please?

A. I think during that meeting Peter Whittall was in and that meeting was relayed by Peter Whittall and Doug White was in that meeting and Greg Borichevsky, planning engineer was in that meeting and I think Terry was in that meeting, I'm not sure, you know.

Q. Terry Moynihan?

A. Yes.

Q. And do you know what was discussed about the second egress, do you recall?

A. Yes, you know Peter Whittall was strongly telling planning engineer to decide the location now of second egress and also he said in which way, roadway is supposed to go and how long and all that would it take, you know, that sort of you know details what discussed.

Q. Do you recall now how long it was going to take?

A. Actually no, they were not certain the geology kind of structure in the future area so you know it was hard to estimate how long that would take but at least, six month or so.

Q. And you were concerned about that delay?

A. Yes I were.

Q. Just one final reference on your notes please, /29 please Ms Basher? The 6th of October if we could have the first, but it's number 1 that I wanted to ask

you about please. So you start by saying about the surface fan being broken and the underground was gassed out?

A. Mhm, mhm.

Q. What I want to ask you about is the next sentence, "Even methane detector is unable to indicate the density as there is no power."

A. Mhm.

Q. Do I take it from that that the methane detector we're talking about there didn't have a battery back up?

A. I don't really know the set up, you know, how the density detector sensor was installed but this is what I was reported.

1415

Q. That's how it was reported to you?

A. Yes. Actually I haven't been in this area, you know, before, so I don't really know what sort of sensor was installed and where that sensor was installed, but I know why, you know, that fan bearing was broken.

Q. Should not a methane detector have a battery backup?

A. I think it should be.

Q. It's essential, isn't it?

A. Yes, it is.

Q. Just then finally in relation to your witness statement itself, at paragraph 32, you referred to the fact that, "I provided – see if you can find it, but in fact Ms Basher, NISH0001/9, if you can, don't worry if you can't.

WITNESS REFERRED TO DOCUMENT NISH0001/9

Q. It's a paragraph where you say, "I provided hydro-training" – it's on the screen in front of you, paragraph 32. Just one or two things about that. How many people do you think you trained?

A. Well, basically, you know, some operators are from, you know, Spring Creek Mine and they know how to cut, you know, coal pillars based on their knowledge and it's not so easy to convince these operators how to cut Pike River coal seam, because they are just following what they did at Spring Creek Mine. But eventually, you know, I explained why, you know, the cutting direction has to be that way or this way, and that's what I mean of details, you

know, I gave them certain information, or if we call it, you know, training, yeah, it's training.

Q. So first, cutting at Spring Creek was different to cutting with the monitor at Pike?

A. That is correct, you know, coal seam condition is completely different from Spring Creek.

Q. Secondly, this wasn't any formalised training, this was just you telling them on the job how to do it, was it –

A. Yeah, that's right, I say, if you'll let me call it, you know, I think, on-job training.

Q. On-job training?

A. Yes.

Q. So there was no written modules of training, anything like that?

A. No. Nothing – no, not at all.

CROSS-EXAMINATION: MR HAIGH

Q. Mr Nishioka, when you left Pike River, you had another job to go to in Saudi Arabia, correct?

A. Yes, that is a possibility, yes.

Q. So that's another reason why you finished up in October, because you had this new job to go to in Saudi Arabia?

A. Yeah, it's not exactly decided, but I had to schedule in on next work, yes.

Q. Well, you told Mr White that's why you were leaving, to go to a new job in Saudi Arabia? Correct?

A. Yes.

Q. And when you were working at the mine, you knew that Doug White was the mine manager?

A. Yes.

Q. So he was the man responsible for the operation underground?

A. Yes, that is correct.

1420

Q. You've said in evidence today that you were unclear as to who was responsible for the contractors in ventilation and that you asked some people and they said, "Ask someone else," that correct?

A. Yes that is correct.

Q. Why did you not go straight to the man who you knew was the manager?

A. Well it's hard to meet you know person to go and we usually don't go directly to the – you know, present or directly to the mine manager whenever we have something to talk. First thing that we should talk to the supervisor close to our operation then the supervisor should talk to high above, then eventually you know, that the report will go up to the top people you know. That is the way organisations should work.

Q. But you got on well with Doug White?

A. Well you know, yes you know, because that was the first time when I came into Pike River Mine site, that was the first time I saw Doug White.

Q. But you got on with him when you were working at Pike River?

A. Sorry?

Q. You got on well with him. You had a good relationship with him?

A. Well I don't know, I didn't see him myself and because he is always busy in his office and I have to go out to the site or I have to have a discussion with engineering people.

Q. Now you've told the Commission today and yesterday about these very serious safety issues relating to ventilation and the so forth?

A. Yes.

Q. And you knew that these problems affected the safety of everyone working in the mine?

A. That is correct.

Q. They were very serious?

A. Yes.

Q. And from what you say, you were getting nowhere in talking to people in the mine about who was responsible?

A. Yeah we only know that type of ventilation system Doug White or even Peter Whittall who are responsible for that and that's why I know when we came to a really serious situation, everybody got together and had a discussion with Doug White. Then he started to putting in more effort in to commission the main ventilation fan.

Q. Well the point I want to make is this, that with all these serious issues, You knew that Doug White was the man in the mine who was ultimately responsible.

A. Mhm.

Q. But you didn't go to him directly?

A. Well no actually we did. We did because one night Matt Coll was running the monitor face and he also realised lots of methane coming out from monitor face and then he went to Doug's office and he came out of the meeting room and then Terry and Andy Sanders, he was instruments engineer and myself got together and we needed to commission the main ventilation as soon as we can.

Q. I understand that. So that's the one occasion you went directly to Mr White?

A. Yes, that is correct.

Q. Now I want to ask you about whether you would have returned to Pike River after you had left when your contract expired and after you'd been to Saudi Arabia?

A. Mmm, possibly.

Q. Would you have gone back to Pike River?

A. Well it's up to my scheduling for what work was waiting for me next.

Q. Because Doug White asked you to go back didn't he?

A. Yes he did.

Q. And in a series of emails which I'm going to show you in a moment, he questioned your availability and you suggested that you might be available when you got back from Saudi Arabia?

A. Yes that is correct.

1425

Q. I'm going to show you this emails, which really just confirm what you've already told us. Now if we start on the second page we can see there Mr White writing to you on the 9th of November. Do you see that?

A. Yes, yes I do.

Q. And he's headed that up monitor performance and your further availability has been the subject matter of the email?

A. Mhm.

Q. And he writes how he hopes you're doing well since you left Pike. Then he asks for your comments on a problem they're having in that they're still not getting the tonnage rates that they expected?

A. Mhm.

Q. Do you see that?

A. Yes.

Q. And they were, he says, "Apparently we experiencing rates as low as 15TPH." What is TPH, can you tell us?

A. Tonnes per hour.

Q. Right. With the highest rate to date being around 60 tonnes per hour and then he asks you questions about why the monitor is only rated to 150BAR. What's the BAR please?

A. That is a pressure, you know.

Q. Right. And then he says finally, "Prior to leaving you indicated in your last correspondence that you're off to Saudi. Is that still the case or will you be able to come back to Pike. Any help that you can offer will be greatly appreciated." Correct?

A. Yes.

Q. So remember when you told us in evidence earlier about Mr White's concern about the tonnage, this was really a follow up to that, wasn't it?

A. Yes it was.

Q. Because during the time that the monitor started operating or sometime after that, he queried why was that equipment, you weren't getting the sort of tonnage that could be expected, remember that?

A. Mhm, yes.

Q. And that was really his concern, wasn't it, and I think you told us, why so little coal?

A. Yes that is sounds like he's concerned, yes.

Q. Yes, right. So going back to, so there he has asking you again, can you assist because they're getting these low rates and if we look then at your email in response over the page please? You can see that's dated, you've responded very promptly on the 9th of November, same day and then you explain in the

second paragraph about why the monitor system could be set at a higher BAR and then you explained why there maybe problems with that?

A. Yes, yes, I did.

Q. And you're obviously being helpful there and then if we can go above please to the response from Doug White which is November the 10th, he says, "Oki, I hate to be a pest but in your absence is there anyone that you would recommend to help us try to address the hydro issues that are currently dogging us" and then you respond on Friday the 12th of November saying, "There are several ways we can try to improve the productivity but I have to be careful to say without staying at the monitor face. I will try to finish up the work here as soon as I can, regards Oki." Now you're saying there, weren't you that if you could get back to Pike River, you would?

A. Well depending on what sort of improvement they had made in Pike River operation.

Q. But you were indicating there that whilst you didn't say that, that you would certainly look at going back to Pike River?

A. Well usually when we decided to go back or not you know, every five year I wouldn't go back, you know, we don't mention clearly, not direct word, it's just business correspondence.

Q. Well I thought you –

A. But again, you know, okay, you know, going back or not, that is entirely up to what sort of improvement Pike River had done.

Q. – I thought you said that it was dependent upon your scheduling?

A. Yes, that's correct.

Q. Now what I want to ask you now is that remember in your evidence you indicated that because of the methane levels, you wanted to have a sensor, a methane sensor in the monitor return which read above 5%?

A. Yes.

Q. Up to I think 100% if possible?

A. Yes, that is much better, yes.

1430

Q. Now you didn't ask Doug White for that, did you?

A. No, I didn't. I told that to deputy-in-charge at the monitor pumping – sorry, monitor face area.

Q. Well, Mr White will say, when he gives evidence here, that he knew nothing about this, until he read it in your brief of evidence, but you can't comment on that, can you, other than that you asked the deputy?

A. Mhm, yeah.

Q. You did, right. I'll produce sir, that series of emails as exhibit 37, please.

EXHIBIT 37 PRODUCED – EMAIL THREAD BETWEEN MR WHITE AND MR NISHIOKA

Q. In your three month contract, were you required to provide any written reports at all?

A. No, I was not obliged to write, because I was supposed to give them advice.

Q. Right, but just verbally, not in writing?

A. That is correct, that is correct.

Q. Because your diary is very thorough and very careful and it's the sort of document that might've helped the employer, but it was only for your own benefit?

A. That's right, this my own record, you know, who, what work I was done, and what sort of concern I had.

Q. For your own record, sure, I understand that. Now remember you said in your evidence that some time shortly after you arrived in July, you spoke to Mr White and said nobody should go underground until the ventilation system is improved and the second egress is put in place?

