

QUEENSLAND COAL MINING BOARD OF INQUIRY

Coal Mining Safety and Health Act 1999

Establishment of a Board of Inquiry Notice (No 01) 2020

Before:

Mr Terry Martin SC,
Chairperson and Board Member

Mr Andrew Clough,
Board Member

At Court 17, Brisbane Magistrates Court
363 George Street, Brisbane QLD

On Monday, 10 August 2020 at 10am
(Day 5)

- 1 THE CHAIRPERSON: Yes, Mr Rice.
2
- 3 MR RICE: The first two witnesses are representatives from
4 the Oaky North mine. The Board may note that we have
5 Mr Clothier and Mr Bremhorst in appearance as counsel for
6 the Oaky Creek Holdings for the first time.
7
- 8 THE CHAIRPERSON: Thank you.
9
- 10 MR RICE: And Mr Dighton, to my left, is representing the
11 Anglo companies today.
12
- 13 THE CHAIRPERSON: Thank you. Yes, Mr Rice.
14
- 15 MR RICE: I call Luca Anthony Pantano.
16
- 17 **<LUCA ANTHONY PANTANO, sworn: [10am]**
18
- 19 **<EXAMINATION BY MR RICE:**
20
- 21 MR RICE: Q. Is your name Luca Anthony Pantano?
22 A. Yes, it is.
23
- 24 Q. Mr Pantano, you are employed by Oaky Creek Coal Pty
25 Ltd?
26 A. Yes.
27
- 28 Q. And do you occupy the position of ventilation officer
29 at the Oaky North mine?
30 A. Yes, I do.
31
- 32 Q. You've held that position, I think, since 6 December
33 2019? - correction, you had that position as at the date of
34 the incident that we're concerned with --
35 A. Correct.
36
- 37 Q. -- 6 December 2019. For how long, have you been
38 ventilation officer?
39 A. To this day?
40
- 41 Q. I beg your pardon?
42 A. To this day?
43
- 44 Q. Yes.
45 A. I'm still ventilation officer.
46
- 47 Q. For how long have you occupied that position in all?

1 A. At Oaky Creek since March 2019, but generally since
2 January 2014.

3

4 Q. With assistance from solicitors, you've prepared
5 a statutory declaration for the assistance of the Board?

6 A. Yes.

7

8 Q. If Mr Pantano could see his declaration. Mr Operator,
9 if you could show it, it is PLU.001.002.0001. You have
10 your own copy there, do you?

11 A. Yes.

12

13 Q. You've set out in a fair bit of detail all of your
14 background and qualifications and experience, so we'll go
15 straight to the incident, shall we?

16 A. Yes.

17

18 Q. If we could display page 0002 and zoom on paragraph 7,
19 you've set out details of what happened in that paragraph.
20 I draw your attention firstly to paragraph 7(b) in which
21 you make reference to the methane sensors and you note that
22 at that mine, they're programmed to trip power to the
23 underground equipment at a methane concentration of greater
24 than 1.25 per cent.

25 A. That's correct.

26

27 Q. When you refer to methane sensors, are you referring
28 to all of the sensors?

29 A. The maingate drive, the shearer and the tailgate
30 drive.

31

32 Q. And when those sensors reach 1.25, is all power to the
33 face cut?

34 A. Yes.

35

36 Q. Is there any other power, other than the shearer and
37 the armoured face conveyor?

38 A. Probably wouldn't have the expertise to answer that
39 one.

40

41 Q. I beg your pardon?

42 A. I probably wouldn't have the expertise to answer what
43 is powered and what is not powered, but generally it's
44 tripping of all - of the longwall face power.

45

46 Q. Why, then, are the sensors at Oaky North configured at
47 that particular figure, which is rather less than that

- 1 which is prescribed?
2 A. My understanding is that it's due to our - under our
3 frictional ignition standard, under our frictional ignition
4 risk profile at Oaky Creek.
5
6 Q. Do you know how that was determined?
7 A. I wasn't in that - involved in that process.
8
9 Q. You've given a description of the incident at
10 paragraph (d). There is also an investigation report,
11 which has a diagram roughly drawn, and I thought we might
12 go to that and that might assist with the explanation of
13 the incident. Mr Operator, could we then have document
14 OCH.500.001.0110. You've seen that before, Mr Pantano?
15 A. Yes.
16
17 Q. Could we go to page 3 of that, which is 0114, and
18 could we zoom on the bottom half, where we see that
19 diagram. You recognise that as a roughly drawn diagram of
20 the longwall face?
21 A. Yes.
22
23 Q. Do I understand correctly that the ordinary flow of
24 ventilation will be from maingate towards tailgate?
25 A. Yes.
26
27 Q. So in that diagram, from right to left?
28 A. Yes.
29
30 Q. And is it the case that ordinarily on reaching the
31 end - on reaching the tailgate, the ventilation will take
32 a right turn, so to speak, where we see the letters TG?
33 A. No. The opposite way. Left.
34
35 Q. Okay. Can you explain it, then?
36 A. So it will travel across the face from right to left
37 on that page and then head down the page towards where it
38 says "niche in face".
39
40 Q. Okay, I understand. You've used the expression in
41 paragraph 7(d) of your statement that there was a blockside
42 stub. Can you explain what a blockside stub is?
43 A. So it's a stub driven in the longwall block itself,
44 for whatever purpose it was determined at the time.
45
46 Q. Do you know what the purpose was, why it happened to
47 be there?

- 1 A. Not on this occasion, no.
2
- 3 Q. What are the kinds of circumstances in which such
4 a stub might be created?
5 A. Storage, putting a piece of equipment in there, like
6 a pump, or of that nature.
7
- 8 Q. When would it be created in the scheme of things?
9 A. During first pass development mining.
10
- 11 Q. It's a hangover from the development phase?
12 A. Essentially, yes.
13
- 14 Q. Is the location of such stubs known, when it comes to
15 production at a panel?
16 A. Yes.
17
- 18 Q. Is it featured on a mine plan or somewhere that you
19 can be aware of where it is?
20 A. Yes.
21
- 22 Q. So in this instance, is it correct to say there was no
23 lack of understanding of the existence of this stub?
24 A. Correct.
25
- 26 Q. Perhaps with the assistance of that diagram, you might
27 tell us how the flow of ventilation was affected by what is
28 depicted there?
29 A. Yes. So if you can imagine the shearer traversing
30 along the face or across the page from right to left along
31 where it says "face line"?
32
- 33 Q. Yes.
34 A. As that was cutting towards the tailgate, it cut into
35 and exposed access for the ventilation to go through the
36 stub, so it's just opening up another path for the
37 ventilation to travel, which in this case is the path of
38 least resistance.
39
- 40 Q. So instead of being confined by the face line --
41 A. Correct.
42
- 43 Q. -- as it's drawn in that diagram, the ventilation is
44 allowed to drift into the niche as it's drawn?
45 A. Correct.
46
- 47 Q. And that has the effect of what?

- 1 A. It changes the pressure dynamic around that tailgate
2 drive area and it brings the goaf stream forward.
3
- 4 Q. Where would you expect the goaf stream otherwise to be
5 confined?
6 A. Where "TG" is written.
7
- 8 Q. So if the ventilation drifts into the niche, it allows
9 an opportunity for the goaf stream to drift forward?
10 A. Yes.
11
- 12 Q. In this case on to the tailgate drive sensor?
13 A. Yes, correct.
14
- 15 Q. I gather from what you've said and what Mr Wilson has
16 also said - he was the ERZ controller on duty at the time -
17 that there had been two previous instances of drilling into
18 blockside stubs?
19 A. Cutting into, yes.
20
- 21 Q. Cutting into, right. And this kind of thing didn't
22 occur on those occasions?
23 A. Correct.
24
- 25 Q. Is there any theory as to why this one would be
26 different?
27 A. To the best of my knowledge, no.
28
- 29 Q. You haven't turned your mind to how it could be that
30 this one was different to the previous two?
31 A. Not explicitly.
32
- 33 Q. In the course of the process of investigation that
34 followed, did anything emerge to identify that this event
35 was different to the previous two, where there was no
36 exceedance?
37 A. No.
38
- 39 Q. Well, the occurrence of this event triggered certain
40 forms of reporting and investigation, did it not?
41 A. Yes.
42
- 43 Q. You would be aware, I think, of the forms 1A and 5A?
44 A. Yes.
45
- 46 Q. That's part of the investigative process. Since we
47 have that document on screen, it is also styled as an

1 incident investigation report, as we saw from the first
2 page?

3 A. Yes.

4
5 Q. How was the preparation of that kind of incident
6 report triggered?

7 A. The form 1A?

8
9 Q. No. Actually, I was thinking of the incident
10 investigation report, which is on the screen.

11 A. On the screen. So that's undertaken by the immediate
12 supervisor in the area, which in this case is Wilson, and
13 then completed through the shift supervisor, Cady, at the
14 time, given it was on the night shift.

15
16 Q. This incident occurred early evening on 6 December,
17 and this report appears to be dated the same date.

18 A. Yes.

19
20 Q. In the scheme of things, is that correct, that it
21 would be completed on the same shift?

22 A. Yes.

23
24 Q. If we go to page 6 of that, which is page 0120, we see
25 that there are various sets of handwriting on that page,
26 indicating that various people have completed different
27 parts of it.

