



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: J Wilding, S Mount and K Beaton as Counsel Assisting
S Moore QC, K Anderson and K Lummis for the New Zealand Police
K McDonald QC, C Mander, T Smith and A Boadita-Cormican for the Department of Labour, Department of Conservation, Ministry of Economic Development and Ministry for the Environment
N Davidson QC, R Raymond and J Mills for the Families of the Deceased
S Shortall, I Rosic and D MacKenzie for certain managers, directors and officers of Pike River Coal Limited (in receivership)
C Stevens and A Holloway for Solid Energy New Zealand
N Hampton QC, R Anderson and A Little for Amalgamated Engineering, Printing and Manufacturing Union Inc
G Gallaway and J Forsey for Mines Rescue Service
G Nicholson and S Gilmour for McConnell Dowell Constructors
P Jagose for Valley Longwall International Pty Ltd
F Tregonning for Pike River Coal Limited (in receivership)

**TRANSCRIPT OF PHASE 1 HEARING
HELD ON 15 JULY 2011 AT GREYMOUTH**

COMMISSION RESUMES ON FRIDAY 15 JULY 2011 AT 10.00 AM

MS BEATON CALLS

5 COLIN THOMAS DALL (AFFIRMED)

Q. Can you confirm for me please that your full name is Colin Thomas Dall?

A. It is.

Q. You live here in Greymouth?

10 A. I do.

Q. And you are the Consents & Compliance Manager for the West Coast Regional Council?

A. I am.

Q. And I think you've held that position since 2003?

15 A. That's correct.

Q. Mr Dall, I'm going to ask you please to read paragraphs 2 through to 8 of your witness statement that you filed with the Commission which deal with your qualifications and experience please?

20 A. I have a Bachelor of Science degree majoring in Chemistry, from the University of Canterbury, and a post graduate Diploma in Agricultural Science and a Master of Applied Science degree (Second Class Honours, Division I) majoring in Environmental Microbiology from Lincoln College. I was employed previously by the Northland Regional Council and Otago Regional Council/Catchment Board and have over
25 24 years of professional experience in the field of resource management. In the last 8 years I have managed the Consents and Compliance sections of the West Coast Regional Council, and have become familiar with the processing and monitoring of resource

consents for mining operations, including underground coal mines. In my role as Compliance Manager, I am also responsible for managing the council's enforcement action in relation to breaches of the council's regional rules and the Resource Management Act 1991.

5 1003

10 A. I have been involved in consent processing, monitoring and enforcement matters relating to the Pike River Coal Mine throughout the last eight years. My evidence is via West Coast Regional Council response to the request made by The Royal Commission for information held by the West Coast Regional Council on the mine and West Coast Regional Council's interactions between Pike River Coal Company which I'll refer to as the "company," and other regulatory agencies that may be pertinent to phase one of the enquiry. In particular my evidence addresses the following matters identified in the Commission's letters to
15 the West Coast Regional Council dated March 25 and 20 April 2011. The West Coast Regional Council's regulatory role insofar as it involves underground mining generally together with an outline of a legislative and other regulatory provisions pursuant to which you perform that role. The geography and geology of the area where the mine is situated,
20 interactions between the West Coast Regional Council and the company and also inspection of the mine. Interactions between the West Coast Regional Council and other regulatory agencies insofar as they relate to the company and relevant parts of the regional plans and rules at the date of issue of any resource consents in respect of a mine
25 and its associated facilities at 19 November 2010 and currently."

Q. Just Mr Dall for the benefit of those present, you have filed on behalf of the West Coast Regional Council a lengthy submission dealing with a number of those matters that you've listed?

A. I did.

30 Q. Now can you confirm that essentially the West Coast Regional Council had two regulatory roles relating to Pike River Mine, the first being that you were the consent authority responsible for processing the actual applications for resource consents?

A. That's correct.

Q. That's under the Resource Management Act?

A. Correct.

5 Q. And secondly that you were the consent authority responsible for the monitoring and enforcing the exercise of those resource consents?

A. That's correct.

Q. Could you move forward please in your statement to paragraphs 30 through to 32 and read those to the Commission please.

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10 **WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPHS 30 – 32**

A. Underground coal mines and their associated activities in the West Coast Region typically require a range of resource consents under the Resource Management Act that fall under the jurisdiction of the West Coast Regional Council. In broad terms these are as follows. Land use consents under section 9(2) of the Resource Management Act. I will add that that was previously number section 9(3) under the Act but that was changed in the last amendment to the Act. And that's for land disturbance, essentially earth works and vegetation disturbance unless mining is being undertaken under a mining licence. Land use consents under section 13(1) RMA for undertaking activities in the beds of rivers and lakes including to use, erect, reconstruct, place, alter, extend, remove or demolish a structure in, on, under or over the bed, or excavate, drill, tunnel or otherwise disturb the bed. Water permits under section 14(2) of the Act to take, use, dam or divert water. Discharge permits under section 15(1) of the Act to discharge contaminants into water, or onto or into land, or into air. The West Coast Regional Council is responsible for processing the applications for these types of resource consent and must do so in accordance with part 6 of the RMA. However, the Resource Management Simplifying and Streamlining Amendment Act 2009 introduced alternative pathways for obtaining resource consents for proposals of national significance. Nevertheless, all four applications made by the company for the above types of

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resource consents since these amendments came into force have been processed by the West Coast Regional Council. The West Coast Regional Council must monitor the exercise of the resource consents it grants under section 35(2)(d) of the Act and take appropriate action, having regard to the methods available to it under the Act where this is shown to be necessary. Such action may include formal enforcement action, including applying to the Environment Court for a declaration, section 311 of the Act. Applying to the Environment Court for enforcement order section 316 of the Act or interim enforcement order section 320 of the Act, issuing an abatement notice section 322 of the Act, issuing an infringement notice section 343(a) of the Act for any of the infringement offences specified in the Act, in the Resource Management Infringement Offences Regulations 1999 prosecution for any of the offences specified in section 338 of the Act.

15 1009

Q. Now can you confirm that Pike River Coal Limited initially applied to the West Coast Regional Council for the first set of resource consents in mid 1998, June I think it was?

A. That's the first main set of consents for the mine.

20 Q. And that was given the number RC98/21?

A. That's correct.

Q. There was a period of several years, and you've detailed the history of what occurred with the resource consent process in your submission but there were a number of years before the company actually filed another or sorry applied for a second set of additional consents for the mine which is, as I understand it was in May 2002?

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A. That's correct.

Q. And that was given the resource consent number if you like of RC02020?

30 A. Yes.

Q. Now there was, as you've set out in your submission, a further period of delay for a number of reasons but ultimately resource consents were confirmed, I think, by the Environment Court by –

A. By way of consent order.

Q. By consent order, yes, on the 4th of August 2004?

A. That's correct.

5 Q. And you helpfully summarised in a timeline in an appendix 18 to your submission the consenting process for the second set of consents?

A. Yes.

10 Q. Just before we go onto the consent that's of most interest today, can I just ask you to clarify at paragraph 86 of your submission under a heading of "Other resource consents," you referred or you stated, "Most of these were, are for relatively small scale activities that the company obtained in relation to the development of the infrastructure for the mine," and you go on to add that they were processed on a non-notified basis. Are you able to tell us what those additional consents related to in a general sense?

15 A. Yes, I summarised those consents in appendix 3 of my evidence in chief. They relate to activities associated with the construction and/or works on the access road, amenities area, dewatering plant, coal processing plant and rejects facility. None of the consents relate to the underground mine directly itself.

20 1012

Q. With the mining permit that Pike River Coal had in which they were seeking resource consent, to your knowledge did the company ever raise with the West Coast Regional Council formally or informally any alternative proposals for the mine, for example, open cast?

25 A. In my review of council's records it appears that an option for an open cast mine was basically ruled out from the onset and my understanding of that was basically because of economic viability and the impact of an open cast mine on the ecological values of the area.

Q. When you say ruled out Mr Dall who do you mean by or do you know?

30 A. By the company.

Q. You've drawn my attention previously to a section in the document called, "An assessment of Environmental Effects," which was prepared

on behalf of the company by I think URS and provided to the councils including West Coast Regional Council and DOC?

A. Yes.

Q. That was in I think May 2002?

5 A. That's correct.

Q. I wonder for the benefit of everyone herein if that could be brought up please. It's WCRC0016. That's the document that we're talking about there on the screen?

A. It is.

10 Q. Can I just get you to confirm Mr Dall that in that document, "Assessment of Environmental Effects," section 5.22, the company there set out a number of what they've called alternative options, under the heading of, "Alternative methods," and that's in relation to mining and they state, "At a very early stage Pike River Coal Company investigated the various
15 options available at the time to develop the coalfield," and they go on to include firstly open cast mining, secondly underground mining using a road and facilities at the top of the Paparoa Range and three other options involving aerial ropeways and stone drive access from White Knight Stream which was the ultimate one proposed as I understand it
20 for the mine plan. Can you confirm – or if you're aware whether the inclusion – first of all is the inclusion of alternative proposals in a document like this, a standard feature?

A. It is.

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25 Q. Is it required?

A. Under the Fourth Schedule of the Act, it should be included.

Q. And are you able to tell us whether any of those options were discussed with the West Coast Regional Council prior to 1998 or subsequently?

30 A. When I started with the council was at the tail-end of the consent process so, I can only rely on what I've come across in the records I've reviewed, but it doesn't appear that those were discussed in any detail with the council at all.

Q. So did the – do I take it that the council had no input into whether or not any of those alternative options was a more environmentally sound one, for example?

A. Insofar as I was able to ascertain, that's correct.

5 Q. Can you tell us please what, if any, was the evaluation process that the regional council used when – or uses, perhaps in a general sense, when assessing applications for consents for mining? Do you look at the mine design itself?

10 A. To a degree, but only in the context of whether or not the mine design incorporates measures that are sufficient to avoid or mitigate any potential adverse environmental effects of a mine. For example, in a case of Pike, subsidence on the surface of the land was quite a significant issue and so the council assess the adequacy of the measures in regard to avoiding or mitigating the effects of subsidence.
15 Basically it's in the broad context of section 5 and the council's function is under section 30 of the Act.

Q. During the consenting process are issues of health and safety addressed?

20 A. Yes, but only in the context again of section 5 of the Act which requires councils to manage natural and physical resources in a way or at a rate that provides for the economic, social and cultural wellbeing of people and communities and their health and safety. In other words we would basically assess, if you like, again the adequacy of those measures to prevent potential adverse effects on public health and safety. A typical
25 example of that would be in relation to discharges from the mine, we would impose consent conditions such as water quality and receding water standards to protect the downstream users of the water.