A. That is correct.

Q. He will say in evidence that you did not ever say that to him, but that what you're saying is that you did, is that so?

A. Yes, I told, you know, Peter Whittall as well and this, you know, Doug White, you know, several times, same thing.

Q. Well, can you remember the date that you told Mr White this?

A. Probably that was the first day of my arrival at Pike River office.

Q. First day. And is that when Mr Whittall was present also?

A. Yes, that is correct.

Q. So did you record that in your diary?

A. I don't think I did, and after that, Peter Whittall had a meeting regarding, you know, this issue, which was – I don't know, I have to go back this work record, but we had meeting with Doug White and Peter Whittall, myself and probably, you know, Terry and also a long time planning engineer, Greg Borichevsky, yes.

Q. Well, in any event, having told them this on the first day, and I presume this was after you'd been underground, is it?

A. No, I haven't been underground that day.

Q. So you told them that no one, including yourself should go underground until these two requirements were completed, even though you hadn't been underground and didn't know how successful the ventilation system was?

A. Yes. That's right, at that time, you know, only ventilation fan working was only small fan, emergency fan and that they were doing, you know, construction work, not in a monitor production, so, by the time, you know, when we starting monitoring, monitor production, you know, we should get robust you know ventilation system operational, otherwise we are not supposed to send anybody underground.

Q. Well, when you arrived, the principal fan was situated on the surface at the top of the Alimak rise, correct?

A. That is correct.

Q. And that was providing ventilation?

A. Yes.

Q. And there were auxiliary fans below as well in certain parts of the mine?

A. Yes, that auxiliary fan is sending air to the continuous miner heading, you know, face.

1435

Q. Well without going underground, how could you say that no-one should go underground until the ventilation system was operarting?

A. It was, once we start monitor we produce, you know, more coal which means lots of methane coming out and if there is no main surface fan is running you know it's quite risky 'cos that small fan I don't, I cannot handle you know that sort of expected methane.

Q. But you didn't even know how many cubic metres per second the surface –

A. Well –

Q. – just pause thanks. The surface fan was producing?

A. – well I didn't have you know that figure, you know, in my head but I knew you know, that monitor panel was very set up in very you know gassy area.

Q. Well what I'm suggesting is that you didn't make this comment at all to Mr White?

A. Well no when we had a meeting with Peter Whittall and Doug White yes, you know, we talked about it.

Q. It's on the very first day?

A. Well it's not the first day, no the first day I told them you know we should get you know a second means of egress ready and also set up you know you know ventilation system. Otherwise I don't feel comfortable at all to send anybody underground.

Q. And in any event you went underground the next day and you continue to underground for three months?

A. Well next week I had to safety training course.

Q. I see, sorry. Well in any event after you had completed the safety training course, you went underground?

A. Yes, and I was checking on all the contractors work and also installation work.

Q. Sure. Did you ever see the incident reports that were completed when there were –

A. Incident report.

Q. Sorry the incident reports, do you know what I'm talking about?

A. No.

Q. There are reports which are completed by persons working underground where a safety issue occurs. They are completed and given to put in the system and they work their way through the management system?

A. Well I didn't know you know that system.

Q. You didn't know that?

A. Nobody told me anything about it.

Q. So when you said that you weren't aware of any reporting of safety incident?

A. No.

Q. You didn't know about that?

A. No, I was not even there, Pike River organisation.

Q. Did you ever see a Department of Labour inspector when you were on the hydro-monitor?

A. I don't think I did.

CROSS-EXAMINATION: MR RADICH

Q. Mr Nishioka I would like to begin by going back a little bit in time to your earlier involvement with Pike River. Ms Basher I wonder if we could put email number 1 up please?

WITNESS REFERRED TO DOCUMENT

Q. If you have a look at this email Mr Nishioka you will see if you look at the bottom of the page, do you see an email there from McCracken Consulting to someone called Graeme Duncan, at the very bottom? Do you see that?

A. Yes I do.

1440

Q. Yes and then do you see the next one up in the middle of the page is an email from Peter Whittall to three people including you?

A. Yes.

Q. 5 August?

A. Mhm.

Q. And the question at the bottom of that email from Mr Whittall is, “Are you able please to comment on the questions/statements made below by Richard Preiss of URS and return to me.” Do you see that line?

A. Richard Preiss.

Q. Just the very last sentence in Mr Whittall’s email to you.

A. Mhm yeah, yeah I see it.

Q. And then you've responded at the top have you saying that you will send some information in your third sentence you say, “By Monday hopefully.”

A. I don’t really remember you know, what sort of question I received and what I replied.

Q. Well I'll help you with that in a minute Mr Nishioka because you wrote a paper to help Pike River about that.

A. Yeah okay, mmm.

Q. So if we could go please now to email number 2 Ms Basher.

WITNESS REFERRED TO EMAIL 2

Q. Now Mr Nishioka this is a series of emails and you see at the very bottom of the page, the first email is an email from Peter Whittall to four people. One is Peter Gunn, do you recognise that name?

A. Yes, yes I do.

Q. He's a coal specialist, a geologist isn't he?

A. Maybe.

Q. And then to you and McCracken Consulting, they're mining consultants aren't they?

A. Maybe.

Q. All right and do you see there in that email, just take your time to look at it, that Mr Whittall is saying to you that he'd like to arrange a meeting for you all to get together for a few days to revisit all aspects of the mine's design?

A. Mhm.

Q. And the associated hardware and systems?

A. Yes.

Q. You see that?

A. Yes, it's 2005.

Q. Yes.

A. August, yeah probably you know, that is a time – sorry Pike River called head office in Greymouth.

Q. It's quite likely. Then if you look up Mr Nishioka towards the top of the email, do you see that you are arranging a meeting time for you to come to Greymouth to talk about those things?

A. Yes maybe I did, yes.

Q. And you've arranged a date haven't you? You've said, "Well 12 September preferred but you could do 26 September."

A. Mmm, yeah it says, yes.

Q. Now if we could go please Ms Basher to DAO.005.10593.

WITNESS REFERRED TO DOCUMENT DAO.005.10593

Q. And do you see this document Mr Nishioka is a document you've prepared?

A. Yes I see it.

Q. About raw coal slurry transportation system?

A. Yes, yeah.

Q. Now you've just got the first page there Mr Nishioka but I imagine – sorry let me just go back for the record Mr Nishioka and produce the first two emails and if they could be 38 and 39. Exhibits 38 and 39 please Your Honour.

EXHIBIT 38 PRODUCED – EMAIL THREAD

EXHIBIT 39 PRODUCED – EMAIL THREAD

Q. Coming back to this document Mr Nishioka, we won't get the whole thing up on the screen too efficiently but would you take it from me that it's about a 45 page document where you have given some detailed design specifications?

A. Yeah, okay, mhm, yes.

Q. Then if we could go please Ms Basher to DAO.005.10563

WITNESS REFERRED TO DOCUMENT DAO.005.10563

1445

Q. Do you see this document is prepared by you also Mr Nishioka?

A. Yes, I see it.

Q. And these are comments on slurry transportation system designs?

A. Yes, yes.

Q. And it's for Tony Goodwin. Do you remember him to be the engineering manager at Pike at the time?

A. Yes, I remember that.

Q. And again, would you take it from me that this is a detailed document where you have provided further input into the transportation system?

A. That is correct.

Q. Then Ms Basher if we could go please next to DAO.025.20547?

WITNESS REFERRED TO DOCUMENT DAO.025.20547

Q. And do you see also Mr Nishioka this is a document prepared by you in March 2008 now?

A. Yes, I see it, yes.

Q. And you've given Pike, haven't you, some information about first the fluming pipe system?

A. Yes.

Q. The flume pan?

A. Yes.

Q. Monitor feed pump system?

A. Mhm.

Q. Monitor feed pipe system, hydraulic monitor, the hydraulic prop, the double roll crusher and the face crusher?

A. Yes.

Q. And again, you'd recall that this is a detailed document where you are providing specifications to assist Pike River Coal on those matters, aren't you?

A. That is correct.

Q. Now, also if we could have email number 7, please Ms Basher?

WITNESS REFERRED TO EMAIL NUMBER 7

Q. So also in 2008, you were, if you look at this document Mr Nishioka, corresponding with people at Pike, and if we look down at the very bottom of that page, and I wonder Ms Basher, if we could show the next page, which is the first email? So this is the email that began at the bottom of the page you were looking at. Do you see it's from Tony Goodwin to you? It begins, "Oki, hydro-monitors"?

A. Yes.

Q. And in this email do you see in the first line, Mr Goodwin is saying, "Can you please provide me with the mounting arrangements for the monitor?" Can you see those words there?

A. Mhm.

Q. And if you just look through the second and third paragraphs, he's asking for other information, isn't he?

A. Yes, yes, he did.

Q. And if we were to go back please Ms Basher to the first page in that email chain, so this now if we look at the top of the page, is your email of 11 September 2008 to Nicholas Gribble. He's at Pike River, isn't he?

A. I don't know. I haven't met him at all.

Q. Well, you've copied it to Peter Whittall, do you see that there?

A. Yeah, okay.

Q. And you've given him, do you see, a range of information in response to the questions asked of you?

A. Mhm, yes, yes.

Q. Ms Basher, if we could please look now at the attachments to that email, if that's there, it's a diagram.

A. Yep, that's right, yes.

Q. And that was the attachment, do you see to your email?

A. Yes, yes.

Q. And by this stage, just to orient us in time, September 2008, the tunnel construction at Pike was underway, but it hadn't reached coal?

A. That's correct.

1450

Q. Now if we can move forward to 2009 now and if we can go please to Ms Basher to DAO.025.19114?

WITNESS REFERRED TO DOCUMENT DAO.025.19114

Q. So now in 2009 and this email at the bottom is dated 25 February 2009. Do you see that's an email from Kevin Murphy to you?

A. Mhm.

Q. Kevin's the mechanical engineer at Pike, can't remember?

A. Mhm, maybe.

Q. And he's asked you to supply a range of nozzles, hasn't he, for the hydro-monitor?

A. Yeah, it looks like.

Q. Including cost?

A. Yes, that's what it looks like.

Q. So then you've responded at the top of that page, haven't you?

A. Yes I did.

Q. Now indicated in evidence yesterday that you had no further contact with Pike River Coal until you came to work on the site but if we look please at email number 10 Ms Basher. This is an email just as it's coming from Peter, at the bottom of the page from Peter Whittall to you of 20 October 2009. Do you see that there?