28 A. Yes.

29
30 Q. If you look down at part 4, which is the second half
31 of the page, we see the heading "Investigation Team" and
32 then a list of names. We know, I think, that Mr Wilson was
33 the ERZ controller. Who were the other team members and
34 how would they have been determined to be part of that
35 team?

36 A. They would be the other members on the crew at the
37 time, and they would be either, say, the shearer operator
38 or alike.

39
40 Q. Is that then simply a list of people who were working
41 on shift at the time, rather than a specially convened team
42 for the purpose of investigation?

43 A. Yes.

44
45 Q. What, then, is the role of the people who have signed
46 underneath that with respect to the investigation of this
47 incident?

- 1 A. To review it and approve the form for completeness and
2 quality.
3
- 4 Q. Most of it appears to have been completed by
5 Mr Wilson, and he apparently did that on the same shift?
6 A. Yes.
7
- 8 Q. When he has completed it, what happens to the form
9 then? Perhaps you could use what's displayed to illustrate
10 what happens to the completed form?
11 A. Once the form's completed by the supervisor, it then
12 gets passed to the shift supervisor, who then reviews the
13 incident with the supervisor, which in this case is Wilson.
14 The following day, dependent on when it occurred, it's then
15 reviewed by the department superintendent, which in this
16 case is the longwall superintendent, for quality but also
17 to accept the actions that would also be listed above, and
18 again signed off for completeness and quality by the
19 department manager and HST manager and then communicated.
20
- 21 Q. Perhaps if we could go to the top half of the page,
22 then. The immediate response was to set up a brattice
23 curtain along the shields?
24 A. Yes.
25
- 26 Q. But above that there are a couple of other recommended
27 actions, apparently signed off by the superintendent?
28 A. Yes.
29
- 30 Q. What were they?
31 A. The ones listed here on the screen?
32
- 33 Q. Yes.
34 A. "Discuss with ERZ controller - actions taken towards
35 inspection gas readings and responsibilities" --
36
- 37 Q. Are you able to interpret that for us?
38 A. So that document in reference there is "Ventilating
39 Workplaces", so that would be - my assumption is that that
40 would be around the inspection of the area, the stub,
41 making sure that it's sufficiently ventilated and methane
42 concentrations diluted to acceptable limits, so I suppose
43 a reinforcement of that procedure with the ERZ controller
44 and --
45
- 46 Q. Is that part of the immediate response?
47 A. No. That would be subsequent, given the due date.

1
2 Q. Where it says "Discuss with ERZ controller", we know
3 that it so happens that Mr Wilson was the one on duty at
4 this time?

5 A. Yes.

6
7 Q. Is that a reference to him?

8 A. Yes. I would assume that's a reference to him, given
9 it's singular.

10
11 Q. Rather than a discussion to be had with all
12 ERZ controllers about this incident?

13 A. I'm unsure.

14
15 Q. Beyond the immediate action of establishing the
16 brattice curtain and the other matters that are set out on
17 that form, there were apparently a number of other things
18 that were done --

19 A. Yes.

20
21 Q. -- which were responsive to this incident but perhaps
22 taking a longer-term perspective?

23 A. Yes.

24
25 Q. You've given some details, I think, at paragraph 22 of
26 your declaration. Perhaps we might have that displayed, if
27 we can. You say, introducing paragraph 22, that you have
28 overseen the following improvements. Did you devise the
29 things that are listed? In other words, did you identify
30 them to be done?

31 A. As a group. So it wasn't just me solely, but as
32 a group within the mine and receiving some feedback from
33 operators and other people.

34
35 Q. That's really what I wanted to get to, to see what
36 that group consisted of. What triggers the formation of
37 the group and what happened from there?

38 A. In this regard and I suppose in the subsequent actions
39 listed within my statement, it was more of a - trying to
40 understand how to prevent it from happening again.

41
42 Q. I understand that, but you mentioned that these things
43 were the result of some group consideration.

44 A. Yes.

45
46 Q. In the process that is in place at the mine, what is
47 it that triggers the formation of a group to consider the

- 1 event?
2 A. I suppose the incident itself triggers the formation
3 of the group.
4
5 Q. But then who would convene it? Do you all sit around
6 and meet and, if so, who initiates it?
7 A. In this instance, I can't recall, but for - yes, I'd
8 only be speculating. I can't recall.
9
10 Q. I beg your pardon?
11 A. I'd only be speculating. I can't recall how this
12 particular one was convened.
13
14 Q. Is there a normal process, then, that you could
15 describe in general terms?
16 A. We undertake a compliance meeting.
17
18 Q. Is that what it's called?
19 A. Yes.
20
21 Q. A compliance meeting?
22 A. Yes. For instance, this particular incident could be
23 brought up in that, and that's convened by the - sorry, let
24 me go back. It has members, relevant members, of the staff
25 in that, such as the mine manager, et cetera, and we can
26 discuss these potential issues and see whether any
27 additional controls need to be put in place from that.
28
29 Q. Is the formation of a compliance meeting part of some
30 written procedure?
31 A. Yes.
32
33 Q. Do you know what that procedure is?
34 A. No.
35
36 Q. Do you know who convenes the compliance meeting?
37 A. I know that it's - I know that it's chaired by the
38 mine manager.
39
40 Q. That was Mr Downs at this time?
41 A. I'm uncertain for this instance, at this time, but
42 just in general.
43
44 Q. Were you part of it, part of the compliance meeting?
45 A. Generally, no. At this time, it was on a fortnightly
46 basis and it was whilst I was on my rostered days off.
47

- 1 Q. What's the purpose, then, of the compliance meeting
2 with respect to an incident such as this?
- 3 A. I suppose it would only be in regard to ensuring that
4 the controls are longer term and --
- 5
- 6 Q. But someone has to work out what the controls would
7 be, do they not?
- 8 A. Yes.
- 9
- 10 Q. How is that done?
- 11 A. It would be as a group at that meeting, per se, but
12 I'm not saying that in this instance that would have
13 generally occurred.
- 14
- 15 Q. You can't recall the compliance meeting for this
16 incident? In fact, you may have been on days off?
- 17 A. Correct.
- 18
- 19 Q. So having regard to that, is it the situation that the
20 measures to be taken were identified at the compliance
21 meeting, which you weren't at, but were you involved in
22 overseeing the implementation of the measures that were
23 identified?
- 24 A. I was involved in these measures, not saying that they
25 were at the time discussed at that particular compliance
26 meeting in general, but if I can refer to my statement just
27 as an example, the "inclusion of mandatory installation of
28 a Sherwood curtain when intersecting a blockside stub as
29 a requirement contained in the permit to mine" was a direct
30 discussion that I had with my technical services manager
31 and that we were aware of what occurred on this occasion,
32 and to prevent it from reoccurring we made sure that it
33 was - that control was included in the subsequent mining
34 permits.
- 35
- 36 Q. But the installation of a Sherwood curtain, correct me
37 if I'm wrong, is a fairly standard sort of response to this
38 kind of an issue; is that right or not?
- 39 A. Yes, yes.
- 40
- 41 Q. But neither the brattice nor the Sherwood curtain, in
42 this incident, was put in place prior to mining into the
43 stub?
- 44 A. That's correct.
- 45
- 46 Q. Is this measure, then, by way of mandating the
47 installation of a Sherwood curtain prior to mining towards

1 such a stub for the future?

2 A. Yes.

3

4 Q. You make reference to a permit to mine for the next
5 two stubs?

6 A. Yes.

7

8 Q. Could you explain that process?

9 A. Yes. It's basically an overview document which looks
10 at the area which is next to be mined.

11

12 Q. That's the permit?

13 A. That's the permit, yes. For instance, that might be
14 inclusive of a certain chainage within the longwall. So
15 say if your longwall is a kilometre long, it'll be a part
16 of that longwall block, say from the 700 metre to the
17 800 metre chainage, and it looks at that specific area. So
18 in the permits which had the stubs identified in there, it
19 was mandated that a Sherwood curtain must be installed for
20 the intersection of those - of when a stub occurred.

21

22 Q. We've been looking at processes that apply in other
23 mines, and they might not be the same at Oaky North.

24 A. Okay.

25

26 Q. Do I understand you correctly that for Oaky North
27 there is such a thing as a permit to mine towards a stub;
28 is that right?

29 A. No. The permit to mine is the allowance to mine
30 within a certain area. So, like I said before with regards
31 to that 100 metre section of that longwall block, we've
32 assessed the area, we've put certain conditions in place
33 and looked at it in that regard.