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30 Q. Do I take it then from that that in the case of a mining application for consents that issues such of adequacy or otherwise of the proposed ventilation or emergency exits or numbers of egresses from the mine are not factors considered by the council in terms of health and safety?

A. In terms of workplace health and safety the West Coast Regional Council, and for that matter the Buller District Council and the Grey District Council don't administer the Health and Safety in Employment Act.

5 Q. And just so we're clear. Who do you understand that would be?

A. At least the Department of Labour but I also understand that the Hazardous Substance and New Organisms Act may come into play so there may be other agencies involved in the administration of that Act.

10 Q. In the context of a mining application such as Pike River's was there information sharing between the agencies involved. And by that I mean perhaps initially between councils and DOC for example?

A. With respect to the resource consent process, which is different to the process for obtaining an access arrangement from the Document of Conservation, the resource consent process is basically a public process when an application's publicly notified, which was the case with the Pike River consents for the mine. That information, all that information that's provided to the council is publically available unless there's an element of commercial sensitivity. And for those sorts of proposals, particularly given that it was on land administered by the department, the Department of Conservation's an effected party and so that has basically access to all that information. Now they will tend to be a submitter to the application and they, in my experience, will lodge a general submission outlining the department's concerns with respect to potential effects of the mining proposal on conservation they use. But that doesn't necessarily equate to the department providing the councils with any reports it has commissioned in relation to the access arrangement process.

25 Q. In this particular case did the West Coast Regional Council have access to the consultant reports that DOC obtained for Pike River?

30 A. None of those reports were provided to the council as far as I could ascertain from my review of the files until or prior to the hearing. But at the hearing there was, one of the documents was tabled, or provided at the hearing and also the Department of Conservation engaged

consultants that had provided those reports to the department to present evidence at the hearing.

Q. And just so we're clear. This is a joint hearing isn't it of –

5 A. That was a joint hearing for the Resource Consent Applications between the consent authorities which in the case of the first main set of consents were the West Coast Regional Council and the Grey District Council. In the case of the second main set of resource consents that was the West Coast Regional Council, Grey District Council and Buller District Council. And it was at the second hearing that that report
10 was tabled.

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Q. Putting aside issues or environmental issues such as acid mine drainage and subsidence which I know were the subject of significant work and assessment by the councils and DOC, was the West Coast
15 Regional Council aware of the, at least one report that DOC had obtained which expressed more general concern over the mining proposal including concerns over the adequacy of data and information provided by the company?

A. As I eluded to or explained and just before there was a report that was
20 provided at the second hearing and that's for, that report covered various issues. I tabled that if the Commission wants to –

Q. Are you referring to I think it's Dr Murray Cave's report of October 2000?

A. That's correct.

Q. The Commission has that thank you. Were the concerns raised in that,
25 rightly or wrongly, were they considered by the West Coast Regional Council in the sense of resource consents or conditions afterwards?

A. Yes, and I think effectively in regard to the issue of subsidence that was
30 detailed in the decision on the second main set of consents by the hearing committee and that's covered in, I'm just trying to find the correct reference, okay. Yeah, that's clearly evident in paragraphs 54 to 60 of the joint hearing committee's decision on the second main set of

consent applications for the mine which I included as appendix 17 in my evidence of chief.

Q. And that's in relation to the issue of subsidence?

A. Yes.

5 Q. Yes. What about the issue though, perhaps more specifically, about the concerns raised in 2000 and onwards about, and this is a general comment, a lack of data information as part of this mining proposal?

10 A. Again, that's addressed by way of consent additions and it was addressed, known at the time that there was uncertainty and one of the measures, if you like, that was proposed early on was trial mining to basically get the harder data on the, what effects the operation may have on subsidence and, and effects on the surface.

Q. And the requirement for trial mining did make it through into the conditions of the consent which is RC2020/5?

15 A. That's correct.

Q. I wonder if we could turn to that please and bring it up on the system please, it's document WCRC0020/1 is the first page. Can you confirm Mr Dall that's the front page of the resource consent, I think the most up to date one that relates to the second set of consents I think over the

20 mine. Is that right?

A. It is.

Q. Now there are, within this consent, some general conditions and some specific conditions?

A. That's correct.

25 Q. Can I ask you please first about some of the general conditions of interest and that first one will be on page 6 of that document so it'll be 0020/6. Do you see there, Mr Dall, the heading "Contingency and Response Plan"?

A. I do.

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Q. Can you, and you'll see it, section 9.2(e) a requirement on the company for a contingency and response plan which addresses a number of matters including at (e), emergency response procedures and

emergency contacts during the event of power failure, fire, natural event or disaster?

A. Yes.

5 Q. Can you explain to us, is that a standard type condition in a mining consent or not?

A. Very much so, in fact it's the standard condition in any development which is large scale and where there's a potential for escape or release of contaminants into the environment.

10 Q. And presumably, I know this to be the case, Pike River Coal did provide such a plan as is required by the consents to the councils?

A. That's correct.

Q. When the West Coast Regional Council received such a plan does it assess it or audit it as to whether it's appropriate in the circumstances?

15 A. In this case the conditions don't actually require the plan to be approved or certified by the regional council, nevertheless we will look at the plan obviously and make comments to the company. They tend to be general comments, in particular we're concerned if there are elements of the plan that have been missed out.

20 Q. Sure. In the context though of the need for it to address emergency response procedures would that encompass the regional council considering whether or not the mine had sufficient exits for example, would there be an auditing of those type of detail in terms of safety?

A. No, not if it's a workplace health and safety issue.

25 Q. There's another general condition which relates to the provision of annual work plans which we might actually come back to in a moment but could I refer you please to some of the specific conditions and if we go to 20/13 please. That shows the actual land use consent RC2020/5 which permits the company to actually undertake underground coalmining activities on the mining permit, including particularly the construction of the stone drive, ventilation shaft and emergency exits?

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A. That's correct.

Q. Can I refer you please to 3.1(a), (b) and (c). I take it those are specific conditions on the company as to, well, as it says in the heading,

“General site operation,” but in relation to 3.1(b) the requirement that, “The stone drive, ventilation shaft and emergency exits shall be constructed in accordance with good coalmining industry practice including any stabilisation works to prevent their collapse.” Is that special condition a common one in mining resource consents or not?

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A. For major applications involving large scale earth works, yes.

Q. Is there any auditing or assessment by a regional council as to whether the construction of such things as the drive, shaft and exits is done in accordance with good coalmining industry practice?

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A. Not in particular. This sort of condition would come into play if there was say an event which resulted from say a landslide and then we would investigate that matter and request a report from the consent holder and in that process we may seek expert opinion, if it's a landslide then we may be looking at second expert opinion from a geotechnical expert, or you know as specialised expertise in that area and that's when we'd then consider if enforcement action was warranted.

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Q. So are you saying that in the sense of after an event has occurred the council would or may then assess whether or not good mining practice has been –

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A. That's correct.

Q. – brought to bear on the particular construction?

A. Yes.

Q. Can I get you please to refer to special condition 3.4 on page 20/14? You see that there highlighted under the heading of, “Self heating test,” and it relates to a requirement that the company carry out tests for self heating properties of coal. Is that type of special condition a common one in mining resource consent?

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A. It is for underground mines and there's good reason for that because there is obviously potential for mines to have underground fires and in fact there are a number of fires today that are still burning on the coast, including Millerton and Strongman 2. Millerton I think has been burning

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or the underground fire at the Millerton site at Stockton has been burning for some 80 years, I recall.

Q. To your knowledge were such monitoring and testing carried out by Pike River?

5 A. It was.

Q. And a report was obtained, I think wasn't it from Dr Beamish himself who's referred to in the condition?

A. That's correct.

Q. And provided to the regional council, that report?

10 A. It was.

Q. And is that assessed in terms of –

A. Well that particular report wasn't, I mean given that it was actually done by the appropriate method and obviously the appropriate expert, the council didn't believe any further assessment of that was necessary.

15 Q. So the council I take it will often rely upon the independent expert reports obtained by an applicant such as Pike River?

A. That's correct.

Q. Rather than having its own expert staff available in-house or I suppose even externally to review those types of documents?

20 A. That's correct in some cases there are very few experts around anyway.

Q. I just briefly want to touch on the issue of trial mining. In special condition 3.5 there are a number of special conditions imposed on Pike River Coal Limited requiring trial mining, it's called. Can you explain just briefly why that was considered appropriate or necessary?

25 A. Again because of the uncertainty of the geology and the extent of the information provided at the consent phase, it was considered appropriate to impose a condition on trial mining to make sure that, as I said before, that harder data was obtained before either like full-scale underground mining was – took place.

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Q. When imposing conditions as part of resource consents such as this one, is the financial impact of extensive conditions considered by the West Coast Regional Council?

- 5 A. Yes but only in regard to whether or not the cost of the condition is fair and reasonable. The council has a duty, if you like, to ensure that the conditions that it imposes on a consent are fair and reasonable. In this case I'm not aware of that situation being an issue with regard to the two main concerned application process for the mine.
- Q. Moving on now to annual work programmes, and they're required by the councils and also by DOC, as I understand it, well in relation to your council under condition 11.1. They are received annually and they were received from Pike River Coal Limited?
- 10 A. That is correct.
- Q. And in the case of Pike River Company the annual work plan that they produced effectively covered the requirements of all three councils involved as well as the Department of Conservation?
- A. That's correct.
- 15 Q. When the regional council receives an annual work plan for a mining operation what does it do with it?
- A. It depends on the consent conditions behind the annual work plan. In the case of the plan for Pike the plan didn't require certification or approval by the council. It was mainly, if you like, a monitoring tool to give an indication to the council of where the mine was at in terms of its planning and what the works were proposed in the coming year. There are sort of a number of items which we would look at and again make sure that the plans or the matters that were meant to be addressed in the plan were actually addressed in the plan. So that's the sort of
- 20 assessment we would do.
- Q. In terms of conservation issues you mean, for example subsidence?
- A. In terms of, if you look at the condition there are a number of information requirements.
- Q. Yes.
- 30 A. And that's what, we'd make sure that the plan included all those information requirements and reporting requirements. And, yeah, of particular interest to the council would be the, you know, where the mine was at in terms of rehabilitation, the sorts of systems it proposed for

water management and how it addressed any problems in the previous year in terms of environmental incidents.