A. Yes, yes, I do.

Q. And Peter has then asked you for some further information?

A. Mhm.

Q. And at the top of the page in fact its email number 11 which Ms Basher will find for us. This is an email from you to Mr Whittall, it's dated 21 October 2009?

A. Mhm.

Q. And then you are providing a range of further information to assist Pike River Coal, aren't you?

A. Yes, yes, I received so many email and receiving also there have been questions regarding hydromining equipment.

Q. Yes. I wonder Ms Basher, are the attachments to this email in the system? It doesn't matter too much either way. Could we perhaps have the attachment that just shows the hydro-monitor parts list that you provided?

A. Mhm, maybe, maybe I did.

Q. Yes, just coming up in a minute. There we are. So this is, and if you'll take it from me that you forwarded to Mr Whittall at that stage –

A. Yes.

Q. – a number of pages describing the hydro-monitor, that being one of them Mr Nishioka?

A. Yes, that is correct.

Q. Now coming to last year, 2010, and to your engagement at Pike. You said in your brief of evidence that you commenced work at Pike on the 24th of July 2010?

A. Mmm.

Q. By that, you mean that's the time you physically commenced work because you had been involved with Pike for at least six years by then, hadn't you?

A. Well I don't know what we consider, you know, those correspondence and they were just asking for information regarding, you know, hydromining equipment and I was not engaged in this project in a formally, it's just the receiving, you know, information and I provided an information.

Q. Well you'd come over to Greymouth hadn't you and you'd had a meeting with Mr Whittall and others, one of those earlier emails we saw?

A. Yes, yes.

Q. And that was to discuss the design of the hydro system, wasn't it?

A. Well in that meeting it didn't cover, you know, so wider area, 'cos Peter, well if I remember correctly that meeting was held in Pike River's office. When that

office was located in downtown of Greymouth and Peter Whittall was quite busy tied up to a telephone call and he was not in the meeting and we got together, I don't really remember who was there, but probably Tony Goodwin was in that meeting, and there was Ivan, but Ivan was in charge of you know, environmental issues and he was not required to attending, you know, in that meeting.

1455

Q. But you'd been consulting to Pike on various matters for many years?

A. Yes, we talked about, you know, Pike River project, yes.

Q. Now, if we could go please to email number 12, Ms Basher, this as it comes up Mr Nishioka is an email exchange between you and Peter Whittall. If we could go first Ms Basher, to the second page of this chain please, which is the first email. It's dated 22 June 2010. It's from Peter Whittall to you.

WITNESS REFERRED TO EMAIL NUMBER 12

Q. Now, do you see if you look through to the second paragraph, there's the word, "However" in capital letters? And Peter Whittall is saying to you that, "We're now through the zone. Near perfect conditions in coal, finally." Do you see that?

A. Mhm, mhm, yes, I do.

Q. And then after that he says this, "We're in the process of installing our hydro-system underground and all the associated infrastructure." Then the next sentence, "I think it timely to enquire of your interest and availability to become involved again with Pike River. I spoke to you often in the past of my desire to involve you in the ramp up of the operations. I would be interested in involving you in a final critique of the installations and also in the development and implementation of workforce training."

A. Yes, yes, I see it.

Q. And then after that he refers to Matt Coll, "Has been the project engineer for 12 months, reporting to Terry Moynihan, as project manager for hydro portion of the mine." And if we were to go back please Ms Basher to the first page of this chain, to see your response, which I said at the bottom of the page. You say, "Good day Peter." And you talk about the project in Saudi Arabia and just

while we're there, my learned friend Mr Haigh mentioned that you went back to Saudi Arabia when you finished with Pike, that's right, isn't it?

A. Yes.

Q. You were there before you went to Pike as well?

A. Yes, well, you know, it was a possibility I could go back to Saudi Arabia, yes.

Q. Yes, so you'd taken a break from that project to help at Pike?

A. Taking break? Well, no, I have to, you know, come work, you know, I cannot do idling any period in the year.

Q. You interrupted your Saudi Arabia project to work at Pike River?

A. Well, not quite, you know, the project of Saudi Arabia is not in a continuous, whenever, you know, important comes up, then that's the time, you know, I go down to it.

Q. You go back, all right?

A. Yes.

Q. And if you look at the top of that page Mr Nishioka, you'll see that other email from Peter Whittall to you, and if you look down three lines, "Just to clarify," he says, "we're not in full production yet, due to commence hydro in September. That is why I am very interested in your interest and availability to become involved again with Pike River. I would value your input into our initial operations. The knowledge you could share with my team and workforce and your experience and looking at the system as it gets up and running and goes through its ramp up." See those words there?

A. Mhm, yes.

Q. And if we just for the record, Your Honour, produce emails 10, 11 and 12 as exhibits 40, 41 and –

1500

THE COMMISSION ADDRESSES MR RADICH – ONE COMPOSITE EXHIBIT

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. And if we could produce a little out of order but I'm sure that's fine email number 7 as exhibit 43 please sir. I missed that one out it appears.

EXHIBIT 40 PRODUCED – SERIES OF EMAILS

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. And if we can go to email number 13 which is an email from you Mr Nishioka, here it is now to Peter Whittall of 30 June 2010?

A. Mhm.

Q. And you're responding to the email we just looked at. You see you say, "How soon you want me at the mine site?"

A. Mhm.

Q. And in the last line effectively you say, "Once the schedule is fixed I will talk to our management and make myself available for Pike."

A. Yes.

Q. Now following on from that, if we could go to email 14 Ms Basher please. This is an email series between you and Mr Whittall again and do you see the email in the middle of that page from Peter Whittall to you?

A. Mhm.

Q. Second paragraph talking about a final operational risk assessment in the hydro-system.

A. Mmm.

Q. And he'd like you to be there for that?

A. Yes.

Q. And you've replied at the top of that page attaching a quotation haven't you? Do you see that, for three months' work?

A. Mhm.

Q. And we'll go to that now because you indicated in evidence this morning that there was no written arrangement for your time and this is number 15, oh it's the final page in fact. Yes, there it is there. Now do you recall having a look at this now that in fact you had put something in writing Mr Nishioka to describe the nature of your work at Pike?

A. Yes, yes I do.

Q. And so this describes the services do you see under the heading, "Consulting work for hydraulic mining."

A. Yes.

Q. So that was your job wasn't it?

A. Yes for three months yes.

Q. And the term commencing Monday 26 July, "For up to three months," that's the words you've used?

A. Yes, yes.

Q. And your consultant's fee is $1800 a day? That's quite a generous rate Mr Nishioka isn't it really?

A. Pardon?

Q. It's a generous fee?

A. Well yeah you know, we obliged to pay 30% in New Zealand income tax.

THE COMMISSION ADDRESSES MR RADICH – RELEVANCE

LEGAL DISCUSSION (15:03:58)

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Now if we go please Ms Basher to email number 16 now and just to show that those terms were accepted, you'd agree with that Mr Nishioka, those terms of your engagement for up to three months were accepted by Mr Whittall and that's there at the top of the page, do you see?

A. Yes.

Q. "That's acceptable to me."

A. Yes.

Q. Now the up to three months arrangement would've meant wouldn't it that your term at Pike would've ended on the 26th of October in that year, is that right?

A. Yes.

Q. And in fact you left Pike River on the 20th of October didn't you?

A. Yes.

1505

1505 LR

Q. And we've looked at this but I just want to it again for a moment. This is email number 17 Ms Basher, this is the email you sent as you were leaving. It's there on the system now and you'll see at the bottom of that page, the email at the bottom. This is, would you agree with me Mr Nishioka a very polite email

thanking Mr Whittall. You say, “For your kind arrangement for me to be involved in the exciting commissioning?”

A. Yes.

Q. And you say at the end of it, don’t you, “If there's anything I can do to assist you further, please don’t hesitate to contact me?”

A. Yeah, it’s polite way to send a solution letter to Peter Whittall.

Q. Mr Nishioka, they’re hardly the words, are they, of someone who would be concerned about the safety of the mine. Would you agree with that?

A. Sorry?

Q. They’re not the words of someone who has left the mine because they’re concerned about safety, are they?

A. Well I gave Peter Whittall as well as Doug White, you know, all potential risk of Pike River when I was at the mine site and I really didn't have to repeat you know that thing over and over again in this solution type, you know, email.

Q. Well Mr Nishioka you were the consultant on hydromining, weren't you, at the mine site?

A. Yes.

Q. And this is the email saying I'm going, it’s the only thing you've written down to the company about your leaving, isn't it?

A. Mhm, yes.

Q. And there's no mention here at all?

A. Well not all concerns were already mentioned during my stay at Pike River Mine site.

Q. And you see at the top of the page there Mr Whittall is responding to you and he's thanking you in response, isn't he?

A. Yes.

Q. And then if we could go please to number 18 now Ms Basher. This is an email of 26 October 2010. At the top there it’s an email do you see from you to Peter Whittall and you're responding to Mr Whittall now and you say in the last paragraph, “If there is something urgent happens at Pike Project please let me know, I will try to re-organise my schedule. I will keep in touch.” You see that there?

A. Yes.

Q. So as Mr Haigh said to you and you've responded I think, you were prepared to come back?

A. Well depends you know again on what sort of improvement Pike River had made.

Q. You're being very willing here though, aren't you, you're saying that if please let me know if you need me again and I will re-organise my schedule?

A. Yes, if they really want me to be at the mine site, you know, I would consider to come back. I wouldn't refuse it but again, depending on what sort of improvement Pike River had made.

Q. Now you didn't anywhere, did you, in any of those emails, or any other written document concerns about the location of the panel for example, did you, the hydro panel?

A. Well I didn't write anything in this email regarding the location of the hydro panel.

Q. No.

A. That was already discussed in the meeting when I was at the mine site.

Q. I'm just asking you about your written communications at the moment?

A. No, nothing, nothing.

Q. Or methane levels?

A. No, nothing.

Q. Or production pressure?

A. No, nothing, nothing.

Q. None of those things, egress?

A. Nothing before I went to the mine site.

Q. Nothing about suitability of equipment there, is there?

A. No not at all.

Q. You could've phoned Mr Whittall, couldn't you, had you had ongoing concerns after you'd left, you had his phone numbers and details, didn't you?