34

35 Q. The way that Oaky North mine operates, is there
36 a permit to mine for a certain distance?

37 A. Yes.

38

39 Q. You mentioned 100 metres in the example you gave.

40 A. Yes.

41

42 Q. After that 100 metres is mined, do you get another
43 permit for the next 100 metres?

44 A. Correct.

45

46 Q. Or whatever the distance may prove to be?

47 A. Correct.

- 1
2 Q. Is it ordinarily 100 metres or does it vary?
3 A. It varies.
4
5 Q. So the location of the next two stubs will be known;
6 correct?
7 A. Yes.
8
9 Q. According to the mine plan or similar?
10 A. Yes, yes.
11
12 Q. So was there an amendment to the permit to mine?
13 A. There was an inclusion, yes.
14
15 Q. An inclusion?
16 A. Yes.
17
18 Q. Of the installation of a Sherwood curtain for the next
19 two stubs?
20 A. Yes.
21
22 Q. Looking, then, at paragraph (b), it relates to
23 inspection of Sherwood curtain installation at a particular
24 location. What's the relevance of the 11ct location?
25 A. It was the final stub to be intersected within that
26 longwall block, so for quality purposes I undertook an
27 inspection of that installation of the Sherwood curtain.
28
29 Q. Is 11ct one of the next two stubs described in
30 paragraph (a)?
31 A. Yes.
32
33 Q. So what does that measure achieve? I appreciate it
34 says "inspection", but what's the object of it?
35 A. To ensure the adequacy of the installation of that
36 Sherwood curtain is to standard.
37
38 Q. Who would be expected to do that? Would that be the
39 function of the ERZ controller?
40 A. Generally, yes, and in this instance I undertook an
41 inspection of that, in addition to.
42
43 Q. In addition to the ERZ controller?
44 A. Correct, yes.
45
46 Q. Well, measure (c) involved the development of a work
47 instruction. Were you part of the process of development

- 1 of that?
- 2 A. Yes.
- 3
- 4 Q. Could you explain how that process unfolded?
- 5 A. Yes. In terms of how I undertook the risk management
- 6 process with the document or?
- 7
- 8 Q. You know what's involved more than I. Just from start
- 9 to finish, if you wouldn't mind.
- 10 A. So we saw that there was a need to have a documented
- 11 process for that work, so we took one of the longwall
- 12 crews - and it does say in there "two separate longwall
- 13 crews"; that was over different rosters - to undertake the
- 14 risk management process and the step-by-step process of
- 15 what would be holing into a blockside stub, looking at the
- 16 specific hazards and controls for each of those steps and
- 17 documenting the controls that needed to occur at each step
- 18 during that process.
- 19
- 20 Q. Is there some reason why two separate crews were
- 21 consulted?
- 22 A. To give good --
- 23
- 24 Q. Input?
- 25 A. -- input to that risk assessment, yes.
- 26
- 27 Q. Would the mandatory installation of the Sherwood
- 28 curtain described in paragraph (a) then form part of the
- 29 work instruction in paragraph (c)?
- 30 A. Post intersection of those stubs, it did. So we had
- 31 the - if my memory serves me correctly, those were formally
- 32 conducted and done and put onto the system after the -
- 33 sorry, after the intersection of the final stub in 501.
- 34
- 35 Q. It took some time, then, to develop the work
- 36 instruction that is referred to in paragraph (c)?
- 37 A. Yes.
- 38
- 39 Q. By which time, one or more stubs had already been
- 40 encountered?
- 41 A. Yes.
- 42
- 43 Q. I understand. You say, however, that the instruction
- 44 is unlikely to be required in practice. That takes us to
- 45 paragraph (d). Can you explain what's involved in (i)
- 46 there of backfilling the blockside stubs?
- 47 A. Yes. Simply, we shutter off the stub itself.

- 1
2 Q. Shutter?
3 A. Shutter, build a wall, and we pump it full of grout or
4 another cementitious material.
5
6 Q. So there's no longer the niche that we saw on the
7 diagram?
8 A. That's correct, that's correct.
9
10 Q. So, in effect, to block up the niche?
11 A. That's correct.
12
13 Q. To represent a continuous face?
14 A. Correct, correct.
15
16 Q. Was that a direction to be applied to any future
17 longwall production?
18 A. In this instance, yes.
19
20 Q. Am I right in understanding the sequence at
21 longwall 501 might by then have been completed?
22 A. Correct.
23
24 Q. Or at least the stubs had been encountered?
25 A. That's correct.
26
27 Q. So this was a direction not so much for the two stubs
28 that were known in longwall 501 but for future reference?
29 A. Correct, yes.
30
31 Q. Could you explain (ii), the purpose of the direction
32 that's described there?
33 A. Yes, so that's in relation to future areas of mining,
34 where we can avoid the re-creation of those same
35 circumstances. So, for instance, if a certain mining
36 department came and put forward a change to mine plan to
37 include a blockside stub, that would get kiboshed and
38 rejected on the basis of that, prior to the first pass
39 mining going through.
40
41 Q. Was the object that there would be no future blockside
42 stubs - in other words, to avoid creating them?
43 A. Correct.
44
45 Q. I understand. So taking (i) and (ii) together, the
46 object is to backfill any existing stubs --
47 A. That's correct.

1
2 Q. -- on any longwall that might presently exist, but for
3 the future, not to create such stubs?
4 A. That's correct.
5
6 Q. You refer in paragraph (d) to the directions that
7 Mr Watson has given. Was that something that was the
8 product of a group collaboration or something that he
9 decided off his own bat? Can you explain?
10 A. It was a verbal instruction from himself to - from
11 himself, yes, to myself and the technical services manager.
12
13 Q. You don't know what initiated that or whether it was
14 anything wider than his own decision?
15 A. I can't recall.
16
17 MR RICE: Thanks, Mr Pantano.
18
19 THE CHAIRPERSON: Mr Dighton?
20
21 MR DIGHTON: No questions, thank you.
22
23 THE CHAIRPERSON: Mr Crawshaw?
24
25 MR CRAWSHAW: No questions, Mr Chair.
26
27 THE CHAIRPERSON: Thank you. Mr Dollar?
28
29 MR DOLLAR: No questions.
30
31 THE CHAIRPERSON: Mr Clothier?
32
33 MR CLOTHIER: No questions, thank you.
34
35 THE CHAIRPERSON: Might the witness be excused, Mr Rice?
36
37 MR RICE: Yes. Thank you.
38
39 THE CHAIRPERSON: Mr Pantano, thank you for your
40 attendance, you are excused.
41
42 **<THE WITNESS WITHDREW**
43
44 MR RICE: I call Michael Dempster Downs.
45
46
47

1 <MICHAEL DEMPSTER DOWNS, sworn:

[10.35am]

2
3 <EXAMINATION BY MR RICE:

4
5 MR RICE: Q. Is your name Michael Dempster Downs?

6 A. It is.

7
8 Q. Mr Downs, you're an employee of Oaky Creek Coal Pty
9 Ltd?

10 A. As a contractor, yes.

11
12 Q. And are you currently engaged in some contract work at
13 the Oaky North mine?

14 A. I am.

15
16 Q. We're interested principally in an HPI that occurred
17 on 6 December 2019. At that time, you were the underground
18 mine manager, were you not?

19 A. That's correct.

20
21 Q. With the assistance of solicitors, you've prepared
22 a statutory declaration?

23 A. I did.

24
25 Q. I'll just have that produced to you. Mr Operator,
26 it's DMI.001.001.0001. You have a copy of that now in
27 front of you?

28 A. Yes, I have that copy.

29
30 Q. One can't help but notice, Mr Downs, that your
31 impressive CV takes about four and a half pages of your
32 statement.

33 A. My apologies.

34
35 Q. You've had a lifetime, if I may say so, a long
36 lifetime, in mining; correct?

37 A. Yes. Thank you.

38
39 Q. You make the point at a couple of different points,
40 but, for example, paragraph (f) on page 2, harking a long
41 way back to the time when you were performing duties for
42 Mount Isa Mines that, along the way, you've managed to
43 achieve various production records.

44 A. Very much so, yes.

45
46 Q. You've been involved in managing quite a number of
47 mines; am I right?

1 A. You are right, yes.

2

3 Q. It would be remiss not to ask you, given your length
4 of experience, if over time you've developed any approach
5 or philosophy towards mining whereby production can be
6 maximised but in tandem with the requirements of safety?

7 A. If there is such a thing as an industry mantra on
8 that, it's that the production will follow safety and that
9 the main objective is to mine safely, and if you achieve
10 that, good production will follow.

11

12 Q. Are the two, from what you say, not necessarily in
13 tension - production and safety, I mean?

14 A. They are both in tension, but it's which might be
15 considered a priority. So, in other words, we would not
16 prioritise production over safety.

17

18 Q. You say that's an industry mantra. Is it a philosophy
19 of yours also?

20 A. Absolutely.

21

22 Q. In application, whilst you were mine manager at
23 Oaky North mine?

24 A. Yes, I believe so, yes.

25

26 Q. Are you able to tell us how that priority of safety
27 might be manifested?

28 A. An approach to ensuring that the operations are
29 conducted safely and in keeping with legislative
30 requirements and, indeed, with good practice and, indeed,
31 I suppose, with the best of my knowledge, given that I do
32 have a reasonable amount of experience.

33

34 Q. On one level, it's necessary to achieve compliance
35 with the legislation; am I right?

36 A. Absolutely.

37

38 Q. And on another level, it's necessary to achieve
39 compliance with the mine's safety and health management
40 system?

41 A. Yes.

42

43 Q. If you do those two things adequately, will the safety
44 that you speak of follow as a matter of course?

45 A. It should. Bear in mind that the legislation is
46 enabling legislation, and that requires a certain input,
47 and it's not necessarily a base-level approach.

1
2 Q. One of the requirements is that the safety and health
3 management system do in fact satisfactorily address the
4 requirements of safety and not give the priority to
5 production?

6 A. They do, yes. They do not prioritise production.
7

8 Q. Your time in mining pre-dates the 1999 Act and the
9 regulation, but you would be very familiar, I think, with
10 the regulatory requirements of the ventilation system so
11 far as it relates to control of methane?