5 Q. So the annual work plans filed by Pike River were obviously received, checked in a sense but not evaluated or assessed in terms of whether, for example, the proposed work in the next 12 months was consistent with good safety practices or good mining practice?

A. That's correct.

10 Q. You said, I think just before, that with Pike River annual work plans there was no requirement for them to be certified or approved. Are there circumstances where mining companies would have to have annual certification from a regional council.

15 A. There are and in some cases because of the council's responsibilities under the Crown Minerals Act we still administer environmental matters relating to mining licenses and often those licenses may require approval or certification from the council.

Q. But that didn't apply to Pike River Coal?

A. That wasn't the case with Pike River.

Q. So that's a change is it, I take, the current situation I mean of not requiring certification or approval is a change from previous practice?

20 A. Yeah, well I don't know if it's so much of change because the old mining licenses were granted under different legislation.

Q. Yes.

25 A. Now under the Rules Management Act effectively as case law's developed the Environment Courts are not keen on having secondary approvals delegated down to councils or council officers. So we try to avoid making plans, if you like, being subject to our approval but we will, and have done, made plans subject to our certification. Now the difference between the two is that certification in the context that I'm talking about mean making sure that the plans have all the elements
30 required to be in the plan.

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Q. So it is a checklist effectively or?

A. A checklist.

Q. What would be the outcome if a plan didn't meet the checklist requirements? What would the council do?

5 A. Well certainly we'd, we would meet – well it depends on the nature of the omission if you like from the plan or the problem with the plan, we would contact the company, probably via a formal letter just saying, “Well these are our concerns and please provide further information.” That may include site inspections, certainly that's the case with the Stockton Mining Annual Plan. We often will do site inspections to go over issues. There are cases where we've brought in external expertise to help us in terms of looking at the information provided. A good example of that and probably a very pertinent example of that is that a few years ago we sought independent expert advice in relation to a subsidence monitoring programme for the Spring Creek Mine and we engaged Golder Associates to peer review the appropriateness and adequacy of that monitoring programme.

10 Q. Were there any situation – occasions, I'm sorry where in dealing with Pike River Coal Limited there were that the council brought in expert external advice?

15 A. No, but at that stage the company had not even basically started trial mining.

20 Q. To your knowledge though they had started I think the first phase of the trial mining regime at the time of 19 November. Are you able to comment on that or not?

25 A. To a degree. I mean we, we had to do annual work plans and it, there was a little confusion but they, confusing but they talked about a commissioning panel and that was the stage before the trial mining panel.

30 Q. I just want to move very briefly to get you to confirm that staff of the West Coast Regional Council, as you set out in your submission, were involved in regular site visits to Pike River Coal Mine and indeed there were a number of occasions where there was what's called environmental non-compliance as I understand it. None of those though related in terms of the resource consent 2020/5, the construction of the

drive, the shaft and the emergency exits. They were more related to discharges and things like that. Is that correct?

A. Correct, it is.

5 Q. And just for completion, there was a visit by one of the West Coast Regional officers, a Paulette Birchfield, to the mine on the 16th of November of 2010?

A. That's correct.

10 Q. I think you've provided to the Commissioner a file note prepared by Ms Birchfield where she refers to the visit being, I think her words were, "To assess underground infrastructure." Can you comment on that? Was this a formal assessment of what was happening underground?

15 A. My understanding is that it was a joint inspection with the Department of Conservation and there was an invitation to, to go underground and Ms Birchfield accepted the invitation but more to get an appreciation of the water management infrastructure associated with the underground mine.

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20 Q. Is that because of the difficulties that the company had been experiencing at various times over discharges and contaminants and things like that?

A. To a degree but it was just to gain a better appreciation of those systems.

THE COMMISSION:

25 Is there anybody who seeks leave?

MR HAMPTON:

30 I have an interest in asking about vertical drill holes, how many were in the original consent, the 2020 consent and if additional drill holes were required whether they had to have additional resource consents, whether if that was so they would be non-notified or not, how difficult in effect it would be to get such consent to do additional holes.

THE COMMISSION:

That is approved, leave is granted. Mr Davidson?

MR DAVIDSON:

5 I have two questions, not two topics sir. They are topics in each question.
The first relates to the condition, special condition relating to the island
sandstone and the incorporation of such a condition in a consent associated
with the stone drive, ventilation shaft and emergency exits and stabilisation
works, to know how that was enforced or examined if at all, and the second is
10 in relation to the emergency contingency and response plan condition and
what was expected of the company in that regard.

THE COMMISSION:

Yes, you are granted leave as well Mr Davidson.

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MS SHORTALL:

Your Honour, if I could just seek leave, I think I've perhaps got three
questions, so one more than Mr Davidson, but it just relates to some evidence
that the witness gave around, I think his words were the uncertainty of the
20 geology and I just wanted to confirm with the witness that the West Coast
Regional Council can revoke a consent to mine and that it didn't do so as to
Pike River and that would be all.

THE COMMISSION:

25 If that's the extent of the applications perhaps we will start with you
Ms Shortall seeing you have just foreshadowed what it is about, it is perhaps
convenient to carry on.

CROSS-EXAMINATION: MS SHORTALL

30 Q. Mr Dall, I think you've just heard what I'm planning to ask you but let me
do it in the three questions. You talked about some uncertainty of the
geology and just so that I'm clear, the West Coast Regional Council was
aware of some uncertainty of the geology as to Pike River, is that right?

A. That's right and that's always been the case, even the company acknowledged that in its applications.

Q. And the West Coast Regional Council can revoke a consent to mine, can't it?

5 A. It can't revoke a resource consent.

Q. Can it suspend a resource consent?

A. It can't suspend a resource consent, what it can do is take formal enforcement action. It can use, say for example, an abatement notice to stop mining.

10 Q. And did the West Coast Regional Council ever issue an abatement notice to Pike River to stop mining?

A. Not to stop mining, it issued an abatement notice to stop a discharge of coal fines to the, I think it was the Big River.

Q. But not to stop mining?

15 A. Not to stop mining.

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CROSS-EXAMINATION: MR DAVIDSON

Q. Mr Dall, my two questions are first if we could bring up please the resource consent 0020013. Yes, looking at the condition 3.1, someone
20 has considered the specifics of extraction of coal in relation to island sandstone, and (b) the stone drive ventilation shaft and emergency exits to be constructed in accordance with good coalmining industry practice. Does the council consider the performance of those conditions in any way at all in the operation of the consent?

25 A. As I explained before, if there was a problem such as a landslide or subsidence, then that would be investigated and the matter would be looked into and that's where the council would look at those conditions.

Q. After the event?

A. After the event.

30 Q. My second question is, you've referred to the condition in the consent with regard to a contingency and response plan for emergency

response processes as a condition. Is that simply a requirement that the company produce such a plan, that's the extent of the condition?

5 A. Yes, the purpose for the plan was to ensure that the company had procedures in place in those events. And it's really a guideline of how they would respond and notify appropriate parties of that event.

Q. I have to ask a half question to finish that then, does the council consider the content of that plan?

A. As explained before, we would look at the plan to make sure it addressed the necessary elements, but that's as far as we would go.

10 1100

CROSS-EXAMINATION: MR HAMPTON

Q. Mr Dall, on the issue of drill holes, are they specifically covered in the resource consent, the 2020 resource consent the subject of vertical drill holes taken from the surface of the range down to the coal seam?

15 A. I'd have to just quickly look at the consents. If you don't I'll just have a quick look. Drilling isn't explicitly identified in any of the land use consents but if you look at resource consents RC02020/1 it refers to a water-take for drilling purposes.

Q. A?

20 A. A water take for drilling purposes.

Q. And the 2021 document at page 13, in the section, "Sealing of the mine and engineering", 3.2(a) simply refers to following the cessation of mining and prior to the expiry of the consent the stone-dry ventilation shaft and emergency exits in all drill holes associated with mining activity shall be sealed?

25

A. Mmm, that's correct.

Q. Seems to be the only reference to drill holes. What I'm interested in really, this consent was granted finally in August '04 wasn't it.

A. Yeah.

30 Q. The consent order of the Court?

A. That's correct.

Q. If subsequent to that a company wanted to put additional drill holes down, for whatever purpose, would they have had to get additional resource consent?

5 A. Not necessarily. It depends on whether or not the drilling complied with the relevant permitted activity rules in the regional plan.

Q. Complied with the?

A. Relevant permitted activity rules in the relevant regional plan.

Q. So if they did then they could go ahead without bothering you folk?

A. That's correct.

10 Q. So not a difficulty to do?

A. Correct.

Q. That's really what I was trying to ascertain, whether it would be difficult and expensive. The answer from your point of view is, "No," it would seem?

15 A. Well I can't answer in terms of expense because the drilling might be expensive.

Q. Yes.

A. In terms of obtaining consents, obviously not.

RE-EXAMINATION: MS BEATON – NIL

20 **QUESTIONS FROM THE COMMISSION - NIL**

WITNESS EXCUSED

MR MANDER CALLS**CRAIG JOHN LOFLEY JONES (SWORN)**

Q. Could you state your full name to the Commission please?

A. Yes sure. Craig John Lofley Jones?

5 Q. And do you present hold the position of community relations officer concessions based in Christchurch?

A. That's correct.

1105

10 Q. Now have you prepared and filed a statement of evidence for the purpose of these proceedings DOC777001005/1?

A. That's correct.

Q. And you have a copy of that statement with you?

A. I do.

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

15 A. Yes.

20 Q. Now by previous arrangement Mr Jones is going to read through the statement. I'll get you to pause at various times and we can perhaps jump to more relevant parts so you won't be reading out the whole statement, so perhaps just from paragraph 3 if you could commence there please?

25 A. My background, while I originally come from Christchurch regular holidays of mine have been spent on the West Coast before I began work in Hokitika in 1994. My wife and children belong to te runanga o Ngati Waewae, the kaitiaki runanga of pounamu and are born and bred on the West Coast and have had all their formative years in the Maori community at Arahura. The searching for pounamu and enjoyment that pounamu provides play a big part of my whanau's life on the coast. I gained a Bachelor of Science degree at Canterbury University in 1990 majoring in geography. I gained a Master of Science
30 honours degree in 1992 specialising in coastal geomorphology. For my thesis which studied coastal processes around the Barrytown coastline south of Punakaiki on the West Coast. I have done a paper in Resource Management Law from Canterbury University."