A. No, I didn't have any communication with Peter Whittall?

Q. No. And do you recall that in September 2010 Steven Ellis, Steve Ellis, do you remember that name

A. Steve Ellis, yes, yes, he –

Q. He was starting at Pike River as the production manager, do you remember that?

A. Yes, yes I do.

1510

Q. And you didn't have anything in writing to him about any of these concerns, did you?

A. Nothing, no.

Q. And you didn't talk to any of the Pike board members, did you? You didn't have communications with them?

A. Well I didn't have any communication with Pike board.

Q. Now, Mr Nishioka, in your brief of evidence, if I could ask you please to go to that, and have a look – and I wonder if this can be put up Ms Basher at paragraph 45?

WITNESS REFERRED TO BRIEF OF EVIDENCE

Q. First Mr Nishioka, did you sign this brief of evidence?

A. I think I did.

Q. You did, yes?

A. Yes.

Q. And you said in paragraph 45 of the evidence that you filed in this Commission, "When I arrived at Pike River in July 2010 I told Doug White I would not send anybody underground." Now, you didn't mention Peter Whittall at all in your signed statement at that time, did you?

A. Well, yeah, I didn't mention Peter Whittall's name in this 45.

Q. And you've indicated for the very first time in your evidence to this Commission that you told Peter Whittall something –

A. Yes, yes, I did.

Q. And you say, don't you, that that was the day you arrived?

A. Yes, yes.

Q. Now, Mr Nishioka, Mr Whittall, if you'll accept it from me, was in London from 23 July to 4 August. He wasn't there when you arrived. So you may well be mistaken about that?

A. 23, I met him in his office. I don't really remember the date, but –

Q. Mr Nishioka you've said to my learned friend that it was the first day of your arrival before you went down to the mine that you told Peter Whittall about your concerns?

A. Well, probably not that date may've been all wrong, but I don't really remember when we had a talk with Peter Whittall in his office. That could be one week later, or I don't remember.

Q. No.

A. But we had a talk in Peter Whittall's office, myself, Doug White and Peter Whittall, you know.

Q. Well, you're mistaken in your evidence, aren't you that it was the first day?

A. Could be, could be.

Q. And if you have a look please at the notes, and I wonder Ms Basher if we can go to document NISH0002/1, if that is /6? These are your notes Mr Nishioka.

WITNESS REFERRED TO DOCUMENT NISH0002/6

Q. Do you see there under the "4 August" entry at, "Number 4, meeting with Peter Whittall and Jerry at 3.30 pm." Do you see that there? 4 August –

A. I have, yes, yes, I see it.

Q. So it wasn't that meeting was it, because that's not including Mr White?

A. Well, that was a meeting we discussed about a long time planning and when or how we were going to make, you know, second means of egress, you know, probably that is the meeting, you know, we got together.

Q. Well, Mr Whittall would say that at that meeting, you were wanting to raise concerns about your expenses, do you remember doing that?

A. Expenses?

Q. Your disbursements, hotel bills?

A. Yes, probably, you know, they were organising, you know, accommodation for me, yeah. I don't know which, Jerry, Jerry –

1515

Q. And the next meeting noted with Peter Whittall in your notes Mr Nishioka, if we can Ms Basher please go to page 27 of the notes and this just as it comes, 4 October and down the bottom there, if you look please at item 6 and item 7, so the second sentence of item 6, "Mike Scott is going to prepare automatic shut-off system of the monitor pump and interacting with methane detector."

A. Mhm.

Q. And then number 7, “Discussion and explanation of the status,” to Peter Whittall, now that must be a reference when you say, “Status,” to the points you make in number six, would that be right?

A. Holding bay number six, this automatic shut-off system?

Q. Yes, that would be right wouldn't it?

A. This was the last time I saw Mr Whittall.

Q. This was the last time you saw him?

A. Yes, that was the time when he came into my office and asked me how the, you know, underground operation was going and this is the time I gave him really strong word. Of course he was not surprised but you know, I told him you know, this mine wouldn't cope because such and such you know, reasons.

Q. So you say do you that this was the meeting, this was your last meeting with Mr Whittall?

A. Yes, that correct.

Q. Well I wonder if we could go now please Ms Basher to page 33 of the notes and look at the 12 October entry please number 4. Is that just to be clear you say there, “Meeting with Peter, Doug on production schedule for next three years.”

A. Mhm.

Q. That’s Peter Whittall again isn't it?

A. Well that’s Peter – sorry you know, this is Pieter, what’s his name?

Q. Van Rooyen?

A. Yeah that told me big guy, Pieter...?

Q. Van Rooyen?

A. Van Rooyen, yeah.

Q. Yes, do you say that you're referring to Pieter van Rooyen here?

A. Yeah that’s right, that’s right. It’s not Peter Whittall.

Q. All right. Now Mr Whittall will deny very strongly indeed that you made any comment to him at any time about safety concerns in the mine or safety of the men in the mine. He will say and I'd just like your comment that you did talk to him –

A. Yes I did.

Q. That you raised issues about the ventilation system?

A. Yes, yes I did. I strongly talk to him.

Q. And I'm instructed that Mr Whittall would say that the matters you raised with him were general operational issues, for example, you thought the system was over designed?

A. No I don't think I did in over design. What it mean, "Over designed."

Q. That it was too big, that there was the pump –

A. Well assuming I told him the size of the guzzler and the truck mounted monitor but that was in really (inaudible 15:18:54). I didn't talk to Peter in the meeting because that was designed by Peter, so you know, nobody scared of talking about you know the size of that face equipment and I didn't talk to this you know, size of this equipment to Peter, no I didn't that is really a minor issue.

Q. And instructed that the comment was that you were concerned at an operational level about certain matters but you didn't ever say this is a safety issue. That might be the case mightn't it?

A. Well this has over the face equipment is a safety issue, is that what you are saying or what?

Q. That you are talking about the size of the equipment?

A. Mhm.

Q. The fact there were too many pumps, there were two pumps weren't there?

1520

A. Probably I told him you know, the system, the number of pumps are too many but before talking about that pumping system, our main subject was ventilation and I told him to get a lot of ventilation system ready to go and he, I told him okay, start his fan and I go the trouble on that, or dealing with a course of main fan commissioning and he said, Peter said, that surface fan got trouble, you know. Two times before, and this was the third time, got trouble, you know, that is what Peter Whittall told me.

Q. And that your concerns about the fan weren't such as to cause him concern about safety, you didn't mention safety?

A. Well Peter more than 10, 20 years, you know, experience in coalmining and if I raised a concern in the ventilation and the amount of methane gas having up

to mining face. He should automatically know what is you know, involved in this operation.

Q. So I think that the point you make there Mr Nishioka is a point that you made in evidence this morning. Where you said that Mr Whittall and Mr White, they should have known, they should have known as a result your ventilation comments that there were concerns. That's the position, isn't it?

A. What do you mean exactly, you know?

Q. You indicated, you made some comments about the ventilation system?

A. Mhm, yes.

Q. You believed that they should therefore have known of the safety concerns that you're talking about?

A. Yes, yes, they should know.

Q. Did you ever go the company's health and safety manager Neville Rockhouse with any of your concerns?

A. Rockhouse, no, I don't know him very well.

Q. Now I just want to talk about the members of the hydro team and the contractors so we can understand the group.

A. Mhm.

Q. So the hydro team was run by Terry Moynihan. Is that right?

A. Mhm, well I don't know, you know, really if he was in charge of monitor face.

Q. You were reporting to him, really, weren't you?

A. Yes, yes.

Q. You were dealing with him directly?

A. Yes, yes, I do.

Q. And he reported to Doug White?

A. Mhm, yes.

Q. Matt Coll was the, was involved, he was an external consultant, wasn't he?

A. Well he was contactor, I think, yes.

Q. And he'd had experience at Spring Creek, hadn't he, and hydromining?

A. Yes, he has some experience at Spring Creek, yes.

1523

Q. Pieter van Rooyen?

A. Pieter van Rooyen, I don't think he was involved in that hydro-monitor operation.

Q. Well he was the technical services manager, wasn't he?

A. Well, yeah, it says, yes.

Q. And do you understand that he was responsible for designing the hydro-panel?

A. Well, I was not quite sure, because his concerns were always, you know, tonnage of shipment, and – of course, and he came to me to ask how to operate, you know, monitor face or such other things but I don't really know actually what was in his role.

Q. Nick Gribble, the engineering manager, do you remember Mr Gribble?

A. Nick Gribble. He was electrical engineer, was he?

Q. Yes.

A. Nick, yeah, yeah, I know him, yes.

Q. He was on the hydro team, wasn't he?

A. I don't think he was. He was in charge of electrical part.

Q. Well, if evidence came from others that he was the engineering manager and involved in that team, you'd accept that, wouldn't you?

A. You mean, Terry?

Q. No, this is Nick Gribble.

A. Nick. I think Nick, who was in charge of electrical, you know, part. I don't, probably he was involved in monitor feed pump control system, you know, modification or, you know, installation.

THE COMMISSION ADDRESSES MR RADICH

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. So, if we can just talk Mr Nishioka, about the hydro team, the people at Pike River who were involved in some way with hydromining?

A. Well, I don't really know how we could at Pike River is hydromining in a coal mine. In that time, you know, everybody is, one of the crew of, you know, hydromining operation.

1526

A. So if you make it of (inaudible 15:26:15) or like monitor face operator of commissioning crew of monitor feeder pump or installation team of monitor feeder pump system or crew who didn't set up monitor face equipment, you know, then I can say wasn't involved in that, you know, team.

Q. So what I'm looking to ask you Mr Nishioka is the people who were employed by the company and who were contracted to the company to provide specialist input into the hydro monitor operations, its design?