12 A. Correct, yes.
13

14 Q. And in particular regulations 343 and 344?

15 A. Correct, yes.
16

17 Q. Save for the exception in section 344 of a sudden and
18 sharp increase in methane concentration, save for that, the
19 regulatory requirements don't permit any exception to the
20 requirements of control at 2.5 per cent or less; am
21 I right?

22 A. The legislative requirements are to provide controlled
23 ventilation, and the areas which the legislation requires
24 that controlled ventilation to be in place covers the
25 normal working area of the mine.
26

27 Q. What I was getting at, I suppose, is that the
28 regulatory requirements require compliance in the case of
29 all kinds of events, whether planned or unplanned, that
30 might not be part of the everyday course of shearing?

31 A. Yes.
32

33 Q. We've seen instances, for example, of goaf falls,
34 first caving and all kinds of things that can produce
35 a more unusual volume of methane?

36 A. Yes, unexpected, yes.
37

38 Q. But the system requirements are - correct me if I'm
39 wrong - that the ventilation system be sufficient to deal
40 with such events and maintain the required concentration of
41 methane?

42 A. As a primary objective, that would be the case, yes.
43

44 Q. Given the wide variety of things that can occur to
45 affect the concentration of methane, is it realistic that
46 compliance with regulations 343 and 344 can reasonably be
47 achieved on a consistent basis?

- 1 A. Experience would indicate that that should be
2 possible, but the caveats in these instances are the
3 increasing difficulty of the mining conditions which we are
4 faced with, and particularly the thing that comes to mind
5 is the presence of gas in associated seams to the main
6 horizon that's being mined.
7
- 8 Q. Are you talking about seams above or below?
9 A. Correct.
10
- 11 Q. You mention increasing difficulties with mining.
12 A. Yes.
13
- 14 Q. Could you explain what you were referring to?
15 A. Well, over the years, what you might say would be the
16 easier mining areas have been worked out.
17
- 18 Q. At --
19 A. At shallower depths, for instance, or closer to main
20 infrastructure and easier geotechnical conditions, for
21 instance.
22
- 23 Q. So is depth of mining one of the features that you're
24 referring to?
25 A. Yes, that's correct.
26
- 27 Q. How does that present difficulty, as you've described
28 it?
29 A. Well, there are geotechnical issues with that and,
30 indeed, gas issues, given that the depth has trapped gas
31 within the seams a little bit more consistently than might
32 be at a shallower area, yes.
33
- 34 Q. Does the presence of gas seams above and below
35 highlight the need for both pre and post drainage of
36 methane?
37 A. It certainly does, yes.
38
- 39 Q. That is part of the planning and implementation at
40 Oaky North mine?
41 A. It is.
42
- 43 Q. Is it right to say that gas drainage must work in
44 support of ventilation to achieve the compliance that the
45 regulations are directed towards?
46 A. That's a fair statement, yes.
47

1 Q. Would you describe both ventilation and gas drainage,
2 taken together, as critical controls for the purpose of
3 concentrations of methane?

4 A. That would be correct.

5

6 Q. Could you describe for us what is the process of
7 planning? What is involved in the planning stage at
8 Oaky North mine to achieve appropriate levels of
9 pre-drainage?

10 A. Pre-drainage? The planning would involve a drilling
11 program involving initially surface drilling, surface to
12 in-seam, but also including underground drilling, and that
13 that drilling would be done on a pattern according to the
14 initial test results on the coal that would give an
15 indication as to the concentration, the closeness of
16 drilling, to enable the gas to be drained over a period of
17 time.

18

19 Q. At Oaky North, who determines these issues connected
20 with planning? Is it outsourced or is it done within the
21 mine?

22 A. To my knowledge, it's a mix of the above, in as much
23 as you are engaging specialists, in terms of gas drainage,
24 which would not necessarily be a company resource, but the
25 drilling program would be primarily the responsibility of
26 the technical services department, who encompass gas
27 drainage as well, and I would suggest that that would be
28 the main area of engagement in terms of ensuring that the
29 gas drainage program eventuated a reasonable outcome after
30 a set period of time.

31

32 Q. What would a reasonable outcome look like?

33 A. A reasonable outcome in terms of the residual gas that
34 we're then faced with when we're mining, and the residual
35 gas would be at a reasonable level below the threshold
36 values, which goes into the outburst, a work done by the
37 likes of Ripu Lama in the Wollongong area.

38

39 Q. Is that the result of the core testing, to arrive at
40 an objective level?

41 A. Correct, correct.

42

43 Q. Turning to post-drainage, is it desirable to have some
44 reserve capacity of the post-drainage to meet with planned
45 or unplanned events?

46 A. I'm unclear as to the exact nature of your question.

47

1 Q. How is the desired capacity arrived at?

2 A. That's done as an initial estimate in terms of the
3 threshold number, gas content, and at Oaky Creek we reduce
4 that by two standard deviations.

5

6 Q. You will have to explain that for me, Mr Downs?

7 A. It's a statistical approach to ensuring an added
8 factor of safety. That really relates to the fact that
9 coal mining is not necessarily an homogenous sort of
10 environment and there are anomalies within the coal seam,
11 some of which are geotechnical, such as faulting and
12 wash-outs within the seam, which may impact on the
13 distribution of gas within the seam, and therefore an
14 engineered gas drainage program should take account of all
15 the gas, but there is also a problem, or a possibility,
16 that you may end up with a pocket here or there, and
17 therefore we take the view to have a factor of safety of
18 two standard deviations on what might be the norm, the
19 average, density of drilling to ensure that that final gas
20 content in the seam is sufficiently drained.

21

22 Q. The expression "two standard deviations" - that's
23 a mathematical term?

24 A. It is. Statistics.

25

26 Q. Is it capable of expression as a percentage?

27 A. It is at the end of the day, and the example I would
28 give you is at Oaky Creek, from memory, the best I can
29 recollect, we talk about an outburst threshold of 7.7 cubic
30 metres per tonne in situ, and we reduce that by two
31 standard deviations that takes it down to, I believe,
32 6.8 cubic metres per tonne.

33

34 Q. Turning to this event, it has already been described,
35 so we perhaps don't need to go to the details of it too
36 much, but I was interested if you might explain the
37 processes that are in place at the mine for consideration
38 of the event subsequent to it and the development of any
39 consequential measures or procedures?

40 A. The incident was subject to the investigation process,
41 which --

42

43 Q. Could you describe that for us?

44 A. The process involves the completion of an incident
45 report form, which is primarily done by the people that
46 were there at the time, particularly the mine deputy, the
47 ERZ controller, and that that document is put into the

1 system to prompt appraisal and review at various levels of
2 the organisation. And in the course of those appraisals
3 and review of the incident through that report, there is
4 then further investigation, if required, in the form
5 required.

6

7 Q. Who would determine that, whether further
8 investigation is required and what form it will take?

9 A. The process is documented and the process includes
10 reference to tabulated triggers, levels of severity or -
11 what would you say - well, severity or significance of the
12 incident, and according to the ranking, if you wish to call
13 it that, there is a course of action mandated by our
14 procedures.

15

16 Q. Are you speaking there of the incident reporting
17 guide?

18 A. Yes.

19

20 Q. Incident reporting notification, I think it might be
21 called?

22 A. Yes, incident notification and reporting, yes,
23 I believe that's correct.

24

25 Q. In this instance, as you summarise at the conclusion
26 of your declaration, various things were done responsive to
27 this incident. I'm just interested if you could explain
28 the process by which these things were identified?

29 A. To what are you referring in terms of controls that
30 were identified?

31

32 Q. Well, in your declaration, if you look at the summary
33 of them that you've given at paragraphs 20 to 23?

34 A. Yes.

35

36 Q. And there is another description of these measures in
37 Mr Pantano's declaration in perhaps a bit more detail than
38 yours, but I'm just interested in what process applies at
39 the mine to enable these things to be identified as
40 appropriate to be done?

41 A. The process, to my recollection, prompted the review
42 of the permit to mine process, which is in my statement, to
43 cause a closer attention to drivages such as blockside
44 stubs and to embody appropriate controls for those
45 particular instances.

46

47 Q. But who identifies that this is something that should

- 1 be done? Do you do it?
2 A. I did not on this occasion.
3
4 Q. Were you part of any collaborative team to discuss the
5 incident?
6 A. Not directly, no, I was not.
7
8 Q. Was there some form of collaborative team to consider
9 this incident and any measures that ought to ensue?
10 A. I am not specifically aware of that team. I would
11 suggest it would have likely been the shift manager, the
12 deputy involved and possibly one or two of the crew,
13 particularly possibly the shearer driver.
14
15 Q. But is it normal to form such a team to consider and
16 devise any consequential action?
17 A. It would depend on the form of process being adopted.
18 If you look at the procedures that we have, it specifically
19 requires the response to a "five whys" method of
20 investigation. That can be done by close collaboration
21 between one or two. Whether that constitutes a team, as
22 you envisaged is --
23
24 Q. There seem to have been two stages of response to
25 this. One was the completion of the incident investigation
26 report.
27 A. Yes.
28
29 Q. Which listed immediate measures.
30 A. Yes.
31
32 Q. And we know what they were. They involved brattice
33 curtain and Sherwood curtain at your direction.
34 A. Yes.
35
36 Q. But then there were additional measures, longer-term
37 measures, that you've summarised at paragraphs 20 to 23?
38 A. Yes.
39
40 Q. Am I right that the measures that you describe at
41 those paragraphs were not arrived at by the same group that
42 completed the incident investigation report on the day of
43 the event?
44 A. I would think that is correct.
45
46 Q. Is there some standard for formation of some group to
47 study an incident such as this?