Q. Now from August 1994 through to February 1996 did you work for DOC on the West Coast as its mining officer?

A. I did.

5 Q. And then did you have a number of years at head office in Wellington before returning to the West Coast in 2000?

A. Yes.

Q. And then you took up the position of community relations officer mining, West Coast?

A. That's correct.

10 Q. Perhaps if you just read on from paragraph 13 please.

A. "For over 10 years from March 2000 to December 2010 I was based on the West Coast as community relations officer mining. During this time I reported directly to the planning mining team leader who in turn reported to the community relations manager. The community relations manager reported to the conservator. When I started in 2000 I was the sole mining officer. The number of mining officers increased over time to approximately six in 2010. In this role I was the primary day today DOC contact for some applicants for access arrangements including Pike. A considerable amount of my time since 2000 was taken up in processing the Pike applications and subsequently administering the Pike access arrangements.

15 Q. Just pause there. During that period you were also involved in relation to access applications in respect of a number of other mining ventures in your region?

25 A. That's correct.

Q. Now in relation to the Pike application, is it correct that you visited various parts of the proposed mine site numerous times including upper Pike stream catchment drill sites?

A. That's correct.

30 Q. And did you go underground in the mine twice, including being at the two coalfaces underground on the 16th of November last year?

A. Yes.

Q. And there did you see the underground operations including the working of the continuous miner and hydro-monitor?

A. Yes.

5 Q. Now in paragraph 15 you've set out the various pieces of work that you were involved in, in respect of various applications involving Pike. Is that right?

A. That's correct.

10 Q. The first of which involved the preparation of the conservancy mining report in relation to Pike's application for access arrangement. Is that right?

A. Yes.

1110

Q. Now reading perhaps from paragraph 16 in relation to the preparation of that report.

15 A. I began work on the pipe application for an access arrangement on my return to the West Coast in April 2000. An initial application had been lodged in 1998, but most of the DOC work between 1998 and 2000 had centred on participating in the Pike resource consent applications which were at the time I started subject to Environment Court appeals. I was
20 not directly involved in the Pike resource consent matters other than in attending resource consent hearings, in December 2002 and in March and April 2003, as an observer. Although as some of the substantive issues were relevant to both processes, I worked closely with the conservancy solicitor, conservancy resource manager of planners and
25 the community relations manager. I began working on the Pike access arrangement application by reading the files and discussing issues with key conservancy staff. I had initial meetings with Pike representatives Mr Ward and Mr Gunn in April 2000. DOC's focus in accessing applications for access arrangement is the matter set out in section 61
30 of the Crown Minerals Act. The focus is on the effects on the natural historic and cultural values of a proposal on an area. In July 2000 DOC decided to engage Dr Murray Cave to advise on technical aspects of the Pike application. It was clear that the application was of significant

scale and detailed technical advice was required. I made the arrangements for Dr Cave's contract.

Q. And are copies of those reports attached to DOC's Tier 2 paper which has been filed with the Commission?

5 A. I received Dr Cave's initial report in early October 2000. Dr Cave's report raised significant concerns about the information provided by Pike in support of the application and recommended that Pike be required to provide further information on a number of key issues. Dr Cave's report also discussed risks of subsidence from underground mining. In
10 October 2000 Pike submitted a revised application for an access arrangement. This revised application covered an enlarged area due to the mining permit area being extended in August 2000 to include the access road to the mine. The application also provided more information on other aspects of the mine, such as the ventilation shaft
15 area. A further addendum with additional information was provided by Pike in February 2001. Applications were included as appendices to the conservancy mining report. I attended several meetings with Pike, including a workshop on subsidence issues convened by Pike in December 2000. Possible subsidence had been raised as a key issue
20 in Dr Cave's 2000 report. I attended this meeting along with some other DOC staff including the community relations manager and the Resource Management Act planner. At a meeting it was agreed that Dr Lax Holla would be engaged by DOC to provide further expert peer review on subsidence issues. It was also agreed that Dr Cave would produce a
25 further report on the effects of the proposed underground mining operations. Particularly reviewing Pike data. Dr Holla's April 2001 and October 2001 reports are appended to the conservancy mining report. While on a site visit with Pike and Dr Holla in March 2001, Dr Cave commented back to me on discoloured water he observed exiting from
30 the pre-existing mine adit in the upper catchment area. DOC then expanded Dr Cave's brief to consider acid mine drainage, related potential impacts from the mine.

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A. Dr Cave provided further evidence on this in his second report to DOC of July 2001. In December 2001 DOC engaged Mr Peter Scott of HLA Enviro Sciences, an experienced geochemist to independently consider potential water quality issues raised by Pike's consultants Newman Energy and Montgomery Watson, Phil Lindsay. Mr Scott provided reports to DOC in March and December 2002. Copies of Mr Scott's reports were appended to the conservancy mining report. Based on the advice from Mr Scott DOC advised Pike of the need to undertake further drilling, sampling and ground water modelling and that approximately six further drill holes were required. Pike initially did not agree to undertake the additional drilling. The issue of whether or not further drilling would be required was referred to the Minister of Conservation, with the Minister deciding on 30th of October 2002 that a further drilling programme was required. I began drafting the conservancy mining report for the Pike application during 2001 based on the information gained primarily as a result of the October 2000 revised Pike application, the February 2001 Pike application addendum and the input of various consultants employed by both DOC and Pike. I worked very closely with the conservancy solicitor, DOC technical specialists and the different resource management planning staff in preparing the report and liaised regularly with the Community Relations Manager. In July 2002 Pike River reported via their consultants on the outcome of a risk management exercise that had taken place in early 2002 to establish dollar sums as potential financial safeguards, bond and insurance sums. Upon receiving this I finalised a first draft of the conservancy mining report and I sent the draft to Pike to comment on 18th of June 2002. Pike provided written responses on the draft in July 2002. These responses were included in appendix A to the conservancy mining report. I continued to revise the draft in light of this response and the further technical work being undertaken by consultants engaged by DOC and Pike. Further drafts of the conservancy mining report went to Pike in August 2002 and December 2003. DOC commented on all responses made by Pike in writing and

amended the draft report as required. The Pike responses and DOC comments on them were included in appendices B to D2 of the conservancy mining report. The briefing paper and the accompanying conservancy mining report were submitted to the Minister of Conservation on 23rd of December 2003. I did not prepare the briefing to the Minister but provided comment on it. The conservancy mining report set out the proposal and evaluated it against the statutory criteria in the Crown Minerals Act. It described the proposal, the conservation values of the area and the potential risks to those values of the mine. It considered the objectives of the National Parks Act 1980 and Conservation Act 1987. In considering the purposes for which the National Park, stewardship land and ecological areas are held. It also considered relevant plans, proposed safeguards and identified other matters that the Minister of Conservation may consider relevant, such as resource consents and compensation. It was accompanied by attachments included in seven folders which included all the background information relevant to the decision the Minister was required to make.

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A. In March 2004 the Minister of Conservation, Honourable Chris Carter, made his decision and approved the mine subject to negotiation of access arrangement documentation on acceptable terms to him. The access arrangement. I was heavily involved in negotiating the draft access arrangement, working closely with the conservancy solicitor and community relations manager. I prepared a draft of the access arrangement for discussion with Pike. I also sought comment from external consultants Dr Cave and Mr Scott in relation to conditions relating to subsidence and acid mine drainage in particular. Amendments were made to the draft agreement on their advice, such as including further details on slope behaviour, baseline studies and trial mining. Additional requirements to the emergency response plan and the subsidence management plan. Mine site restoration related to water issues. Water potential, acid mine drainage issues including water quality monitoring. Detailed discussions with Pike were held focusing

on issues such as subsidence and water-related issues, in particular potential acid mine drainage. The 2002 URS report on risk was updated in March 2004 and its findings reflected in the access arrangement. The access arrangement was signed initially on 8th of October 2004, a faxed version, and finally the original document by both parties on 21st of October 2004. Te form of the Pike agreement is largely consistent with other access arrangements agreed by DOC. It contains an agreement to enter the land subject to specified terms and conditions and a number of schedules.

10 **EXAMINATION CONTINUES: MR MANDER**

Q. And you've set those out in a series of bullet points?

A. That's correct.

Q. Paragraph 36.

15 **WITNESS CONTINUES READING FROM PARAGRPH 36**

A. In recognition of the scale of the proposed mine the access arrangement contains a mix of prescribed detail and requirements for more detailed plans and approvals. Clause 8 of the agreement sets out preconditions before entry to land and requires preparation of an annual work plan for the conservator's approval. There are provisions in relation to compensation, clauses 3 to 7, indemnities, clauses 18 to 21(a), insurance, clauses 24 to 25, and bonds, clauses 26 to 30. Clauses 22 and 23 cover health and safety and require the permit holder to comply fully with its obligations under the Health and Safety in Employment Act 1992, that's clause 22(a), and set out particular obligations with respect to public safety. Provision is made for the area subject to the agreement or parts of it to be closed. The clauses on insurances and bonds were based on the work by Pike's consultants URS in 2002 and updated in March 2004. Exploration access arrangement. I processed Pike's applications for exploration access arrangements in relation to the mining permit 41/453 in 2003, 2005 and 2006. Most of these applications were for exploratory drilling activities.

The 2006 access arrangement is at tab 2.29 of the DOC Tier 2 paper. These applications were approved by the Conservator under delegated authority.