A. Design?

Q. And operation?

A. I don't know who was involved in this, you know, designing work.

Q. So I'm just going to mention some names and you can just comment as you see fit. Is that all right?

A. Yeah, okay, yes, sure.

Q. So do you remember a gentleman called Chad Hinsick?

A. Yeah, Chad who is mechanical engineer?

Q. Yes.

A. Yes.

Q. And he had involvement at Pike River, didn't he, in this sense?

A. Yes, I think he did.

Q. And Mike Scott, is that name familiar to you?

A. Mike Scott is contractor and he's speciality is (inaudible 15:27:39)

Q. And he's an engineer?

A. I don't know if he was an engineer or a technician or I don't know, or what sort of degree he has.

Q. And Dani du Preez who is a monitoring engineer at Pike?

A. Dani?

Q. Yes, D-A-N-I, Dani?

A. I think Dani was in charge you know instrumentation, setting, adjusting the setting point of sensor, setting up the sensor pressure to kick out the monitor feed pump or but you know, instrumentation side.

Q. Yes.

A. He was in charge.

Q. On the monitor?

A. Well not on the monitor but in a monitor feeder pump system?

Q. Pump, I see thank you. Len Marklander who was an engineer?

A. Len was contractor and he was doing some construction work for underground water sampler or you know putting in concrete in a overcast or he was contracted in that work.

Q. Andy Sanders from Colmech. You remember Andy?

A. Yes, Andy was in charge of instrumentation side and was in commissioning how to power, you know initial stage of the equipment.

1529

Q. And Michael Donaldson from Colmech?

A. Michael?

Q. Michael Donaldson, is that name familiar to you?

A. No.

Q. No, all right. John Heads?

A. John Heads?

Q. Coilmech?

A. I guess he was electrician.

Q. Yes.

A. Is he?

Q. Coilmech is an Australian engineering company isn't it, is that right?

A. Oh I don't really know that company.

Q. And you're aware that a company called KSB was involved as well?

A. Yes KSB is high pressure pump manufacturer

Q. Yes and people from that organisation were providing assistance onsite weren't they?'

A. Yes, they gave us information on the pumps.

COMMISSION ADJOURNS: 3.30 PM

COMMISSION RESUMES: 3.47 PM

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Mr Nishioka, we were talking about some of the external consultants who had been involved and assisting with the development of the hydro system at Pike River, and we'd spoken about KSB. Another, do you recognise the name Switchbuild Limited?

A. Sorry, say that again please?

Q. Switchbuild.

A. Switchbuild. I don't know that name.

Q. A Paul Farrelly from that company?

A. Who?

Q. Paul Farrelly.

A. Paul Farrelly? With which company?

Q. Switchbuild.

A. I don't know his name.

Q. Grey Brothers Engineering?

A. Yes, I do, yes, I do.

Q. iPower Solutions?

A. I heard, know that name, but I don't know anybody here with iPower Solutions.

Q. Jens Hagerott. Does that name ring a bell?

A. Sorry?

Q. Jens Hagerott?

A. Jens, no I don't know that name.

Q. All right, okay. And there were some parties that were engaged to advise on the design and supply of hydro equipment. Do you recognise the name Bilfinger Berger Limited?

A. Yes, they sent me so many emails, yes, I didn't answer. I didn't give any answer.

Q. And they were involved in the design of hydro equipment for Pike in 2009, weren't they?

A. I think, you know, they did.

Q. And Flowserve Australia Pty Ltd, gave advice on valves, was that a company?

A. No, I don't know that company.
Q. Slurry Systems International?
A. I may have heard that name.
Q. They were involved in a peer review of your coal slurry transport design?
A. Okay, so probably that is – I forgot his name, but, yeah, probably I know him.

1550

Q. And you'd be familiar with Waratah Engineering?
A. Waratah, yeah that's a company supplied a guzzler and roadheaders.
Q. Yes, and that design work was carried out in 2008 for the guzzler, do you recall that?
A. Well I don't know, I was not involved in that design work.
Q. And a company called Rockwell Automation was working on the monitor pumps in 2009, are you aware of that?
A. No I don't know that company.
Q. Now on the ventilation system, are you aware that Pike River Coal engaged Flakt Woods' fans in Australia? Flakt Wood fans?
A. No, I don't know that company at all.
Q. Have you heard of that company before, Flakt Wood fans?
A. No I haven't.
Q. They designed and manufactured and installed the underground fan system?
A. Oh I didn't know that.
Q. You're not familiar with that. You're not familiar with Ian Miller their business engineering manager who did that work?
A. No I don't know him.
Q. Phil Mitchell of Minarco Asia Pacific?
A. No, I don't know him.
Q. Know him?
A. No.
Q. Provided a report on the ventilation and gas design, you didn't see that?
A. No I didn't see it at all.
Q. Does the name Minarco Asia Pty Ltd, is that a name that's familiar to you?
A. Minarco?
Q. Minarco, yes.

A. Yes I do, I know that company.

Q. You were involved with them from time to time I think weren't you?

A. Yes initial stage, yes.

Q. And you'd agree that they are a significant company involved in designing ventilation systems for coal mines the world over?

A. I don’t know what sort of work they were doing, I don’t know.

Q. And are you aware of Andrew Self of Australian Coalmining Consultants Limited?

A. Andrew?

Q. Self. S-E-L-F.

A. No I don’t know him.

Q. Who reviewed the ventilation work, you didn't come across that?

A. No I didn't.

Q. Jim Rennie, of J Rennie Ventilation Limited?

A. No I don’t know that name.

Q. Who advised on the fan design, that’s not familiar to you?

A. No I don’t know.

Q. John Rowlands at Dallas Mining Services Pty Ltd?

A. No I don’t know that name.

Q. Is a ventilation consultant on an ongoing basis?

A. No I don’t know.

1553

Q. I just want to cover off some aspects of your brief of evidence. Do you have it in front of you Mr Nishioka, the brief you filed in the commission?

A. Yes I do.

Q. Now at paragraph 22 I don't think we necessarily need to put it up on the screen but at paragraph 22 you make a range of comments about the high pressure water generating system?

A. Twenty-two.

Q. Twenty-two.

A. Yeah, okay.

Q. Now are you aware of the fact that that system at Pike was designed by Bilfinger Berger?

A. I think you know they did.

Q. And it was their advice to use two monitor feed pumps instead of one larger one, are you aware of that?

A. Well I aware you know they decided to split it in a one big pump into two units.

Q. And you'd agree, wouldn't you, that Bilfinger Berger is an international company that's qualified to make that kind of design assessment?

A. Well I don't think they have any experience in hydromining system.

Q. Well if there was contrary information available would you be willing to concede that they had been involved –

THE COMMISSION ADDRESSES COUNSEL

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. The high pressure water generation system is not a safety issue, is it?

A. Well yes it's a safety issue because high pressure is involved and we have to keep enough safety factor in the system.

Q. It wasn't a factor that you were concerned about at the mine though in a safety sense, was it?

A. Well you know that safety issue is less than the safety issue of methane gas and when we started you know commissioned that high pressure pumping system, that system was not capable to put up you know full capacity which means pressure was much lower than they designed. So the chance of risk was not so high.

Q. These are design issues that you're concerned about here, aren't they, under this hearing?

A. Yes I wanted to check it out, yes.

1556

Q. In paragraph 38 of your evidence, you say that if the goaf is hanging more than 30 metres there is a risk of a sudden massive cave-in?

A. Mhm.

Q. You'd be aware of course and I think you've accepted that of course goaf collapses are inevitable?

A. That's correct, unless we put enough in a safety pillar.

Q. And would you agree that longwall mining can produce faces of up to 400 metres in length?

A. Yes these days the face is getting wider and wider, yes, that's correct.

Q. And there's always going to be a methane pocket in a sealed goaf, isn't there, once you've sealed it up?

A. In longwall mining?

Q. In any, with any goaf?

A. Any mining, yes, after finishing of coal extraction we put up sealing very quickly.

Q. And during the lifetime of a coal mine you would expect there to be a number of sealed goafs underground?

A. That is correct.

Q. Some mines up to 30?

A. Yeah, it could be 40, could be 50.

Q. Now you are aware, aren't you, the hydro panel used at Pike was approved in terms of subsidence impact by the Department of Conservation, by DOC?

A. Mhm.

Q. Yes?

A. Sorry?

Q. You're aware that the hydro panel used by Pike was approved by the Department of Conservation?

A. Approved by DOC?

Q. Yes.

A. I think that was approved by DOC that's why they started, you know, mining operation. But what I was informed as if they fail in the first monitor extraction panel which means if they had subsidence on the surface after monitor extraction DOC may have stop Pike River operation. That is what I was told.

Q. Yes but it was approved as a suitable location in the first place, wasn't it?

A. Well I think DOC thought that were the location very suited for hydromining extraction.

Q. Now I just want to go your diary entries again and I wonder Ms Basher if we could have the diary entries NISH0002 at page 23?

WITNESS REFERRED TO DOCUMENT NISH00002

Q. And there was comment made in your evidence in relation to number 2 and the third bullet point and it's talking about methane indicators. I just want to be clear on the methane sensor arrangement at the hydro panel?

A. Mhm.

1600

Q. So would you agree with me that there was one methane sensor in the hydro-panel that could be read from the guzzler?

A. Yes, are you talking about should we have more methane sensor, or?

Q. I'm just wanting to understand with you the sensors that were in the panel.

A. Yes, there was one methane sensor in the return airway, yes.

Q. And that was read by the guzzler operator?

A. Yes, that's correct.

Q. And there was another sensor in the hydro-panel bleeder road and that had a display, didn't it, near the dilution doors?

A. I don't know that part, you know, what I know is we had methane sensor in this location.

Q. Yes, so you're indicating the –

A. Yeah, this methane sensor.

Q. But I'm just asking you, you were aware that there was a second sensor in the hydro bleeder road that had a –

A. I didn't bleed – which one you're talk –

Q. Yes, the return panel. There were two monitors that were operating?

A. Mhm, one is here and the other one is –

Q. Yes.

A. Where?

Q. Well, that's what I'm just trying to be clear with you. Are you saying that there was just one?

A. This one, the methane sensor in here and the other on the guzzler.

Q. On the guzzler, yes, I see, yes, all right, thank you. Now, in paragraph 59 of your evidence, you make the point, don't you, to use your words that "adequate ventilation volume was getting to the guzzler area, at least towards the end of the time that I was working there."