1 A. That would depend on the severity, the significance of
2 the incident, and it would depend on the method of
3 investigation, and particularly I'm referring to, say, an
4 ICAM investigation, which requires more input and from
5 a wider range of personnel.
6

7 Q. Would the answer to the question of whether such
8 a team was formed be informed by the incident notification
9 process that's in place at the mine? Is that where one
10 would look to ascertain the formation of a deliberative
11 team to consider an event and respond to it?

12 A. It would be noted, I would have thought, in the
13 initial documentation.
14

15 Q. What are you referring to?

16 A. In the incident report. Had there been a team input
17 into the incident report, I would have thought it would
18 have been on that incident report.
19

20 Q. Yes. Perhaps we're at cross-purposes. With respect
21 to this incident, there appears to have been two stages of
22 deliberation over it. The first stage was the team that
23 was put together on the day, who wrote certain things on
24 the investigation report which was completed that day, and
25 they identified the installation of the brattice and
26 Sherwood curtain, et cetera.

27 A. Yes.
28

29 Q. But then after that, by some means or by some process
30 or at someone's initiation, a number of other things were
31 done --

32 A. Yes.
33

34 Q. -- which you refer to in your declaration.

35 A. Yes.
36

37 Q. I was just interested to explore the processes in
38 place at the mine to arrive at the kind of things that are
39 summarised at paragraphs 20 to 23 of your declaration?

40 A. The arrival at the controls that I mention in my
41 statement I think is decoupled, it is not necessarily
42 a direct consequence of the incident report and the initial
43 investigation, because some of these controls, as I put it,
44 came about later.
45

46 Q. Yes, I know that. I want to know how they came about,
47 who identified them?

1 A. To my knowledge, primarily the SSE, Brad Watson.

2

3 THE CHAIRPERSON: Q. There would have to be some senior
4 management personnel involved in such a decision, would
5 there not?

6 A. If there were, I am not aware of that.

7

8 MR RICE: Q. In paragraph 21, for example, you say:

9

10 *The mine plan was reviewed ...*

11

12 Who would take it on themselves to identify that that
13 should occur? Was it the SSE?

14 A. Well, many people, actually. Myself, the SSE, the
15 technical services manager, the ventilation officer.

16

17 Q. Do you all get together and meet to talk about these
18 things?

19 A. Not that I can recollect, no, we did not.

20

21 Q. In an event which, say, had some more serious
22 consequence than this one did, would there be some
23 different process by way of formation of a consultative or
24 deliberative team?

25 A. If there was an incident that was of major
26 significance, you would form an incident management team in
27 response to such an incident.

28

29 Q. You wouldn't do such a thing for an event like this?

30 A. An event like this, no, I believe not, on the basis
31 that this event was over very quickly, it was controlled
32 relatively quickly and therefore not of the nature to
33 warrant the formation of an IMT.

34

35 Q. But someone decided to do a whole range of things?

36 A. Correct.

37

38 Q. Or some group did?

39 A. Correct.

40

41 Q. Are you able to help us with how these things were
42 identified to be done? You've mentioned the SSE, but
43 I wonder if he had any assistance or input from others?

44 A. I would not be aware if he did or he did not. The
45 aspect that's been identified in terms of avoiding the
46 drivage of future stubs is relatively simplistic and
47 a reasonably easy control to put in place. The filling in,

1 the shuttering and, indeed, filling with cementitious
2 grout, for instance, of the existing stubs would be
3 a reasonable way to control that hazard in future areas.
4 They are still relatively simplistic processes to adopt.
5

6 Q. I'm not suggesting that any of these things were not
7 appropriate. I was just looking to try to tease out the
8 details of who arrived at the conclusion that they should
9 be done?

10 A. To my knowledge, that's the SSE.
11

12 Q. Is there any mechanism in place at the Oaky North mine
13 to inform workers of the incident and its implications
14 after the event?

15 A. There are numerous methods by which that's done, yes.
16

17 Q. Would you mind describing them?

18 A. They range from discussions with particular crews at,
19 say, what we call a GCOM meeting, which is a crew-specific
20 meeting.
21

22 Q. A toolbox talk?

23 A. Akin to a toolbox talk, yes. There are pre-shift,
24 overall shift meetings, where incidents are discussed or at
25 least noted and outlined. There is the process by which,
26 when the investigations are done, the information is posted
27 on the noticeboards within the muster area.
28

29 Q. Who ensures that these things are done?

30 A. I do, for one. I'm very particular in terms of
31 posting notices and talking through issues with crews when
32 they arise. In terms of the overall responsibility,
33 I would suggest that would be the SSE through the safety
34 and health, the HSEC, manager.
35

36 Q. The SSE can't be across everything, though, can he?
37 Something like a procedure for communication of what
38 happened and why it happened - someone has to drive that,
39 do they not?

40 A. That's correct, so I'm indicating that the driver
41 would be the senior manager. I'm not suggesting they would
42 necessarily address all crews or, indeed, all shifts. That
43 would be delegated.
44

45 Q. Could you give the Board an assurance, and if so on
46 what basis, that communication of that kind occurred in
47 this instance?

1 A. I can give you that assurance, yes, on the basis that
2 I personally addressed at least one crew, from memory, with
3 the details of the incident and, indeed, the control that
4 I required as a result of that. I ensured that, for
5 instance, the form 1A was placed on the noticeboard so that
6 the information was more widely available, and I was
7 assured that the incident report form, when it was
8 processed, also went on that noticeboard system.

9
10 THE CHAIRPERSON: Mr Rice, I'm sorry, we're going to have
11 to take the morning break a little earlier than usual, if
12 you don't mind. We will adjourn for 15 minutes.

13
14 **SHORT ADJOURNMENT**

15
16 THE CHAIRPERSON: Yes. Thank you, Mr Rice.

17
18 MR RICE: Q. Just one other thing I want to ask you
19 about, Mr Downs. Is Oaky North progressing towards a fully
20 automated longwall?

21 A. It is. Well, yes, as far as it's able at this point
22 in time, yes.

23
24 Q. I was really just going to ask you to explain the
25 progress of that, if you would?

26 A. In my opinion, very good progress. We can remotely
27 operate the longwall, indeed, from the surface.

28
29 Q. That can be done --

30 A. It can be done.

31
32 Q. -- with technology that's available at the mine now?

33 A. Reasonably reliably, yes, that is correct.

34
35 Q. Is that a caveat that you apply - "reasonably
36 reliably"?

37 A. Sorry?

38
39 Q. Is that a caveat that you apply to the availability of
40 automation?

41 A. It is. It's technologically reasonably difficult.
42 The automation of longwall mining is something the industry
43 the world over has been trying to do for quite some time,
44 and my experience both in New South Wales and in Queensland
45 would show that the progress that we are making at
46 Oaky North is really quite exemplary. It is a very good
47 system. It is proving to be quite reliable under most

1 circumstances, and I would suggest that we are seeing very
2 good results.

3

4 Q. From what you say, it is and has been in operation at
5 the mine for some time?

6 A. It has, over reasonable periods of operation, in as
7 much as the system at this point in time will support what
8 we call two shears, so in other words, two passes of the
9 shearer along the face, and then we normally have to
10 intervene with personnel in the working area to conduct
11 checks and do various aspects of maintenance before you can
12 achieve another two shears or two passes of the machine.

13

14 Q. Does that mean that a crew is still stationed, as it
15 were, at the longwall to be available?

16 A. Correct.

17

18 Q. And does that apply to both shifts per day?

19 A. It would apply at any time, irrespective of the
20 shifts, yes.

21

22 Q. In other words, you haven't got to the stage where
23 crews don't actually go below?

24 A. No. There is no condition at this point where there
25 is no human intervention, no crew intervention, with the
26 operation. We can sustain remote operations for relatively
27 short periods of time in terms of a shift duration, but,
28 no, we haven't got to the level whereby the conditions
29 would allow extended automated operation.

30

31 Q. Is that achievable, do you think?

32 A. It would be dependent on conditions, because there are
33 certain things that you have to do with the equipment after
34 a certain period of production, and that will limit the
35 extent to which you can have automation in terms of the
36 time period. So I think that whilst we might be able to
37 improve our current situation, to get that to being able to
38 operate for, say, a full shift, say 12 hours as a nominal
39 period, I think that is going to take some further
40 development of key componentry.

41

42 Q. Is that an objective at that mine, do you know, to get
43 to that point?

44 A. I think the objective is to automate the operation as
45 far as we possibly can, whatever that might be. It does
46 not necessarily have an intermediate target.