1125

5 A. Mine establishment and operation phase. Once the access arrangement was signed attention turned to the mine establishment phase. In accordance with clause 49 of the access arrangement DOC appointed a liaison officer, Mr Mark Smith of West Circle Consulting. Mr Smith was also the liaison officer for Oceana Gold and more recently
10 has been contracted by DOC as the liaison officer for Solid Energy's mine at Stockton and Amethyst Hydro road and tunnel works at Harihari. Mr Smith's role was to liaise between Pike and DOC in order to monitor the developments of the mine. I worked closely with Mr Smith and was responsible for ensuring documents, such as work
15 plans were put to the relevant DOC decision makers as required and for ensuring that all issues in the field were managed to the satisfaction of both DOC and Pike with respect to the conditions of the access arrangement. As noted above, the access agreement requires Pike to prepare annual work plans in clause 8. Pike prepared six annual work
20 plans. The process of preparing and approving work plans is set out in paragraphs 254 to 264 of DOC's Tier 2 paper. In summary Pike would prepare drafts and discuss these with the liaison officer. If needed the liaison officer would raise issues with me and seek my views. Through this process of discussion issues were resolved and work plans
25 submitted by Pike for approval were all approved. In early November 2010, Pike provided the liaison officer with a draft work plan for the December 2010 to December 2011 year. At the time of the explosion DOC was yet to approval the annual work plan, but discussion were ongoing. Generally draft versions of papers have not been
30 provided to the Commission, but for completeness a copy of the draft work plan submitted to the liaison officer by Pike on the 8th of November 2010 is attached. It was clear that Pike's progress and mine development was slower than anticipated and often the work set out in

the annual work plans was not completed within the period of the work plan. Pike would then determine whether work should be included in the next work plan. Provision for a second ventilation shaft and emergency exits are examples of this and are described in paragraphs 283 and 284 of DOC'S Tier 2 paper. As noted above, the access arrangement, special condition 38, schedule 2, required Pike to prepare an emergency response plan covering risks such as explosion, fire and site instability. I read these plans and provided feedback to Pike if factual errors were evident. For example, I noted when reviewing the emergency response plan in 2008 that some of the contact names and numbers in the document were out of date and Pike was asked to update it. I forwarded the emergency response plans to the liaison officer. Variations to the access arrangements, work plans and resource consents. As noted in the DOC Tier 2 paper, in the course of mine development issues arose that were not within the scope of the access arrangement. These required variations to the terms of the access arrangement. DOC processed and approved seven variations to the access arrangement between 2005 and 2009, covering such matters as water quality monitoring and the removal of trees.

20 1130

A. I am familiar with the variations and can elaborate on these if required by the Commission. In the course of mine development issues would arise that required amendments to the annual work plans. These covered matters such as mine site pit bottom drill holes, felling or trimming of trees along the road route or at the amenity area where the Pike officers were for reasons such as safety or protecting the power line and were often required in response to change plans as work developed or due to a lack of detailed design at the time of annual work plan approval. The variations to the annual work plans are attached to the DOC Tier 2 paper. The processing approval of variations to access arrangements and work plans was the same as described above for the annual work plans. The liaison officer was the primary contact point and I would be involved as required. I was responsible for ensuring that the

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DOC decision makers were briefed. Pike also periodically required variations to resource consents issued by councils. On a number of occasions DOC was asked to give approval as an affected party under section 94 of the RMA. I was responsible for preparing relevant documentation for the conservator in relation to these requests. I attended liaison meetings which to begin with occurred approximately every fortnight at Pike's Greymouth office. Later the location of the meetings alternated between Pike's Greymouth office and the mine site. During the last two years of the mine's development these meetings were held monthly, mostly at the mine site in conjunction with a site inspection. These meetings discussed Pike's progress, proposed work, any information or documentation to be provided by either DOC or Pike in issues raised during site inspections or by Pike's monthly reports on matters such as water sampling and pest control monitoring. Pike was responsible for recording the liaison meeting and minutes.

Q. There's no need to read out the rest of the paper. Just paragraph 58 I know there's a matter that you formally in public just want to put on the record?

A. Yep, yep, on a personal note I knew the late Richard Holling who died in the mine as a friend since we worked together in 1984 so I just wish, send my condolences to the families.

COMMISSION ADJOURNS: 11:34 AM

COMMISSION RESUMES: 11.50 AM**CROSS-EXAMINATION: MS BEATON**

5 Q. Mr Jones, are factors such as the overall safety of a mining proposal something that is considered relevant in a general sense to conservation decision making?

10 A. In terms of the conservancy mining report health and safety matters in the Pike case were not mentioned. The proposed mining operations were mentioned in the conservancy mining report, in terms of the access arrangement document there is a provision for health and safety in the general clauses at the start of the access arrangement.

Q. Yes.

15 A. It's clause 22 and that states that the permit holder must comply with its obligations under the Health and Safety in Employment Act and also states that the Conservancy may decide to close the area to the public for health and safety reasons, so essentially the department needs to manage the land and in doing so closes the land to the public to make it safe but the permit holder has obligations to make the mine safe, so it's quite clear.

20 Q. So issues of whether or not the mine itself is safe is not something that DOC –

A. No, we're not experts in mining, we don't police that aspect of the mine. We are relying on the permit holder, Pike in this case and the Department of Labour to police and monitor safety issues.

25 Q. Now, the actual concept of an access to land, whether it be private land or Crown land, under an access arrangement is, as I understand it, governed by section 60 and 61 of the Crown Minerals Act?

A. That's correct.

Q. And there's the provision obviously for the Minister of the department to impose conditions, general and specific on the access arrangement?

30 A. Yes.

Q. We've got up on the screen section 60 and 61 that we just referred to. You've already confirmed that issues such as the safety of a proposed

mine or mining plan isn't assessed by DOC, when you look at section 60 is there the ability to consider that type of issue under for example, 60(c) and (d), (c) being the kinds of prospecting exploration of mining operations that may be carried out on or in the land and (d) being obviously the conditions to be observed by the permit holder, is there the ability for DOC to be able to take into account issues of overall safety and design under those?

5

A. I think you need to look at the issue in terms of the conservancy mining report first of all.

10

Q. Yes.

A. Like I said previously the proposed mining operations are stated in full in the conservancy mining report. In the case of Pike ventilation shafts, emergency exits were noted in the conservancy mining report.

1154

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Q. Yes.

A. In the access arrangement document that we drafted up those mine elements, such as the ventilation shafts, emergency exits were stated as being part of the mine in the schedule 3, so in that regard they are there. They are part of the whole project. We take those parts of the project and put it into an agreement to reflect what Pike need in order to do what they need to do.

20

Q. Just taking a specific example, for example the shaft DOC doesn't look at the proposed method of constructing a shaft so see whether or not it would be an inherently safe or appropriate one for example?

25

A. Not in terms of safety. That's up to Pike.

Q. So you rely upon the applicant or the – you're the applicant for the access arrangement to ensure that they have sufficiently covered aspects of safety and adequacy?

A. Yes.

30

Q. You will have heard discussion and evidence already about the concept of good mining practice. Is that something that's considered by DOC either in the conservancy mining report stage or the negotiation of the access arrangement stage?

A. Our consultant, Dr Cave, raised this issue with Pike in 2000, October 2000 and we were told by Pike it's basically not the department's role to be telling Pike how to conduct good mining practice.

5 Q. You're referring to Dr Murray Cave who –

A. That's right, correct.

Q. - we know DOC consulted and obtained a number of specialist reports on over the early 2000s through I think to 2006?

A. Yes.

10 Q. And in the Tier 2 paper that DOC has filed at para 187 is a reference there to Pike River Company's view that Mr – sorry, that Dr Cave had exceeded his brief in his first report provided to DOC?

A. That's correct.

15 Q. Did you have any involvement in that period of time between DOC and Pike River about their concerns about the Cave report?

A. Yes, I did and based on the discussions Pike organised a workshop to discuss subsidence issues and as a result of that workshop they advised us that they were going to rely on inseam drilling to find out further geological information and also we agree that Dr Lax Holla would be involved and would essentially create specific subsidence conditions for the access arrangement for any, any possible future access arrangement that may be agreed.

20 Q. And from that point on there became more specific consideration of things such as acid mine drainage and subsidence for which Dr Cave, Dr Holla and I think a Mr Scott were engaged by DOC?

25 A. That is right.

Q. You've set out in your statement and I think it's also mentioned in the Tier 2 paper that there's now a standard operating procedure that the Department of Conservation has prepared for processing these types of applications?

30 A. That's correct.

Q. That's something that I think was only finalised recently, 2010?

1158

Q. That's something that I think was only finalised recently 2010?

A. That's correct.

Q. It was operating in a draft form prior to that?

A. Yes since 2001.

5 Q. And can you confirm that safety issues, in the context that I'm speaking of, the overall safety of the mine proposal, they're not a factor that's included within that standard operating procedure are they?

A. Not in terms of safety of the mine, no, that's correct.

10 Q. Prior to the first application that the company, Pike River Company, made for an access arrangement in 1998 and subsequently for that matter, was there any consultation that you're aware of between the department and the company regarding their proposed mining approach, by that I mean underground mining, with a long stone drift of what was initially 1.8 kilometres I think and extended to 2.3?

15 A. That's right, they had initial – the first option was to go further up Pike Stream, near a slip area where I landed in Pike Stream, my first visit in by helicopter in 2000.

Q. And that would've been closer to the coal seam presumably?

20 A. Yeah, but – yes, but not by very much, probably only by 50, 100 metres maximum and it was far steeper in that area as well so the portal entrance would have had other additional stability issues for Pike to deal with.

Q. Are you talking about the first, I think, proposed area for the portal are you –

25 A. That's correct.

Q. – which shifted because of those land instability issues?

A. I believe so, yes. When Pike and URS identified the area adjacent to White Knight Stream around the corner it did seem a lot more stable face to be able to tunnel into, correct.

30 Q. To your knowledge was there any discussion or consultation with the company – between the company and the department regarding whether open cast mining was an option?

A. It's never been discussed.

- Q. What about a, an alternative which has been raised in some of the submissions filed with the Commission that a road could have – sorry, an external access road up the area could have extended a lot further so closer to the coalface avoiding the need for a long entrance drift?
- 5 A. That's never been discussed and the slopes in that area are very steep, over 30 degrees steepness, so...
- Q. Given your knowledge of the area, would it have been economically an option for a mining company to have gone further up?
- A. I don't have any –
- 10 Q. External road is what I mean.
- A. I don't have any expertise in that. I do know from when they got closer to the 30 degree angle slopes at White Knights Stream there was instability issues and there had to be a lot of benching and that part of the road became fairly expensive and time consuming for the company.
- 15 Q. And that's to get to the portal where it presently is?
- A. Correct.
- Q. Now you have very kindly provided the Commission with this large coloured map that we have here and I think we are going to be able to bring it up on the system. We'll produce it as an exhibit. Can you see
- 20 that Mr Jones?
- A. Yep.
- Q. Now this is – can you just explain to us briefly what this is and how and what timeframe we're talking about that it was created?
- A. This was first created in 2004 when this particular version's been
- 25 subsequently updated, but essentially shows the red line is Pike's access road up through Big River, Pike Stream to the mine portal and the stone drive is in yellow up to the yellow dot identified as the fan house, ventilation shaft. And the brown area that's outlined is approximately 300 hectares of area to be mined.
- 30 Q. That's the permitted mining area as I understand it?
- A. Yeah, that's right the permit sorry is in purple, there's a purple outline –
- Q. I'm sorry, right.