A. Yes. That is correct.

Q. And that would've been improved materially when the main fan was commissioned soon after you left, wouldn't it?

A. Yes, when the main fan was running, you know, we were getting a higher volume ventilation.

Q. Yes, but the main fan, the new main fan that was commissioned after you left, would have improved matters further?

A. Well, I don't know if they install, you know, second main fan, but if second fan was commissioned, they must have been getting, you know, more airflow at the face.

Q. Yes. And you've given some evidence about the fan at the top of the shaft having some issues and being faulty, correct?

A. Yes, that fan was not too well built.

Q. And you understand that there was a component fault there that was ultimately replaced by the manufacturer?

A. Well, I don't know who did, you know, that repair work, but obvious, you know, they fixed that fan three times.

Q. Yes, but the component was replaced in the end, or do you have no personal knowledge of that?

A. I don't have any idea, you know.

Q. Now, you talked about in paragraph 61 of your evidence, about everybody being reluctant to introduce the sort of sensor that you were wanting, and I think you gave evidence to my learned friend Mr Mount, that you weren't sure how much they cost, is that right?

A. Well, I don't know, you know, how much that sensor would cost, but everybody said, you know, that would be expensive.

Q. If I was to say to you that it was around five to $6000, would that be roughly in line with what you might think?

A. I don't have any idea regarding that cost.

Q. And that had the right people been asked, it simply wouldn't have been an issue to provide it?

A. Well, I don't know what our deputy told to, you know, management people, but…

Q. So you asked a deputy, didn't you?

A. Yes, I talked to deputy and –

Q. No one else?

A. No, no. Well, all the other guys are all, you know, miners and operators.

Q. You've spoken in paragraph 78 about production bonuses, do you understand that the bonus that we are talking about related to the start-up of the hydro-panel. It was relating to achieving start-up and consistent operation? Yes?

A. Mhm, yes.

Q. In a way it was meant to mark the fact that there had been an achievement. Would you agree with that?

A. Sorry, could you repeat it?

1605

Q. On the basis that creating goodwill amongst the miners to mark the fact that hydro-production had started.

A. I think you know, that bonus system encouraged all the workers to produce more coal.

Q. Yes that's fair enough too. Now you had no involvement or knowledge of the financial operation of Pike River Coal did you?

A. No I was not involved in their financial part of the project.

Q. Because you said in your evidence yesterday, you said, "I don't think the company could spend any money, I think it was running out of money."

A. Yes.

Q. Do you remember saying that?

A. Yes, I did.

Q. Well you'd agree that you'd have no personal knowledge do you of a company's financial position?

A. But I was always reading the report which issued by Pike River and so I was reading the news coming out in the paper talk, I knew you know the finance was getting really tight in Pike River operation.

Q. Well do you understand that the mine itself was never short of money? Every month many millions of dollars were spent on mine development and equipment?

A. Yes, yes.

Q. And that the cash stocks of the company that did that were raised not just through selling coal were they?

A. That's right, that's correct, you know, they made only one or two shipments only.

Q. They were raised do you know over the years by financing debt and equity investments?

A. Yes, they were trying to raise more money, yes.

Q. And many hundreds of millions of dollars were raised over the course of the development of the mine project?

A. Yes, that is correct.

Q. And that there was a capital raising of $70 million that was underway at the time of the explosion?

A. Yes I know that on the paper.

Q. Now you've indicated that people wanted to avoid management, that they were concerned about reporting things to management?

A. Yes.

Q. And my learned friend Mr Haigh asked you a question about incident reports and I just wanted to be clear about the answer. Are you familiar with the fact that employees of the mine would fill out incident reports that reported on any matters that concerned them?

A. No I didn't know that system.

Q. You didn't know that?

A. No, I didn't.

CROSS-EXAMINATION: MR NICHOLSON – NIL

MS McDONALD:

Sir I just wonder there is one matter I've been reflecting on. Mr Radich put to this witness that DOC had approved, grants approval. That's just not correct. I don't believe this witness will be able to assist us.

THE COMMISSION:

I know, I think we well remember the evidence. We heard direct evidence from, can't think of his title now but he was the officer of DOC, a young man who had a monitoring position in relation to the mine who gave his chapter and verse in July about what occurred. I don't know what -

MS McDONALD:

Well we're having –

THE COMMISSION:

Mr Radich meant by the word "approved", but it was an approval in the context of the arrangements which DOC had which were all to do with surface of signs and nothing to do with the -

MS McDONALD:

And testing, yes.

THE COMMISSION:

Yes.

MS McDONALD:

Yes, thank you.

RE-EXAMINATION: MR MOUNT

Q. Mr Nishioka, you were asked some questions about your work record. Can you just clarify for us whether you made those entries day by day while you were at the mine?

A. Yes I did.

Q. Did you make those entries in English on your computer or in Japanese?

A. You mean this work record?

Q. Yes.

A. Yeah, I made it in English, yes.

Q. So the version we have is the original version?

A. Yes that is correct.

Q. A moment ago you were asked about the reporting to health and safety incidents and from your experience in other mines, what do you consider is the best system to make sure that health and safety incidents are reported within a mine?

1610

A. Well usually you know all safety concerns were raised by workers and it goes to general foreman which is in New Zealand and deputy, I believe and the deputy will report say assistant mine manager or general foreman then that issue goes to the safety meeting.

Q. From a culture or a management perspective is that anything that you think is important for a mine to do in relation to safety reports?

A. Well I think they should establish clear organisation how that concern will go up to the management or in a safety meeting and also we should make system to make sure what sort of action was taken.

Q. To make sure they're followed up?

A. That's right, that is correct.

Q. Do you remember being shown an email from Mr White after you left Pike River which we have as exhibit 37, where he was asking about operating the hydro monitor at 170 bar rather than 150 bar?

A. Mhm.

Q. I just want to make sure we understand what that issue was?

A. Mhm.

Q. 150 bar, that's a pressure measure?

A. Is that correct.

Q. So was Pike wanting to run the hydro monitor at a higher pressure than the rated pressure for the monitor?

A. That is correct because a high pressure pump system was designed, higher pressure than 150.

Q. It was designed for 150 bar?

A. No, higher than that.

Q. Higher than that, right. What was it designed for?

A. So –

Q. Sorry, did you say no higher than 150, so a maximum of 150, is that what you're saying?

A. Yes, the system supposed to be designed to give maximum pressure 150 at the monitor but that high pressure generating system was designed to put out higher pressure than that 150.

Q. What I want to understand is the comment that you made that if you wished to run the monitor at 150 bar, please do it at your own risk but not recommended. Can you just explain what you meant by that?

A. Well you know, that monitor system is rated at you know 150 and if somebody wants to go up you know higher well that should be done by their own risk and we are the supplier of that equipment, we cannot say operation can go up higher than 150.

Q. You were asked a number of questions about the comments you told us that you made to Peter Whittall and Doug White about the safety issues?

A. Mhm.

Q. I just want to ask you without going all the way back over all of that evidence. How are sure are you about the fact that you did make the comments that you've told us about?

A. Yes, that was for sure we, well you know, when I made that statement so many times, you know, strongly to Peter Whittall as well as Doug White.

Q. We've heard some possible confusion about the dates. Is it possible that you may have the dates wrong, do you think?

A. Well if a date, based on my work record, the date is quite you know accurate but if you know the date came my memory and all, it may not be so accurate. But you know, I gave that date to with my best known knowledge and the memory.

1615

QUESTIONS FROM COMMISSIONER HENRY:

Q. Mr Nishioka sir, I have two questions. The first question, shifts. When you were working at the mine on the panel, were you working – was the panel operating 24 hours a day?

A. Well initial stage that monitor face was not running for 24 hours per day because system was not ready and the system was down and monitor crew was not yet organised to operate three shifts per day.

Q. So was there just one shift per day when you were there?

A. Yes initial stage yes, that is correct.

Q. And was it still one shift per day when you left?

A. Well when I left to the mine site they were lining up to three shifts per day.

Q. Were you comfortable with three shifts per day

A. Yes as long as you know, they were getting enough ventilation when at the face and methane density level was low enough, yes I was comfortable to run 24 hours per day.

Q. Second question, in your 40 years have you any idea how many mines you have been down?

A. What do you mean by, “Down.”

Q. Gone underground?

A. Underground?

Q. Yes.

A. Including not just visiting the mine?

Q. Yes.

A. What I say?

Q. Approximately, are we talking many, many mines or...?

A. Yeah, many mines, say 50.

Q. Say 50.

A. Or could be 60, I don’t really remember you know, the numbers.

Q. And have you – you've told us that you were very uncomfortable at Pike River? You were concerned?

A. Yes, yes I was very uncomfortable.

Q. Have you had that same feeling in any other mine?

A. Well yes when I went down to Chinese hydraulic mine the gas level was always up above you know, 2% which is the methane level which should evacuate out of the mine so I didn't feel very comfortable, but that was just a short visit so obviously I couldn’t jump out of the mine so after finish all the investigation in that mine I came out and I’m still alive.

Q. In relation to mines that you have worked down, have you felt uncomfortable in the same way as at Pike River?

A. Well in case of Pike River still no ventilation was not quite completed and gas emission level was quite high and well if it's construction stage, they may not, not much ventilation air but once you know, we get into a coal production, they sure will need more ventilation air to keep methane level lower. That's when I didn't feel very comfortable because ventilation fan and the ventilation system was nothing functioning you know, very well.

QUESTIONS FROM COMMISSIONER BELL:

Q. Mr Nishioka, I've got a few questions as well. Do you think a bonus system is a good way to encourage safety in a coal mine?

A. I don't think that it was a way to improving of safety concerns. I mean safety consciousness and every time what we have to be careful is, whilst we introduce bonus system, people tends to forget you know, safety concern and they just want to push you know, tonnage. That is very risky.

Q. And do you think a tube-bundle system bundle system to monitor gas would have been of benefit at Pike in terms of monitoring methane?

A. Yes that is one of the method to monitoring a methane level, yes, it's nice to have.

Q. And it wouldn't have mattered with a tube-bundle system if the power had gone off because they're powered from the surface aren't they?

A. Yes you know, they should get in a power supply, whatever happens underground.

1620

Q. How many main fans were underground? There was just the one main big fan underground and another one proposed, is that correct?

A. Yes, drawing or the planning shows two fans underground, but actually no, I think only one fan was installed underground.