47

- 1 Q. To put it another way, will the point be reached at
2 some time in the future which will not require crews to go
3 underground?
- 4 A. It may well be. Whether or not I'm still in the
5 industry at the time is dubious. I think it's going to
6 take some years to get to that point.
7
- 8 Q. What work do the crews carry out as and when the
9 shearer is being operated in an automated way?
- 10 A. The functions of the crews under those circumstances?
11 They would be there to correct any anomaly that might arise
12 that cannot be performed automatically or remotely. They
13 would be there to undertake maintenance issues, such as
14 changing out the cutting tools, the picks, on the shearer
15 and performing the specific maintenance associated with
16 ensuring that the cutting process is efficient and, indeed,
17 as safe as it needs to be. There may be some implications
18 in terms of checking fluid levels on the machine. It
19 depends on how the system is operating at that point in
20 time.
21
- 22 Q. Is the automated operation of the shearer in place for
23 every shift even if not for all of the shift?
- 24 A. It would be there as an available function, correct.
25
- 26 Q. It being an available function is one thing. I was
27 wondering to what extent it is used on a daily basis?
- 28 A. It is used, in recent terms, most days under the
29 conditions that we've had.
30
- 31 Q. Is it dependent on conditions?
- 32 A. Very much so.
33
- 34 Q. And who would assess the conditions - you?
- 35 A. No, not necessarily. Conditions would be primarily
36 assessed by the longwall superintendent and the longwall
37 coordinators, with input from the ERZ controllers in that
38 district.
39
- 40 Q. So, depending on conditions, it may or may not be used
41 in a given shift?
- 42 A. It may or may not be, correct.
43
- 44 Q. In other words, there's no standard proportion of use
45 of a remotely operated shearer per shift or per day?
- 46 A. As far as I'm aware, there is no such target.
47

1 MR RICE: Thanks, Mr Downs.

2
3 THE CHAIRPERSON: Mr Dighton?

4
5 MR DIGHTON: No questions, thank you.

6
7 THE CHAIRPERSON: Mr Crawshaw?

8
9 MR CRAWSHAW: No questions, thank you, Mr Chair.

10
11 THE CHAIRPERSON: Ms Holliday or Mr Dollar?

12
13 MS HOLLIDAY: No questions.

14
15 MR CLOTHIER: Just briefly.

16
17 **<EXAMINATION BY MR CLOTHIER:**

18
19 MR CLOTHIER: Q. You were asked questions about
20 notifying workers of various things and the mechanisms to
21 do that. Do you recall that?

22 A. Yes, I do.

23
24 Q. Can I ask you some questions about notification to the
25 SSHR in respect of the particular incident on 6 December?

26 A. Yes, I recollect.

27
28 Q. Did you notify the SSHR verbally on that evening?

29 A. I did, by telephone.

30
31 Q. Mr Operator, could we bring up, please,
32 OCH.501.001.0001 in the unredacted version. This is an
33 email referring to the attachment of a form 20. Was this
34 form distributed to a number of people by email by you,
35 including Mr Barber?

36 A. My recollection is it did not go to Joe Barber
37 directly. It went directly to the inspector,
38 Neil Randolph, and I'm not sure whether the ISHR requested
39 the form. As a matter of practice, I would not have
40 necessarily sent it on, had there been no request for
41 further information.

42
43 Q. In this case, you'll see under the heading "To:"
44 a number of people listed, including joe.barber at an email
45 address?

46 A. I'm assuming I'm looking at the same document.

47

1 Q. Can you see that?

2 A. Yes.

3

4 Q. Did you send this email?

5 A. It does not say "From", so I really don't recollect.

6

7 MR CLOTHIER: We might try to obtain a further unredacted
8 version on another occasion. Thank you, Mr Chairperson.

9

10 THE CHAIRPERSON: Mr Clough?

11

12 MR CLOUGH: Q. Mr Downs, I have a couple of questions to
13 get some clarification around the infrastructure at
14 Oaky Creek mine, if that's okay. Firstly, do you practise
15 in-seam gas drainage at Oaky Creek?

16 A. Yes, we do.

17

18 Q. Do you also practise goaf drainage?

19 A. Yes, we do.

20

21 Q. So you do have both. Are you familiar with the term
22 "specific gas emission"? Have you come across that term?

23 A. Somewhat.

24

25 Q. Your understanding of the term?

26 A. Just the amount of gas, there's a specific amount of
27 the previous amount of gas that was in that seam, that
28 amount of coal.

29

30 Q. My understanding of the term is it's the amount of gas
31 that's actually produced within the whole mine system per
32 tonne of coal cut, so I don't know if you've heard that
33 definition.

34 A. No.

35

36 Q. That's okay, I won't bother with the next question,
37 then. So back on the cross-seam - it's cross-block
38 drainage, is it, I assume, for the in-seam drainage?

39 A. Yes, you would say that, it's from the side and across
40 over the top, yes.

41

42 Q. However, it's within the German Creek seam; is that
43 correct?

44 A. It can be. Primarily the German Creek, the working
45 section is subject to the surface to in-seam drainage.

46

47 Q. So it's surface to in-seam for the working seam?

1 A. Whereas the in seam drivage, in seam drainage, is to the
2 overlying Corvus and the underlying C ply.
3
4 Q. That was the clarification I was after, because the
5 stubs that were put into the longwall block were not for
6 gas drainage; is that correct?
7 A. As far as I recollect, no, they were not. From my
8 recollection, the stubs did not have any of the
9 paraphernalia associated with gas drainage.
10
11 MR CLOUGH: Okay. I just wanted a bit of clarity on the
12 infrastructure and the process of gas drainage, so no more
13 questions, thanks.
14
15 THE CHAIRPERSON: Mr Rice?
16
17 MR RICE: No, thank you. May Mr Downs be excused?
18
19 THE CHAIRPERSON: Yes. Thank you for your attendance,
20 Mr Downs. You are excused.
21
22 <THE WITNESS WITHDREW
23
24 MR RICE: I call Joe Barber.
25
26 <JOE BARBER, sworn: [11.35am]
27
28 <EXAMINATION BY MR RICE:
29
30 MR RICE: Q. Is your name Joe Barber?
31 A. Yes.
32
33 Q. Mr Barber, you are employed by Oaky Creek Coal Pty
34 Ltd?
35 A. Sorry?
36
37 Q. Are you employed by Oaky Creek Coal Pty Ltd?
38 A. Yes.
39
40 Q. And you have been working for a number of years at the
41 Oaky North coal mine; correct?
42 A. Yes, I have.
43
44 Q. You're employed there as a fitter; am I right?
45 A. Yes.
46
47 Q. For a number of years, you've also occupied the

- 1 position as SSHR; correct?
2 A. Yes.
3
4 Q. You've prepared an affidavit, I think, for use of the
5 Board?
6 A. Yes.
7
8 Q. I'll just get a copy of that to you so that you can
9 see it when we talk.
10 A. Okay.
11
12 Q. Mr Operator, it's BJO.001.001.0001. You've looked at
13 this recently, I think, and there are a couple of minor
14 changes you want to make, Mr Barber?
15 A. Yes.
16
17 Q. Let's do that now. Paragraph 9, I think, is one place
18 where you want to make a change?
19 A. Yes.
20
21 Q. You refer there in the third line to completing S1 to
22 S4 courses before you could nominate as an SSHR.
23 A. Yes.
24
25 Q. I gather, in fact, you completed that subsequent to
26 your nomination; is that right?
27 A. I completed the 1, 2, 3 and 4 after I was nominated,
28 but to be signed off by the SSE I had to have those
29 competencies, so then the company sent me and gave me the
30 competencies, yes.
31
32 Q. So you're nominated?
33 A. Yes, nominated, I was elected --
34
35 Q. But then you didn't have these qualifications?
36 A. No.
37
38 Q. So you were sent off, I think were your words --
39 A. Yes.
40
41 Q. -- to do these courses?
42 A. Yes.
43
44 Q. By the SSE?
45 A. Yes.
46
47 Q. So that you could fulfil the role that you had

- 1 nominated for; am I right?
2 A. Yes, that's correct.
3
4 Q. Thank you. Paragraph 13. In the last sentence,
5 I gather you, on reflection, prefer to omit the last
6 sentence?
7 A. Yes.
8
9 Q. You mention that you've been employed as a fitter at
10 Oaky North mine since 2007, but you've got a long history
11 prior to that.
12 A. Yes.
13
14 Q. How long have you been working in mining overall?
15 A. Since 1976, so nearly 40 years, yes.
16
17 Q. Have you been a fitter throughout that whole time?
18 A. Pretty much, yes.
19
20 Q. What does a fitter do at the mine?
21 A. General maintenance, assisting production. Depends on
22 where you are, whether you're on surface, underground, face
23 work, yes.
24
25 Q. Since 2009, going through to this year, have you
26 worked underground in longwall production?
27 A. Not in longwall production, no. Mainly development,
28 but --
29
30 Q. Is that where your services are more likely to be
31 required?
32 A. I have been on the surface of - the last few years,
33 yes, but generally in development with my skills, yes.
34
35 Q. In your capacity as an SSHR, do you need to have some
36 familiarity with the goings on at the longwall?
37 A. And I did - I made myself familiar with the longwall
38 and its operation.
39
40 Q. How did you do that, Mr Barber?
41 A. We were taken down by the deputy and shown across the
42 face. Just seeing the actual running of the longwall face,
43 just knowing its functions, just to get a general feeling
44 for it, yes.
45
46 Q. That's not where you've worked as a fitter?
47 A. No, no.