A. Yep. That was what was granted by the Ministry of Economic Development in 1997 and also the extended area out to the south east where the road access where it was, that was granted in August 2000. So essentially it's about 2400 hectares the permit area all up.

5 1203

Q. So in terms of what is actually schedule 4 land, where there are some additional prohibitions on the Minister granting an access arrangement, which part of the planned area to be mined was included within that?

10 A. There's the National Park area identified on the right-hand side of the mineral permit, yes it's the area in yellow basically. And the brown area where they're proposing to mine is not underneath the National Park, it is shown as being underneath the stewardship area.

15 Q. So am I right that the western escarpment, and the western side of that escarpment is really the only portion of that area which is within that schedule 4 land?

A. That's right. Yes. The boundary of the National Park is the top of the escarpment and the four emergency exits as proposed by Pike and exit into the National Park. Yes, the fan house and ventilation shaft are all in stewardship land.

20 Q. I'll just get you to confirm then that it's only those four proposed emergency exits out onto the escarpment that would be subject to the restriction in section 61(1)(A)(a) which prohibits the Minister of Conservation to accept and enter into an access arrangement over schedule 4 land except in relation to an activity that's necessary for the construction use, maintenance of an emergency exit and so-on but it restricts that to a hundred square metre area of stripping of vegetation. That's your understanding?

A. That's correct.

30 Q. So it wouldn't apply, I take it then, to any other alternative egress or exit within the mining permit area?

A. That's correct, it wouldn't apply.

Q. Just finally in relation to those four proposed emergency exits just so everyone present is clear. Those were proposed exits that

Pike River Mine had intended to complete its various points of the mining programme but obviously they were simply by their location on the far outskirts of the area planned to be mined?

5 A. That's right. They were expected to be developed later once the mining operations reached close towards the escarpment.

Q. Can I just get you to confirm. In the company's document, which we've already referred to this morning, called the "Assessment of Environment Effects of 3 May 2002", it does refer to those exits as being limited to 1.5 metres high by 1.5 metres wide. Is that a limitation that DOC had
10 anything to do with?

A. We asked the company how big were these exits going to be and they told us that was the size so we imposed no additional restriction on it.

Q. That document actually describes it as mitigating the normal drive size of 3.5 metres high by five metres wide. Do you know where those
15 measurements came from?

A. No I can't recall.

Q. Just back to an issue you raised before and that's in relation to the expert consultants that DOC engaged, the three that we mentioned earlier. What was the information sharing regime between
20 Department of Conservation and other agencies of reports such as those?

A. You mean other Government agencies?

1207

Q. Yes.

25 A. Yeah, well, we'd always provide the report to Pike obviously but there was no regime to supply those reports to other agencies apart from obviously the opportunity for the Resource Management Act hearings of 2002 and 2003, where we certainly supplied the documents and the expert evidence.

30 Q. And we've heard from Mr Dall this morning that on behalf of the regional council they at least saw some of those reports at that period of time?

A. That's right.

- Q. So I take it then from your answer that those types of expert reports aren't generally provided, and weren't in this Pike case, to other agencies such as the Department of Labour or the Ministry of Economic Development?
- 5 A. No, that's right.
- Q. Were those reports provided to the Minister as part of the conservancy mining report?
- A. Most of them were, that's right.
- Q. Do you know whether the early Cave report of 2000 was made available
10 to the Minister?
- A. No it wasn't.
- Q. I want to move now to the terms of the access arrangement itself please Mr Jones and if we bring that document up please, BDC0869. Now, you set out in your statement, and I think it's in the Tier 2 paper as well, that
15 you were involved in a significant way in the ongoing discussions and drafting of the conditions of the access arrangement?
- A. Yes.
- Q. Can you tell me whether the potential financial impact of conditions imposed on an applicant is something that DOC will take into account?
- 20 A. In the negotiation phase if the applicant advised us that the amount that we had drafted up was of concern we would certainly take that into account.
- Q. Are you talking in the context of a bond or something, are you?
- A. Not so much as a bond but in compensation, yeah, or could potentially
25 be in other cases bonds but yeah, it's pretty much case by case.
- Q. And how would that arise? Would it be something that was raised by the applicant themselves?
- A. Yes, that's right.
- Q. If we could turn please to BDC0869/6. I'll just get you to confirm that
30 there are both general conditions obviously and specific conditions in the access arrangement for Pike River Coal Limited?
- A. Yes.

Q. You can see 16 there which states, "Nothing in this access arrangement permits the permit holder to undertake open cast mining." Is that type of restriction something that's generally included in mining access arrangements?

5 A. Well, normally we deal with open cast mining on the West Coast on public conservation land and there is a sister clause, if you like, for open cast mines that states they shall not underground mine unless it's with approval by the conservator.

10 Q. Thank you, if you move now to BDC0869/7, the next page, and general condition 22, and you've already referred to this. This is the requirement on the permit holder to comply with its obligations under the Health and Safety in Employment Act?

A. Yes.

Q. Is DOC involved in any way in auditing whether or not that occurs?

15 A. No.

Q. We see in 22(b) and (c) the factors that you've raised before in terms of protecting public, if they came to be on the land, that's the conditions you're referring to for completeness?

A. That's correct, yeah.

20 1212

Q. If we could turn please to The twentieth page so it would be slash 20. See at the bottom of that page and it goes on in some detail, "Special conditions relating to trial mining," and I know that you're aware, Mr Jones, that there's significant requirements in terms of the access arrangement about trial mining. Now can you explain or do you know, had the trial mining process commenced at Pike River?

25

A. It was, it was made complicated by the fact that the original trial mining panel was to be out towards the pre-existing adit out towards near the escarpment and that was not the first panel area that was where hydro-monitor was working so it was the small bridging panel closer to the ventilation shaft essentially formed an interim trial mining panel so we could see how subsidence would occur on the surface.

30

Q. And that was the purpose of it, to assess subsidence from DOC's perspective?

A. Well from our perspective, yes, but the company, from the company's perspective it was in order to get coal more quickly.

5 Q. And is there, as I understand it, three phrases that Pike River Coal were using as part of this trial mining, the bridging panel you've discussed, then a commissioning panel, then a trial mining panel?

A. That's correct.

Q. The difference between those three?

10 A. Would be the level of, the width of the panel.

Q. Yes.

A. For the bridging panel it was 40 metres, commissioning panel 80 metres and the trial panel's about 100 and, 160 metres wide.

15 Q. And to your knowledge, and I think you in fact went underground, didn't you on the 16th of November?

A. That's correct.

Q. Was that to have a look effectively at the trial mining or the bridging panel?

20 A. That's correct. It was my first time underground in an operating coal mine.

25 Q. We might come back to that, but just while we're looking at special conditions could you please be referred to paragraph 20 – sorry, page 29 of the access arrangement and we can see there at, if we could highlight please 38 and 39, under the heading of "Emergency Response", there's a requirement on the permit holder to have an approved emergency response plan approved by the conservator?

A. That's correct.

Q. So I take it that the necessity for it to be approved means it was actually evaluated and audited by the department?

30 A. It was part of a checklist for approving authority to enter and operate and we, in that checklist we noted whether there was evidence of it being on file, but like I said previous in my, in my evidence I checked the

document for accuracy and where there were obvious errors I ensured that Pike amended it.

Q. And just so we're clear, when you say "accuracy" I think you referred to there being some incorrect names of -

5 A. Peoples.

Q. – people and phone numbers?

A. That's right, yes. Udo Renk was mentioned in the 2008 emergency response plan and at that time November 2008 he, he no, didn't work at Pike. He'd left Pike for example.

10 Q. So the checking of the emergency response plan is, of those types of details rather than whether or not the plan itself was an adequate one?

A. Yeah, we're not experts in emergency response plans for mines.

Q. In 38 there are a number of risks identified that the plan is required to control. The ones listed at (e) which I'll read in is, "the stone portal collapse or tunnel caving," and (f), "explosion including underground explosion and/or outburst." Are those types of quite specific conditions or risks generally included in an access arrangement for a mining situation, underground obviously?

15

A. These were conditions suggested to the department by Dr Cave to be inserted into the access arrangement and we accepted that suggestion, so no they're not normally incorporated into access arrangements or other underground access arrangements.

20

1217

Q. Move now to annual work plans. You will have heard Mr Dall confirm this morning that his understanding is that in Pike River Coal Limited's case, the annual work plan they prepared was done in a way that it met the requirements of both the regional council and district councils and also the Department of Conservation?

25

A. Yes.

30 Q. And I think there were five filed prior to 19 November?

A. That's right.

Q. Would that be right? And a draft one for the 2000 – December 2010 to 2011 period?

A. That's right.

Q. And the purpose of annual work plan from the department's perspective is what briefly?

5 A. Stating what the company have done in the previous 12 months and also stating what they're going to do in the next 12 months.

Q. And if something they are going to do in the next 12 months requires some kind of amendment or variation to the access arrangement, is that normally mentioned?

A. Yes it is.

10 Q. And from DOC's perspective, do you assess those annual work plans to see what the differences are from year to year?

A. Yes we do.

15 Q. We're going to hear from the liaison officer Mark Smith shortly and I think he's the one who does the initial liaison work between the company the department, including these annual work plans, but when it comes to assessing them, that as I understand is, was part of your role?

A. That's correct.

Q. You will have made a recommendation to the community relations manager it's called?

20 A. In this case, the Pike work plans they would go to the conservator for approval.

Q. How are they assessed? As I understand it you have an internal checklist that the West Coast conservancy uses?

25 A. That's correct, yep; every condition that requires a document to be supplied or a financial sum to be paid by Pike is noted as being in the checklist.

Q. And again the actual information provided by the company, is it assessed for accuracy –

A. Yes.

30 Q. – or just simply – it is?

A. Yes.

Q. In terms of safety issues, the proposals are they assessed? General safety for example, ventilation shaft or second egress?

A. They're assessed in terms of whether that information on the element is there or not.

5 Q. Are there any consequences if there is, for example, in the previous 12 months plan a suggested feature to be constructed which isn't over that period and when you come to assess it, what is the outcome – what is the consequence of a non-performance if any?

A. It's – it is normally noted, but Pike's operations had been going very slowly so it was quite common that what was meant to be achieved in the next year wasn't in fact achieved.