Q. And in all these mines that you visited, as you alluded to Commissioner Henry, how many of those mines had an underground main fan?

A. None of them.

Q. I'm just wondering, Mr Radich went through a whole list of correspondence, emails with, from yourself to Peter Whittall and others, were you paid by them for that at that time? Were you on contract?

A. No, I was not paid. Only the time I paid was when I prepared report.

QUESTIONS FROM THE COMMISSION:

Q. Mr Nishioka, you had an office at the mine?

A. Yes.

Q. Did you always work the daytime shift?

A. Yes. Basically, you know, only daytime, and sometimes I had to stay underground until, you know, 10.00 pm or 11.00 pm.

Q. How much time did you spend in your office and how much time did you spend underground?

A. I really haven't, you know, recorded it, but probably, you know, 50-50.

Q. Right. And when you were underground, and at the hydro-monitor face, what did you do?

A. Well, I was watching how monitor operator operate the water gun, which we got on a hydraulic monitor and if, you know, something happened, I gave them, you know, some advice, which way to cut, or, you know, once we get a rock at the face, you know, which side we should cut coal, and how to lift, you know, that big lump of, you know, rock to move.

Q. So, did you operate the monitor yourself?

A. No, I didn't.

Q. You just told me a moment ago that sometimes you would remain underground into the evening until, was it, 10 o'clock?

A. Yes, yes.

Q. Why would you do that?

A. Well, you know, when monitor feed pump system was not running very well, you know, I'm supposed to stay underground to solve, you know, that problem and when my face was getting trouble waiting for, you know, water supply, I should stay at, you know, at the face to see, you know, what was going on and if, you know, if there is any problem I was supposed to solve it before coming out of the mine.

Q. Finally, your witness statement, paragraph 45?

A. Yes.

Q. This is where you are talking about saying that you would not send anybody underground until the ventilation and the second egress were ready?

A. Yes, yes.

Q. Who were you talking about? Who would you not send underground? What men were you meaning?

A. Well, I wouldn't send any worker to underground for that risky, you know, set up of mining. It's just in general, you know, for coalmining practice.

Q. Right, were you referring to the hydro-monitor men that you were –

A. Well, not only hydro-monitor, but once we start hydro-monitoring, that will generate more methane and get, you know, underground environment more risky.

QUESTIONS ARISING – NIL

WITNESS EXCUSED

1625

MS BEATON CALLS

GEORGE ARTHUR MASON (SWORN)

Q. Can you confirm for us please that your full name is George Arthur Mason?

A. It is.

Q. You live here in Greymouth Mr Mason?

A. I do.

Q. And your current role is I think still with Pike River (in receivership). Is that right?

A. I still work for Pike River Coal (in receivership), yes.

Q. And you have prepared with the assistance of the Commission's investigator, a written statement dated the 31st of October of this year?

A. That's correct.

Q. I think you've got a copy in front of you. Is that right?

A. I do.

Q. Now rather than have you read that verbatim, Mr Mason, what I'm going to do is ask you a number of questions that perhaps arise from it and from time to time I'll refer you to parts of it because I'm aware that there are a couple of topics on which you want to add some additional information, okay, so that's how we're going to proceed. Perhaps if we can start at the beginning and to how it was that you came to arrive in Greymouth and commence at Pike River in the role of what I understand was hydro co-ordinator. Is that right?

A. That's correct.

Q. Now in your statement you've said that you saw an advertisement on the Internet?

A. That's correct.

Q. Was the position advertised as being specifically related to hydro or hydraulic mining?

A. No, not at that stage it was not. It was just a mining co-ordinator's role.

Q. When was it that you became aware that it was this particular type of extraction?

A. During the phone interview.

Q. Did you raise any concerns with the people in the phone interview, is it, you're talking about the first one I think, with Dick Knapp, is that right, or the second one?

A. The second one with Peter Whittall and Doug White.

Q. Right, now you knew Doug White. Is that correct?

A. That's correct.

Q. I think had you worked with him previously?

A. For a short time I had.

Q. Whereabouts was that, just so we're –

A. That was at a North Goonyella Mine, Queensland, Australia.

Q. How long ago would that have been?

A. 2009. That was one of the reasons I chose to apply to come here when I knew Doug was in charge, or manager of the mine, it gave me a confidence to apply.

Q. Had you had any contact with Doug White before you put in an application?

A. No I did not.

Q. So in the telephone interview you had with Mr White and Mr Whittall, was that when the concept of hydraulic or hydromining was raised with you?

A. That's correct.

Q. Did you have any concern about your acknowledged lack of experience or any knowledge of hydraulic mining systems?

A. Concern, obviously because I did not have any experience in that, I knew that it would be demanding but I felt confident that I could rise to that task.

Q. Do you mean demanding in the sense of you upskilling?

A. Exactly.

Q. Did you raise that with Mr Whittall and Mr White in that interview?

A. We spoke about that and I was given assurance that there were a number of people who would assist me in that up-skilling process.

Q. During that interview was it explained to you what the role of hydro co-ordinator would actually encompass?

A. Yes.

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Q. Can you explain to us what it was, what your understanding was?

A. That I was to become involved with the installation and in the commissioning of the hydromining machinery, to gain a more intimate knowledge of those bits of equipment and duly take over control of that part of the operation.

Q. When you say "control", do you mean in an operational sense or a management sense, or a combination of those.

A. I was to be responsible for the hydraulic mining process.

Q. You weren't going to be a miner yourself at the face, or operating the monitor though I take it?

A. That's correct. I was not to be an operator.

Q. You were obviously offered and accepted the position and I think you commenced at Pike River on the 23rd of August last year?

A. 2010, that's correct.

Q. You said in your written statement that there was no written job description for the position when you arrived on site?

A. Yeah, I don't recall any specific detail.

Q. Is that unusual in your experience not to have a written job description, or not?

A. No, it's not unusual.

Q. I think you said in your statement that when you first arrived you had to, there was a delay before you could have an induction?

A. As I best recall, yes. Waiting for a number of people to be put through the induction process at the same time.

Q. This was a standard induction, I take it. You've referred to it being a one-week induction?

A. That's correct.

Q. Were you underground before your induction had been completed, do you recall?

A. Yes, I was. I'd been underground with Doug when I came over with Doug White, when I came over for a onsite interview.

Q. That was part of the interviewing process that we haven't discussed already, is that you mean?

A. That's correct, yep.

Q. What about once you actually arrived and were working at Pike, had you been underground to the hydro-panel in particular prior to your induction?

A. I'm not quite sure on that. I could well have been, or well not have been.

Q. When did your training commence in relation to hydromining?

A. When I arrived, I was introduced to Oki and Matt Coll and other people who were going to be associated with the hydro-monitoring team and yeah, I started having relationship with those people and gleaning knowledge from them.

Q. Were you required to, or did you read any of the documents that Pike had, such as risk assessments or operating procedures that had been created and used prior to you arriving at the end of August?

A. I was given a memory stick, computer memory stick with some risk assessment material on it, yes.

Q. And did you look at that?

A. I did.

Q. Obviously by the time that you came onto site at Pike, things were well underway towards commissioning of the hydro-panel, or is that not correct? I don't want to put words into your mouth if it's wrong?

A. No, it's not correct.

Q. Okay.

A. It was in as much as there was machinery onsite for the process. The development of the panel was largely completed, but fully.

Q. You're talking about the roadways?

A. The roadways and the clip through that formed the panel that was to be extracted. There was no other services available to the panel at that time either.

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Q. So all of those steps that still had to be taken occurred obviously once you were onsite and were able to participate in those processes to the extent that you could?

A. Yeah, a lot of that work was done without my involvement in the early stages because obviously was still learning rather than participating in the organisation of those things.

Q. Did you observe what was going on though, or were you above ground at that point?

A. I was both above and below ground.

Q. When did you actually become in charge of the hydro-operation at Pike?

A. I guess I was in the position of hydro-co-ordinator from the outset but it was a gradual process and I felt there was no official handover date as such. I felt that I was largely in that role once Oki left site but there was still people there contributing to that process. Terry Moynihan, Matt Coll and other people onsite who were employed by the company itself, by Pike River Coal.

Q. And at paragraph 34 of your statement, you actually state, "At the commencement of hydromining I took charge of the operation. Matt Coll continued with the operation for several weeks. Masaoki Nishioka also known as Oki worked with me until about 20 October. Terry Moynihan would've dropped out as project manager about the time I took charge of the operation." Is that –

A. Yeah that's probably not entirely accurate. Terry was still there and largely involved with the planning for the process but yes, I can concur with that statement.

Q. As part of the commissioning process, when to your mind would you say the commissioning process of the hydro-panel took place?

A. In my mind it was still continuing even up until the 19th of November 2010. There was a lot of things that still had to be resolved for that to become a successful procedure.

Q. By that time though we know that there were four crews working on the hydro-panel? It was a 24/7 operation as I understand it?

A. That's correct, at that time it was.

Q. So production was the focus at that point, would you accept or not?

A. It was an important part of the operation but not the entire focus, no.

Q. So in your view commissioning was still continuing, there was things that still needed to be finalised and sorted out?

A. That's correct, with the operation of the machinery, the operation of the services that assisted hydromining and also with the planning around the sequencing of events within the panel.

Q. As the co-ordinator, what was your knowledge or understanding of when the underground fan was to be commissioned relative to the commissioning of the hydro-panel?

A. Sorry ma'am, could you repeat that?

Q. What was your knowledge or understanding of when, when you first arrived at Pike in late August, what was your knowledge or understanding of when the underground fan would be commissioned and begin to be the main fan, relative to the timing of the commencement of the hydro-panel?

A. I have no clear concept of the time factor between the two, but I know that all haste was being made to get both projects completed.

Q. At the same time?

A. As soon as possible.

Q. Was there discussion that you were aware of or participated in about having the underground fan fully commissioned before hydromining commenced or not?

A. The gentleman who gave evidence before me who I refer to as Oki had presented to me his concerns about hydromining activity prior to the commissioning of the new fan and I understood that to be his concern was the volume of air that was available with the existing ventilation system not being sufficient to service adequately all the other sections of the mine as well as the hydro panel.

1640

Q. What about members of the management team at Pike, what was your knowledge, if any, of their views on the ventilation prior to the commissioning of the underground fan?