- 1
2 Q. You mention in paragraph 7 that you first became SSHR
3 in 2013 or 2014, and you've mentioned an election, but am
4 I right that there wasn't actually an election, because
5 there was no-one else nominated?
6 A. There was an election at first; yes, there was.
7 I think there were four nominees, and I was elected with
8 another guy by the name of Mark Hibble. He was the other
9 SSHR at the time.
- 10
11 Q. I just noticed the second sentence there. You say:
12
13 *Each time I was elected no-one else*
14 *nominated.*
15
16 Is that after the first time?
17 A. After the first time, yes.
18
19 Q. Because if no-one else nominates, am I right that
20 there doesn't have to be an election called?
21 A. That's right.
22
23 Q. And you just become the SSHR almost by default?
24 A. Yes, the SSE would just, yes, sign me - yes.
25
26 Q. How long is the appointment? Is it three years?
27 A. Three years, I believe, yes.
28
29 Q. So you would have nominated probably at least three
30 times, would you?
31 A. I've been nominated, yes.
32
33 Q. At least three times?
34 A. Yes, yes.
35
36 Q. What motivates you to do that?
37 A. I just think I've got something to offer - the
38 experience underground, I get along with people. Yes,
39 I just - I enjoy the job, I enjoy people interaction, yes.
40
41 Q. You make the point, though, that for your second and
42 third stints, no-one else had nominated. Is there any
43 reluctance amongst the workers at the mine to carry out
44 that role?
45 A. Yes, there can be.
46
47 Q. Do you get any sense of why that might be?

- 1 A. It's a thankless job. You're in the spotlight all the
2 time. You have to make decisions that sometimes people
3 don't like. You work on both sides of the fence, so to
4 speak.
5
- 6 Q. Why is it thankless?
7 A. Well, you've got a good mate, you might have to pull
8 a good mate into line, and they don't - they might not like
9 that, but - and you've got to be - yes, you represent
10 everyone at the pit. You represent the contract labour,
11 you represent the permanents, you represent the staff, and
12 of equal - yes, of equal quality, yes.
13
- 14 Q. You mention you're in the spotlight.
15 A. Yes.
16
- 17 Q. Why is that?
18 A. Well, as I say, I'm one of the SSHRs, and people look
19 at you as - they look up to you sometimes, and then they
20 look down at you, too.
21
- 22 THE CHAIRPERSON: Q. You're in the headlights more than
23 the spotlight, Mr Barber?
24 A. Yes, I suppose, yes.
25
- 26 MR RICE: Q. You've described what your motivation was
27 to take on the role. How would you describe the
28 disadvantages?
29 A. Don't know, really. Just personal - personal attacks
30 on you, that's all.
31
- 32 Q. From other workers?
33 A. From other workers - yes, from coal mine workers, from
34 friends who you think are friends, immediate bosses -
35 immediate supervisors, I should say.
36
- 37 Q. Just talk about the other workers for the moment.
38 A. Yes.
39
- 40 Q. What is it about what you have to do that could cause
41 an issue between you and other workers?
42 A. Just safe workings.
43
- 44 Q. How do you go about trying to achieve safe workings?
45 A. It's funny that. You look at things in different
46 eyes. You know, like, I've seen a lot over the years and -
47 but then you become an SSHR and you just seem to - you see

1 things; you see things that happen or are going to happen,
2 and you'd like to prevent these things.

3

4 Q. Because you have a focus on safety?

5 A. I think so, yes.

6

7 Q. Is that the reason?

8 A. I think Randall Meier is the other SSHR. Him and
9 I work together, and I think we have more of a focus on
10 safety than the general coal mine workers, yes, because
11 that's our statutory role there.

12

13 Q. Is he a full-time worker also?

14 A. Randall?

15

16 Q. Yes.

17 A. Yes, yes.

18

19 Q. Is he a union member?

20 A. He's a union member, yes.

21

22 Q. Was he elected or --

23 A. He was elected.

24

25 Q. By that, I mean there was actually an election because
26 there was another candidate?

27 A. Yes, he was elected. There was one other candidate.
28 I can see the guy's face. I do know him. There was
29 definitely an election, yes.

30

31 Q. Speaking of Mr Meier, you pointed out in your
32 affidavit around paragraphs 25 and 26 that you thought it
33 would be a good idea to be on opposite shifts; is that
34 right?

35 A. Yes, yes.

36

37 Q. That created some friction?

38 A. It certainly did.

39

40 Q. Why was that?

41 A. In my opinion, I thought the workforce needed 24-hour
42 coverage, seven days a week, with an SSHR representative
43 there at any one given time, and Randall was working seven
44 and seven and I was working four and three. Yes, it was an
45 advantage that I could get to seven and seven - I had been
46 trying. But it would mean that we worked opposite one
47 another and that there was a - that we could be on call at

- 1 any time at the coal mine, yes.
2
- 3 Q. Do I understand correctly, you had been on for four
4 and off for three?
5 A. Yes.
6
- 7 Q. And you were proposing seven and seven for yourself?
8 A. Yes.
9
- 10 Q. To match his?
11 A. To be on the opposite roster to Randall, yes.
12
- 13 Q. Why was that a problem?
14 A. I don't know.
15
- 16 Q. Well, you said you'd been accused of trying to get
17 a better roster, or something?
18 A. Yes, I saw everyone - everyone concerned and they were
19 just - just completely said no. No, no, no, no. I just
20 had to take what - I just had to take the umpire's
21 decision.
22
- 23 Q. So you weren't successful with your proposal?
24 A. No, no. Like, I saw my immediate supervisor, I saw
25 his boss, I saw the next bloke up. I didn't take it to
26 corporate level, yes.
27
- 28 Q. Just as between you and him, how do you coordinate the
29 role, given there's two of you?
30 A. Randall and I would - if I - if there was an HPI, one
31 of us would be notified. Then I would ring him or he would
32 ring me. If we saw one another at work, we'd talk about
33 different safety issues around the place, or if he had an
34 issue, he'd ring me, he'd say, "Can I see you at work? I'm
35 on such and such", blah, blah, blah.
36
- 37 Q. Do you keep in phone contact as need be when you're
38 not on the same shift?
39 A. We had phone contact, yes.
40
- 41 Q. And what if you're not on the same shift, how do you
42 keep up with what you're each doing in the role?
43 A. If he was on night shift, I'd make sure that I could
44 see him as he came off shift, if I had issues to discuss
45 with him; or if he was coming on shift, on the day shift,
46 then I'd make sure I'd go in early to see him, you know,
47 and we'd just sort of - we'd discuss these things, yes.

- 1
2 Q. Do you use email as well?
3 A. No, I didn't, I didn't have an email address for
4 Glencore. I've got my own personal email address that
5 I used, and most of the office staff and people, and that,
6 know that I've got that, yes.
7
8 Q. You've been in that role at the mine now for probably
9 seven years?
10 A. Yes.
11
12 Q. Would all the workers know who you are and that you
13 have that role?
14 A. Oh, yes, yes.
15
16 Q. How are you so confident about that?
17 A. There was photos of us, of Randall and myself, facial
18 photos, up on the - we have a little piece of the
19 noticeboard, that if we want to put a mine record entry up
20 or whatever information, we could put it up there, and
21 whether people read it or not was - but it was there for
22 them to look at.
23
24 Q. Where is the noticeboard?
25 A. It's in the muster area, just outside the comms room.
26
27 Q. Is that an area workers regularly pass or go to?
28 A. If they look to their right, they can see it, yes.
29
30 Q. Just going back a little bit to your training, you've
31 already mentioned the S1 to S4 courses. You've mentioned
32 also the annual workshop that the CFMEU runs.
33 A. Yes.
34
35 Q. You go to that, do you?
36 A. Yes.
37
38 Q. You've mentioned also an annual industry health and
39 safety conference.
40 A. Yes.
41
42 Q. Who organises that?
43 A. It's sponsored - it was sponsored by Glencore, and
44 I think last year it was sponsored by Anglo, and we were
45 given the time off and accommodated, whatever we needed, by
46 the company at the time, yes.
47

- 1 Q. The training that you've described, is that
2 sufficient, in your view?
3 A. No.
4
5 Q. Why not?
6 A. It just keeps us up to date with what's going on in
7 the industry, like new innovations. I believe there needs
8 to be more - I needed more training.
9
10 Q. In what?
11 A. Typing. I can't type, which is a pain. Being able to
12 communicate.
13
14 Q. Communication skills?
15 A. Yes, yes. Yes, that's - yes. And writing, you know,
16 how to write stuff down properly and - yes.
17
18 Q. You've got to write reports from time to time?
19 A. Yes.
20
21 Q. Inspection reports, for example?
22 A. Yes.
23
24 Q. Prior to being an SSHR, had you ever had to do
25 a written document like that yes.
26
27 Q. In what areas?
28 A. Underground inspections.
29
30 Q. But prior to your role as an SSHR, had you had to do
31 a written report like that?
32 A. Just a section report, a daily report, which was just
33 a brief outline of what we did for the day, which wasn't
34 very much, yes.
35
36 Q. Did you feel you needed some training in sort of
37 written skills?
38 A. Yes, yes.
39
40 Q. That would have helped you?
41 A. A higher grade, yes.
42
43 Q. I beg your pardon?
44 A. A higher grade in skills, yes.
45
46 Q. What about training in safety and assessment of risks
47 and that kind of thing; any training like that?