10 Q. When something's not achieved, does that require a variation or does it – is it just included in the next plan for the next year that it will be –

A. That's right.

Q. – achieved in the next 12 months?

A. Just caught up in the next annual work plan.

15 Q. Just out of interest, how many variations were there to work plans and when would a variation be required?

A. There are a total of 144 work plan variations since December 2005 up to the time of the explosion.

20 Q. And what types of things would you need a variation for? Would that be during the course of the plan itself would it?

A. That's right at any time for, for any health and safety matter that the company would raise, such as needing to stabilise a rock slope for a drill site or for felling a tree to protect the power line or the amenities area that they were work plan variations that came to the company and we signed them off very fast.

25 Q. So that's health and safety considerations in the context of – to Pike staff in order they could safely construct a drill rig or for example fell a tree?

A. That's correct.

30 1222

Q. Now I understand that there needs to be some clarification in relation to paragraphs of the Tier 2 paper, 285 and 286 which relate to Pike River Coal Limited's proposals to construct a second egress and emergency

exits. I think in your Tier 2 – in the department's Tier 2 paper, paragraph 285, it states that it was not until 2009 that Pike River Coal indicated that a roadway would be developed towards the northwest to allow for a second air intake and egress to developed out into the Pike Stream Valley and it gives coordinates or estimated coordinates. And it goes on to say that it was in the 2009 work plan that construction of that second egress was listed as work to be done during that following 12-month period. I understand that overnight it's been reviewed and that on review of the five annual work plans that were provided by the company that it's been confirmed that reference to construction of a second egress has been included from the very first plan I think of 2005?

A. That's right, 2005, yes.

Q. That was proposed to be via an adit into the Pike Stream Valley. And I think if we can pull that map back up, you have an understanding of where that was proposed to be don't you?

A. Yes.

Q. Do you have a pointer in front of you, great. Where do you understand that to be Mr Jones?

A. There's two rivers heading out to the out catchment area.

Q. Just get you to pause there please. You're going to actually have to speak into the microphone, sorry.

A. Sorry. Approximately that location there.

Q. Now I understand there are two streams in the location. Is that right?

A. That's right. There's two northern branches of the Pike Stream in the upper catchment and at the end of the northwest branch there's the pre-existing adit. This second egress was to be at the southern end of the northeast, east branch.

Q. And we're not referring to a ventilation shaft are we, they were referring to a second egress?

A. They were referring to a second agress but elsewhere in the work plan there is talk of a airway.

Q. Yes. So on review you've confirmed that reference to construction of a second egress was in every plan from 2005 and am I right that there wasn't approval sought for construction in any of those years of that second egress until the 2008/2009 plan?

5 A. That's right, there was no detail.

Q. And in that plan, if we can pull it up please, it's GDC4078/31. It says there for the first time that a second means of egress from the mine that approval is sought for construction of that in this 12-month plan and a separate work plan will be submitted for approval and a separate AA, which means access arrangement, variation will be applied for if required?

10

A. That's correct.

Q. Was there a separate work plan ever filed in that year?

A. No there wasn't.

15 Q. What about in the following year because I think that provision effectively carries over to the next plan of 2009/2010?

A. No, there was no work plan variation for the second egress.

Q. Do you know why that was?

A. The company were well away from developing that number 2 roadway close enough to that particular second egress site. And I refer you to figure 2 of the 2010 plan. That shows where the mining activities were up to in relation to that second egress.

20

1227

Q. That's this one you provided to me this morning?

25 A. That's correct, yes.

Q. I'll just get that brought up please and there's no summation number for this may it please Your Honour but I will produce it. so, that's the plan you're talking about?

A. Correct.

30 Q. We can see the bottom right hand corner the mine end of the drift, the long drift and the mine workings, is that right?

A. Yes.

Q. In relation to that can you indicate, perhaps again using your pointer, where it is that the second egress was proposed? Right and in terms of when you went in on 16 November and had a look at the bridging panel that had commenced, whereabouts was that, can you say on this or not?

5

A. We went to two locations, the first one was approximately this area here.

Q. You're pointing to the beginning, the yellow part of what's called the commissioning panel?

10

A. No, to the left of that there's a roadway, that is my understanding where we were in that location, but I could be wrong precisely where we were but it was either towards the commissioning panel or along that roadway turning into the red, but we also went to the start of where the hydro-monitor was working at the southern end of the bridging panel.

15

Q. Which is marked there on the map?

A. That's correct.

Q. And as I understand this ledger is that are the roadways marked in red what the company was intending to construct in the 2010/2011 year?

20

A. That's correct. I'd actually like to say I don't know what part of the bridging panel we visited, it may well have been the far northern end where the hydro-monitor was working.

Q. Perhaps if we just produce these now.

EXHIBIT 8 PRODUCED – AERIAL MAP OF PIKE RIVER

EXHIBIT 9 PRODUCED – PLAN DATED 10.11.2010

25

Q. What is this map called Mr Jones, what would be the technical term?

A. It's the title there, "Four year plan."

Q. Right and that was attached, so we're sure, to the 2010/2011?

A. That's correct, as figure 2.

Q. As figure 2 and your plan?

30

A. Yes.

THE COMMISSION:

Q. It's also dated, isn't it, dated the 10th of November 2010?

A. That's correct.

CROSS-EXAMINATION CONTINUES: MS BEATON

Q. That must mean it was attached to the draft plan, was it?

A. That's correct.

5 Q. For the 2010/2011, December 2010/2011.

A. Work plan period, yes, that was attached to the work plan dated the 8th of November but because of the size of the document we didn't actually receive it until separately.

10 Q. Were there any discussions, to your knowledge, between Department of Conservation staff and the company about the delays in getting the construction towards and onto the second egress?

A. Not specifically about getting towards the second egress, no, not that I can recall.

15 Q. I understand you're also aware Mr Jones that the wording used within the annual plans in relation to the ventilation shaft, being an alternative means of emergency exit, changed between the first two work plans in 2005/2006 and 2006/2007 referred to, "While initially planned to be used as a second means of egress it was not suited as an emergency exit because it is at least 100 metres vertical and reliance was to be placed on the new adit egress instead." That wording changed, as I understand it, from this 2007/2008 annual plan where the company recorded the ventilation shaft as not being suitable as a permanent emergency exit. Were you aware of that slight change of focus by the company over the course of the annual plans or was it something you took into account at the time? Do you recall? I can bring that up if that helps you, we do have them.

20

25

A. No, it's not something that I recall specifically at the moment.

1232

30 Q. Changes like that, between an annual plan from one year to the other, would that be something that would usually be

A. Yes I would've seen that and considered that at some stage during the changes of the plan, but just with regard to this specific issue now, I cannot recall.

5 Q. If DOC did hold concerns about any changes or lack of progress by a company in obtaining or constructing a particular part of their proposal, what were the options that DOC had to be able to deal with that?

10 A. Well we're talking underground mining here and we're not underground mining experts. We understood the company were having difficulties with the ventilation shaft and we accepted that we were solely relying on what they're advising us at the liaison meetings in terms of those problems, so we were – in terms of underground just really observers, watching what was going on and waiting really for subsi – potential subsidence effects in terms of how that could impact on the surface.

15 Q. I want to move very briefly to the issue about drilling. Now as I understand it the access arrangement permitted Pike River Coal Limited to drill up to six vertical drill holes on -

A. Sorry could you repeat the question?

Q. As I understand it the access arrangement with Pike River Coal Limited permitted drilling of up to six vertical drill holes?

20 A. Which access arrangement are you referring to?

Q. The one that's in force. Did that change?

A. For the mining?

Q. Yes I'm sorry, yes.

A. Yeah, okay. What condition has that six drill hole limitation?

25 Q. Is that not something that sounds correct, because if I'm wrong please tell me. Was there a limitation in the access arrangement to your knowledge?

A. I can't recall there being a limitation no.

30 Q. Okay, my mistake. Do you know how many drill holes were undertaken by the company during the period since the access arrangement was approved?

A. Yes I do, the first drill hole drilled in the period of the mining access arrangement was done for pit bottom purposes and its Pike drill

holes 22 to 24 and also Pike drill holes 27 to 29 and Pike drill holes 30 and 31.

Q. And that's in relation to the mining permit, correct?

5 A. That's correct and I'm pretty sure there's other ones as well, Pike drill holes 32 to 36 as well. So Pike were looking at options for pit bottom and also for ventilation.

Q. Yes. There was also an exploration permit as well for drill hole –

A. Exploration access arrangement.

Q. Access arrangement yes.

10 A. Yes in 2006, that's correct.

Q. And was that for up to six?

A. No, there was no limit. That was a 20 year term and Pike under that particular access arrangement there was only three drill holes I understand that were drilled 30 – Pike drill holes 37 to 39.

15 Q. If a mining company wanted to drill more drill holes as a matter of making an application to vary the access arrangement or to amend it. Is that how the process works?

20 A. If they wanted to drill further for pit – to look at pit bottom or other ventilation shaft issues, that would be under the mining access arrangement and that would need to be varied, but –

Q. To allow them to do that?

A. To allow them to do that and –

Q. If they wanted to drill further holes out into the coalfield?

25 A. That would be done under the exploration access arrangement and they would just need to put forward a work plan for those particular parts of the work.

1237

30 Q. With Pike River Coal Limited was there any occasion where they put forward a proposal either under the exploration access arrangement or the mining access arrangement to drill further holes which was not approved?

A. No, there was never any drill holes that weren't approved.

MR DAVIDSON:

Your Honour I'd like to ask about the movement of the trial panel and the emergency exits as described in the evidence.

5 THE COMMISSION:

Yes, are there any other applications that are –

MR HAMPTON:

Well perhaps check Your Honour, whether whether there is a record of the
 10 drill holes and what they were. The witness seems to be referring to a
 schedule and I wonder whether that schedule is available to the
 Commissioner and whether it should be made available because it seems to
 have notations on it as to why the holes were being drilled, the purpose of the
 holes and presumably it's got a timeframe on it as well as to when that
 15 application was made, might be useful to have seen, sir.

THE COMMISSION:

Well it's quite a supposition there, Mr Hampton. I don't know what the witness
 has been referring to but you'd like to ask?
 20

MR HAMPTON:

I'd like to ask him whether it's a document that might be useful to the
 Commission quite frankly, sir. I'm probably more limited than Mr Davidson,
 sir, and I say that in a very specific sense.

25 CROSS-EXAMINATION: MR HAMPTON

Q. Mr Jones, when you were referring to the drill holes just a few moments
 ago, were you referring to a record of your own or of DOC's that set out
 the drill holes applied for and the reasons that they were applied for?