A. I'm aware that there was diligence towards commissioning of or installation and commissioning of the new fan. Obviously the sooner that that was up and running the better things would be for all areas of the mine, not just hydro but all areas.

Q. Were you aware at any stage that the initial intention of Pike, as I understand it, was to get the fan underground up and running as the main fan before extraction began?

A. No, I'm not sure of that.

Q. And that that for various reasons and delays didn't occur? Did you know anything about that, or not?

A. I can't recall any.

Q. Given the concerns that Oki had passed onto you, that you've referred to, did you address those with Doug White, he was the person you reported to directly, wasn't he?

A. No, Doug was the manager of the mine. I reported to production manager –

Q. Steve Ellis?

A. Not initially, Steve didn't start until some two or three weeks after me. Bernie Lambley filled that position when I first started.

Q. Right, did you report to either Bernie Lambley I think it was probably after his time though, more particularly then to Steve Ellis about Oki's concerns or your own concerns about ventilation at the hydro panel?

A. No I did not, I did not. Whilst I considered Oki's comments I also understood that the, we had to go through a commissioning phase with the hydro machinery and that would extend out gradually over a period of time before we were in full production mode and even in, up until the time of the explosion we weren't really, you know, in a full production mode. Things were still very low in terms of productivity from that –

Q. So you're talking in terms of output of coal was low and wasn't at full expected production rates?

A. That's correct, and along with that comes your production of methane from the coal B line.

Q. I'm right though, aren't I, that for a period of some weeks prior to the explosion there had been a 24/7 operation in the hydro panel, conditions permitting?

A. Yes, that's correct.

Q. Four separate crews under your direct control. Is that the situation?

A. That's correct.

Q. Can you explain to us that what your actual tasks and responsibilities were as the hydro co-ordinator? Perhaps as at the morning of the 19th of November?

A. It's ensuring that the hydromining system is enabled to allow it to function in terms of all the resources that are required, manning, supplies, plans, all the

other services that are required to enable that area to function effectively and efficiently.

1645

Q. Now as I understand it, there was an ongoing process of assessments, meetings and so on regarding the commissioning of the hydro-panel and also the problems that Pike and your team were having in terms of extraction rates from pretty much from the time you arrived, this was an ongoing process?

A. No, a little after I arrived, after the start-up date of the monitoring – hydromining, sorry. Then there was a taskforce put together to address the problems that had evidenced themselves.

Q. Are these problems in relation to the amount of coal that was coming out of the panel?

A. Yes, ma'am.

Q. Did the problems also include the difficulties that were ongoing with ventilation and methane?

A. All of those.

Q. So not just a production focus as such, there were other issues which would be considered safety issues as well?

A. Obviously affect – well, they are and they also affect production.

Q. Yes. Now, I just want to ask you about the risk assessments that relate to the hydro-panel, and Oki Nishioka has talked to a couple of those in his evidence. The first two of them were, actually, well one of them I'm sorry, was before your arrival at Pike River, and that was a risk assessment relating to the start-up and operation of the monitor pump station. You obviously weren't a participant in that because you weren't at Pike at that stage, but – and you've seen it since, I know. Have you – was that one of the documents that you read on your arrival at Pike?

A. No, it was not.

Q. Why was that, do you know? Did you know it existed?

A. No.

Q. Just for the record, that's – we don't need to bring it up though, DAO.003.02372. Then there was a risk assessment Mr Mason in relation to the monitor pumps load testing which was held on the 30th of August 2010, so

you were there but you're not listed as a participant in the unsigned document. I know that you've seen it, I think, since then though, is that correct?

A. Yes.

Q. In your role, would you expect to be included in that kind of risk assessment?

A. Could you repeat the title of it please?

Q. I'm sorry, we can bring it up if you like, DAO.003.03175.

WITNESS REFERRED TO DOCUMENT DAO.003.03175

Q. And it's a technical risk assessment in relation to installation obviously and testing of the pumps and just so, to orientate you, if we perhaps show you page 3 of that document please Ms Basher, so you can have an idea of the tasks that were being assessed. Now appreciating that you had no prior hydro knowledge or experience, would participating in this type of risk assessment, even as an on-looker, be something do you think that would've been appropriate, or not?

A. Yes, it may have been appropriate, but not necessary for the risk assessment itself in the conduct of their risk assessment, but –

Q. No. Would it have assisted you in your role?

A. I've no doubt it would've.

Q. Did you know it was happening at the time?

A. Not that I can recall.

Q. I want to ask you now about a risk assessment – sorry?

A. I'll just carry on, that whole time is like a blur to me, you know, I'd come over from Australia. My family were still there. I was meeting so many new people. I was becoming acquainted with the mine itself, becoming acquainted with the machinery, directly involved with the hydraulic mining process as well as all the service machinery supplying services to the area.

Q. Yes. I want to ask you now please about a risk assessment in which you did participate. I'll bring it up in front of you on the screen. It's DAO.011.23424.

WITNESS REFERRED TO DOCUMENT DAO.011.23424

Q. And if we can have perhaps pages 1 and 2, side-by-side, can we do that please, thank you.

1650

Q. You see that there in front of you Mr Mason and it lists you as one of the participants on the second page there?

A. I do.

Q. And it's a risk assessment entitled, "Ventilation and gas monitoring," and if you look at the information in bullet points under the heading, "Scope," its intention is to look at the vent and ventilation structures in development in hydro-panels and the gas management requirements.

A. I see that.

Q. And do you recall participating in this particular risk assessment?

A. Not fully no.

Q. Have you seen the document since? We can see that it's unsigned, this particular version and I'm not sure whether it was ultimately signed off or not, but the document that's been provided to us is this one here. Can you recall signing it?

A. I don't have a clear recollection of that, no.

Q. Have you had the opportunity to look at this particular one recently?

A. I have opportunity, I've had some information provided to me but I just need to see it again.

Q. Okay, well perhaps if we can show you page 3.

A. Yes that helps me thank you.

Q. Just the issue of dilution doors, I know you've been present in Court during Mr Nishioka's evidence and there's been discussion and questioning about dilution doors – perhaps before we address the risk assessment specifically, are dilution doors a concept that was familiar to you prior to coming to Pike River?

A. No they are not.

Q. What then when you participated in this risk assessment and we're talking September of last year was your understanding about the need for dilution doors at Pike?

A. Yeah I don't think it was at this risk assessment because that wasn't familiar to me at 8 August.

Q. This one is actually 7 September.

A. 7 September, yeah no.

Q. You don't think you were present?

A. No I don't.

Q. You'll see there though on page 3, there's another example on page 5 where dilution doors are described as an existing control in relation to a hazard, which in this example is the recirculation of ventilation due to monitor operation. Am I right that as at 7 September dilution doors hadn't been installed?

A. I don't believe they had been or if they had I was unaware of them.

Q. What's your view on them being included there as an existing control if they weren't actually in place? Are you able to comment on that or not?

A. I do know those apparatus were built into the ventilation system.

Q. Yes.

A. But they have never actually worked, they were never commissioned, therefore in my mind they're not an existing control.

Q. So you're aware I think, you've been provided with a copy of a document which we'll just bring up for completeness, DAO.001.04562

WITNESS REFERRED TO DOCUMENT DAO.001.04562

Q. I think you've seen that in the last few days haven't you Mr Mason?

A. That's correct.

Q. Now it's a memorandum from Greg Borichevsky of the technical services department to Doug White and a number of others in – some of whom are part of the hydro-commissioning team. It's not addressed to you obviously. It was dated the day after you commenced work I think, if you look at that, dated 24 August.

A. That's correct.

1655

Q. You'll see there in the first paragraph, second line, these doors are to be operational prior to the commencement of hydro extraction of panel one?

A. That's correct.

Q. From the time you arrived, were you ever part of any discussion about ensuring that dilution doors were commissioned and functioning at the time of commencement of hydro extraction?

A. I don't believe so. I was quite astounded when I became acquainted with the idea. I'm used to working under regulations where no ventilation control device

can be activated without the prior consent, in writing, from the ventilation officer, let alone have one that operates automatically.

Q. I see, right. So the concept of dilution doors operating by way of sensors automatically is not something you're used to?

A. That's correct.

Q. Or any ventilation device for that matter?

A. That's correct.

Q. I take it then that you don't or you didn't at the time consider that dilution doors was part of your responsibilities as the hydro co-ordinator to ensure that they were effective?

A. That's correct.

Q. I think just for completeness at paragraph 103 of your statement, if we could just have that up Ms Basher, it's MAS0001/20?

WITNESS REFERRED TO DOCUMENT MAS0001/20

Q. That this is your statement and there's a comment there in your statement that I think you'd like to just expand on a little. Is that correct, as I understand it? This is the paragraph where it says, "Dilution doors were not operational and were of no relevance to the hydromining operation at the time of the explosion or the period preceding it." The word relevance I think is something that you'd like to address, yes?

A. Yes, yes. They had no consequence because they were not operational.

1658

Q. Right. Can I take you back please to the risk assessment for ventilation and gas monitoring, which is 23424, to page 4, please? You'll see there, Mr Mason that at the top entry the first hazard on that page is, "The inundation of peoples by gas" and it goes on to give a further clarification, "Ignition/explosion, toxic gases, irrespirable atmosphere, depletion of O2 layering, CH4 and H2S," you see that?

A. Yes, I do.

Q. And there's again, as is normal in a risk assessment as I understand it, a list of existing controls?

A. That's correct.

Q. And there's an assessment which is an assessment of "The consequences, likelihood and then a risk score," you see that?

A. I do.

Q. And then "Additional controls" and then a "Residual risk assessment."

A. That's correct.

Q. You'll see that one of the existing controls listed for that hazard, the last one in fact, is "Windblast risk assessment and low probability of windblast."

A. I do.

Q. What was your knowledge at the time of the windblast issue at Pike River?

A. I understand that because of the controls that were required to minimise or have no surface subsidence, the proportion of coal to be extracted from the in situ reserves was largely decreased by, to ensure that there was no surface subsidence and this was done by maintaining narrow widths in the extraction areas so that the opportunity was not there for the major cave-in with resulting in surface subsidence. It was not there for that to occur.

Q. Do you know whether there had been a full risk assessment process for windblast at Pike?

A. I'm not sure.

COMMISSION ADJOURNS: 5.01 PM

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