A. It's based on a rehabilitation table for the rehabilitation status of each of
 30 the drill sites that have been drilled by Pike River.

Q. And is that in a schedule form or a table form in some way?

A. Yes, it is.

Q. Has that been made available to the Commission?

A. I don't think it has, no.

Q. What extent of document is it?

A. It's just Excel spreadsheet. I'm certainly happy to be make it available.

5 Q. Has it got dates on it as well as to when the holes were drilled?

A. That's right, it's got the date that drilling was completed on.

Q. And the total number of holes shown on that spreadsheet?

10 A. It's got Pike drill holes 1 to 39 and Pike River drill hole 39 was completed in July 2009 but it doesn't include the seven Mitsui drill holes which were undertaken in 1993.

Q. I wonder whether, subject to whether the Commissioners wish to see it, I would suggest that that might be a document that should be relevant as a, relevant to summary of the holes and that would be the sole ambit of my questions thank you, sir.

15

THE COMMISSION ADDRESSES MR HAMPTON – DOCUMENT TO BE MADE AVAILABLE

CROSS-EXAMINATION: MR DAVIDSON

20 Q. Mr Jones, I wonder if we bring up exhibit 9 I think. Now as you've just observed, Mr Jones, this was received or prepared I'm sorry, drawn by Mr Hewitt in November, 10th of November or thereabouts last year and you visited the sites which you had a little difficulty getting precisely right but it's somewhere around the commissioning or bridging panel. Is that right?

25 A. That's correct, yes.

Q. Now we can see in the same depiction the trial panels that are shown in the area. I think broadly where you marked with the laser pointer earlier on?

A. The original trial mining panels.

30 Q. Yes.

A. That were considered as part of the 2004 access arrangement were up in the north-west corner of the coalfield over there.

1242

Q. So that's where you point on the other exhibit, exhibit 8 I think earlier, the previous picture that came up on the wall? I'll put it another way?

A. Yes.

5 Q. These panels that you see, the trial panels in the upper left of this depiction, is that where you understood the trial panels were to go earlier?

A. That's correct.

10 Q. Now the circumstances in which those panels were not developed but these other panels were developed, which you did visit, do I understand that you were told, somewhere you understood that this because the company wanted to get to the coal?

A. That's right, they wanted to get some coal more quickly.

Q. And where did that information come from to you?

15 A. We were advised at a meeting with Peter Whittall in December 2007 and we considered that proposal in terms of the access arrangement and Pike advised us that they would provide – 'cos our concerns mainly related to subsidence on the surface, they provided us information that the access arrangement would be complied with by undertaking these
20 bridging and commissioning panels.

Q. So assessing and subsidence but no element of safety consideration as such in terms of the operation of the mine?

A. No, that's right.

25 Q. Now could I bring up please GEC4078/031. We looked at this before, in this paragraph 5.3.8, the middle paragraph refers to the ventilation shaft being used a second means of egress but at 100 metres vertically not suited as a permanent emergency exit. If that was so what was going to take its place if this was going to be in place for a period of time, not suitable for permanent exit, was there any other or additional exit
30 discussed in the liaison groups that you went to, or meetings you went to?

A. It was the second egress.

Q. And were you involved in discussions about the unsuitability of it because it was 100 metres vertical?

A. No we weren't.

Q. But you were told that was the reasoning behind Pike's decision?

5 A. That's correct.

Q. Now in the first exhibit we've seen today, which is exhibit 8, which you produced, can we bring that up please. We can see the proposed emergency exits marked, four of them, within the area to be able to be mined. Do you see that there, the four points?

10 A. That's correct.

Q. And in your evidence you referred to something, I'm sorry I missed the exact detail when Ms Beaton put it to you, about the size or the diameter of those?

A. Yes, 1.5 metre diameter.

15 Q. And was there some variation to that agreed?

A. On size?

Q. Yes.

A. No, not in terms of the access arrangement, no.

20 Q. Do you have anything to do with setting the dimensions or the form of the emergency exits at all?

A. I recall asking Pike what were the size of the emergency exits going to be and their response was 1.5 metre radius holes.

Q. And is your interest confined to seeing how that effects the environment on the surface?

25 A. On the surface, correct.

30 Q. In your paragraph 43 you refer to your reading the plans when they were provided by Pike and in particular Pike was required to prepare an emergency response plan, including explosion, fire and site instability and your evidence is that you read these plans and provided feedback to Pike if factual errors were evident, so do I take that that doesn't include any reading as it were for content or the merits if you like of those plans?

A. In terms of safety of the mine you mean?

1247

Q. Yes.

A. That's correct.

Q. So they're factual errors you're looking for?

5 A. That's correct.

Q. And what are they, factual misstatement of the position, some factual misstatement about a description of the land for example?

A. That's correct.

10 Q. And as you've noted the point in your paragraph 42 you had referred to the provision of the work plans and the provision for a second ventilation shaft and emergency exits. Again, is that just something that you would simply note but not discuss?

15 A. We may well have discussed it at a liaison meeting why it was being delayed but it seemed clear from the mine plans that they just simply weren't near close to the second egress, so it was quite clear from the plans we were being shown at the liaison meetings of why operations were going slowly.

20 Q. And finally, I need to ask this for completeness, now after Cave Creek the department brought down a lot of different standards and requirements in relation to its administration of sites which it's responsible for, did it not?

A. You'd have to aim this question at my boss, Mike Slater.

Q. I'll leave that until later.

RE-EXAMINATION: MR MANDER – NIL

25 QUESTIONS FROM COMMISSIONER HENRY

Q. Just to make sure I understand this, is it normal in your experience for trial panels of this nature of trial mining planned to be submitted and approved for an underground mine?

A. My only experience is in the Pike River case.

30 Q. If I understand it correctly, the purpose of that trial was to check for problems with subsidence?

A. That's correct, yes.

Q. When the company decided to carry out mining much closer to where they were to it at the bottom, did that concern you in any way?

A. In terms of subsidence?

Q. Yes.

5 A. No because the levels of subsidence that they were proposing, because the panels were narrower, was going to be a lot less so we were talking minimal, what was described as minimal amounts of subsidence so no more than 600 millimetres maximum, whereas out in the trial mining panels it was going to be up to the maximum subsidence allowed, which
10 was up to three metres.

Q. So were those panels, or call them what you like, that were actually going to be in mind were they in fact much smaller than the trial would have been?

A. Exactly, the bridging panel was only 40 metres wide.

15 **QUESTIONS FROM COMMISSIONER BELL**

Q. Mr Jones, I've just got one question. Dr Murray Cave had concerns over a range of issues in his report, he mentions, starting in your brief at section 19 some of these issues would impact on safety, now did DOC take into consideration with respect to the variations made by Pike to
20 address some of Dr Cave's concerns?

A. Could you repeat the question please.

Q. Dr Cave's report, the initial one that's mentioned in section 19 of your brief indicated he had a range of concerns to do with the Pike proposal. Some of those concerns could in fact have resulted in safety problems
25 to do with maybe not enough knowledge of the geology or problems with gas or whatever. When you mentioned there was variations, you mentioned further in your evidence, variations were made with Pike, was there any safety improvements or any safety issues addressed in those variations?

30 A. Not to my knowledge no.

1252

Q. Was there any – would they have been referred anywhere else as a concern?

A. No where I know about.

Q. And when did Dr Cave stop advising DOC with respect to Pike?

5 A. Basically he finished up a formal arrangement when we had the access arrangement fully drafted, but we did ask him on an informal basis to comment on the pit bottom drill holes in January 2006.

Q. And what – could you tell us what his comments were, just briefly?

10 A. He didn't have any real concerns with what the company were proposing in terms of the location of the drill holes.

THE COMMISSION:

15 Q. I just have a couple of questions Mr Jones. I just wanted to understand Mr Jones there are two areas marked there, one of them is called a “Stewardship area,” that’s still an area for which DOC has responsibility?

A. That's right under the Conservation Act section 25.

Q. And the “Saxton Ecological area”, what’s its status?

20 A. It’s a specially protected area under the Conservation Act section 21. So that particular ecological area’s held for its altitudinal sequence of forest values.

Q. The second matter concerns what Ms Beaton termed, “The impact of conditions upon the company,” do you recall her asking you about that?

A. Yes.

25 Q. And you answered with reference to, “Bonds which might be imposed as a condition of the access agreement or compensation terms which might become a condition of the agreement. More generally the conditions in that agreement prescribed such matters as the size of the pad that could be constructed above the existing ventilation shaft and I haven’t got the meterage before me, but it is specified is it not in the
30 relevant terms –

A. That's right the ventilation shaft was –had a specified size back in 2004 and it was subsequently varied that size to take into account redesign of the detail of the ventilation shaft.

5 Q. I just wanted to have an appreciation, how did you go about setting those size limits and what was DOC's attitude and approach?

A. Basically that was what the company said they required initially. We had a figure in their application which stated this was the size of the ventilation shaft and fan house area that they required.

10 Q. A related issue, was there ever any initiative or proposal to have access to a site such as that by track?

A. There was mention, I think, of a survey line at one stage for subsidence monitoring but I can't recall the details of that.

15 Q. The reason I'm asking is that we know that all of the drilling within the area had to be done using helicopter and bringing in a rig to undertake the drilling exercise.

A. Correct.

Q. I may be wrong, but it might've been more convenient perhaps for the company if it could've had access by other means?

A. A foot access track you mean sir?

20 1257

Q. Yes, or a road access even. Was that ever on the table?

A. It was never on the table, sir.

25 Q. And do you know why that was? Why there were never any proposals of that kind? Had there been discussion for example saying that that wasn't a possibility or?

A. No, Pike never discussed any potential for a road up there with me, sir.

Q. So you don't know what their thinking was about those aspects?

30 A. They never expressed any concern about not having any other means of access apart from maybe wanting an access track, sir, foot access track.

Q. So what was requested in that regard and what happened about it?

A. I can't recall anything specifically. I'm, I'm hoping the liaison officer following me may, might be able to answer.

Q. So you don't actually know whether there was even discussion about an access track?

A. I remember it being mentioned at a liaison meeting but a lot of potential issues were discussed and that never actually was presented to us as a work plan variation.

5

QUESTIONS ARISING - NIL

WITNESS EXCUSED

THE COMMISSION ADDRESSES COUNSEL

10 **COMMISSION ADJOURNS: 1.00 PM**

1302