- 1 A. Yes, we could do with the training, but we did -
2 Randall and I participated in a lot of risk assessments for
3 Oaky North.
4
- 5 Q. In your job?
6 A. Within the job, yes. A lot. Sometimes - it could be
7 up to three a week, you know. Like, it may not be one for
8 another fortnight or so, but generally we'd - we would sit
9 on most risk assessments, yes.
10
- 11 Q. Have you ever asked for some additional training in
12 any of the areas that you've spoken about?
13 A. I did. I did at one stage, yes.
14
- 15 Q. Who would you ask - the SSE or someone --
16 A. I asked Mick Stenner. He was the engineer in charge.
17
- 18 Q. In charge of what?
19 A. In charge of the pit, yes. He was the engineer in
20 charge, yes. I pretty much asked him. I said, "Mate,
21 like, I need to be able to do this stuff. How can I" --
22 and he goes, "Oh, there's plenty of stuff online. Just go
23 online and do it."
24
- 25 Q. What is online?
26 A. I don't know. I'd rather there be someone teaching
27 me, in front, yes.
28
- 29 Q. Do you have access to an intranet or something like
30 that at the mine?
31 A. Yes, there is, yes.
32
- 33 Q. Do you know whether there's any information about your
34 role on that intranet?
35 A. No, I don't, no.
36
- 37 Q. You don't use it yourself?
38 A. No.
39
- 40 Q. Do you have a computer?
41 A. There are lots of computers around at work, but it's
42 finding the time to do two roles and to fit everything in,
43 and it's just pretty hard.
44
- 45 Q. Do you feel comfortable using a computer or --
46 A. Oh, yes, yes. I'm computer literate when I want to
47 be, yes.

- 1
2 Q. Not big on writing reports, though?
3 A. Don't like writing reports. I'd rather - I'd like to
4 be able to type one.
5
6 Q. You prefer to talk to people, do you?
7 A. Absolutely, yes. People say I talk pretty well.
8
9 Q. Have a look at paragraph 23. You've spoken about
10 being questioned by lower-level members of management about
11 carrying out your job.
12 A. Yes.
13
14 Q. When you talk about lower-level members of management,
15 are you talking about supervisor level?
16 A. Yes.
17
18 Q. Because at the higher levels - say, go to the top, the
19 SSE - you've had a pretty good run of relationships with
20 the SSEs, have you not?
21 A. Absolutely, yes. Oh, we had our moments, but we had
22 a healthy respect for one another.
23
24 Q. And could do business together?
25 A. Oh, absolutely, yes.
26
27 Q. The problem, in your case, as you experienced it, was
28 more at the supervisor level?
29 A. Yes.
30
31 Q. Tell me, in your role as an SSHR, do the things that
32 you have to do - are you able to sort of predict them and
33 tell your supervisor, "Look, tomorrow or the next day, or
34 whenever it is, I'll need to be away doing this or that",
35 or do urgent things crop up?
36 A. Both.
37
38 Q. Both?
39 A. Both. Sometimes there could be an accident
40 underground that you have to go to, which I have done.
41 Then you just drop tools and go and say, "See you later,
42 I'll be back." Like, we just go. If there was a mines
43 inspector come on site and we were informed about it, well,
44 then, we'd - I'd inform my supervisor that I may be
45 required to go with him. Yes, that's probably it.
46
47 Q. So where does the push-back come from, from the

1 supervisor? Is it the planned-for things or the unplanned
2 things, or both?
3 A. The unplanned.
4
5 Q. Unplanned?
6 A. Unplanned.
7
8 Q. Mainly?
9 A. Yes. Probably personal levels as well.
10
11 Q. Do you think there's some personality in it as well?
12 A. Absolutely, yes.
13
14 Q. Just from certain individuals?
15 A. Yes.
16
17 Q. If you could leave the personality to one side --
18 A. Yes.
19
20 Q. -- do you get reasonable cooperation apart from those
21 who you might have some personality clash with?
22 A. My supervisor, I definitely had a problem with him,
23 yes. Just he did not like - I don't believe he liked my
24 role as SSHR. He didn't know what role I had to play.
25
26 Q. You'd probably have a bit of a working knowledge of
27 your functions under section 99, would you?
28 A. Yes.
29
30 Q. Could we just go through the headings, and you tell me
31 how you go about your job as an SSHR. One of the functions
32 is to carry out inspections.
33 A. Yes.
34
35 Q. What do you do in that respect?
36 A. If someone comes to me and tells me about an unsafe -
37 something that's unsafe, well, then, I'll ask management,
38 "Can we go and inspect the site or inspect the job" or
39 whatever.
40
41 Q. Do you need permission?
42 A. They pretty much have no choice. They would - they
43 would give me permission to do it.
44
45 Q. But you ask, anyway?
46 A. Absolutely.
47

- 1 Q. Is that to be polite?
- 2 A. Yes. Unless it was just - unless I was driving past,
3 I could name examples, and then you see something, well,
4 then you act straightaway. But if there were things that
5 have cropped up, well, then, you'd go and ask and then you
6 would go with a staff member or an engineer or someone.
7
- 8 Q. That's responsive to some particular thing that might
9 be pointed out to you?
- 10 A. Yes.
- 11
- 12 Q. That's one way in which you might go and do an
13 inspection; right?
- 14 A. Yes.
- 15
- 16 Q. Is there any program? Do you say, like, every
17 six months, "We're going to do a full inspection", anything
18 like that?
- 19 A. No, we would have inspectors come on site, which we
20 would go and - we would join them. ISHRs would come on
21 site. We'd join them.
22
- 23 Q. Do you do that each time that they come, if you can?
- 24 A. Generally one of us would go. Randall or myself would
25 go. Sometimes both of us would go, but the company
26 preferred just one to go, and then if I just went, well,
27 then, I'd let Randall know. If Randall went, well, he'd
28 discuss what happened.
29
- 30 Q. Each time you do an inspection, you're supposed to do
31 a report, aren't you?
- 32 A. Yes.
- 33
- 34 Q. Is that what you do?
- 35 A. Yes.
- 36
- 37 Q. The next function that's in that section is to review
38 procedures that are in place at the coal mine.
- 39 A. Yes.
40
- 41 Q. How do you go about that?
- 42 A. They're done on a yearly, two-yearly, three - they're
43 actually - all the procedures have got a use-by date on
44 them, so to speak, or a review date, and when they come
45 in - when the review date comes up, well, then, they're
46 reviewed.
47

1 Q. So do you have some role in that?

2 A. If it's relevant.

3

4 Q. Yes, because there's a lot of procedures, aren't
5 there?

6 A. Oh, it's just - it just goes on and on and on, and
7 then some get lost. You know, they go, "Oh, geez, we
8 should have reviewed that", and that was 12 months ago.
9 You know, like, the review date - you'd go to review
10 something, and it was 12 months ago.

11

12 Q. I just want to understand you correctly. You say that
13 all these procedures have use-by or review dates. Do you
14 involve yourself with each one when it's up for review?

15 A. I don't actually find that it's gone out of date.
16 Someone else at the colliery, that's their function. And
17 then we'll be asked by management or whoever is running
18 that review, "Can you - we're having a review date on
19 Wednesday. Are you available?" They might ask me on
20 Monday or Friday before, and then you go to your supervisor
21 and say, "Look, I've got review dates - a review on
22 Wednesday. I'll get so-and-so to flick you an email to
23 tell you what it's on."

24

25 Q. There are so many procedures on so many different
26 things --

27 A. Yes.

28

29 Q. -- do you find that that's a useful thing for you to
30 do, given the wide range of procedures you might be asked
31 to participate with?

32 A. It definitely - yes, yes, it is. It's a good thing to
33 do. You learn a lot. You do learn a lot about what's
34 going on at the colliery.

35

36 Q. Is it a learning thing for you, or can you participate
37 by making suggestions?

38 A. We definitely participate.

39

40 Q. Do you make suggestions about --

41 A. Absolutely, yes.

42

43 Q. Do you do that a lot?

44 A. Yes - yes, yes, I do.

45

46 Q. Even if it's a subject that might not be within your
47 work experience?

- 1 A. If it's not within my work experience, I'll go and
2 find out about it. Maybe I need to - we might have
3 a content expert there and take his advice on it.
4
- 5 Q. Is that the kind of thing that eats into your time?
6 A. Oh, a lot of time, yes - oh, into the review. Like,
7 you might have a review for one day; it might go into
8 two days. Like, you might have 20 reviews to do,
9 20 documents to review.
10
- 11 Q. So it sounds like you are asked by someone who's doing
12 the review to participate; is that the way it works?
13 A. Yes. The mine manager or someone will say, "We need
14 an SSHR for this day." You go, "Yep, okay. Can you let
15 so-and-so know?" "Yes".
16
- 17 Q. Do you find any difficulty getting away from your
18 fitter duties to do this kind of activity?
19 A. Given the notice, I can get away okay, yes, but
20 I still have to make the time up when I get back.
21
- 22 Q. How so?
23 A. Oh, just my job is my job, you know, like, what I was
24 doing was my function and people don't do it like I do it.
25
- 26 Q. But if you're away for a day or even two days helping
27 out with a review, how can you make that up?
28 A. Oh, someone will do that function, I think.
29
- 30 Q. Which function - your fitter job?
31 A. Mine. Mine, yes. Someone will come in on overtime
32 and probably fulfil it.
33
- 34 Q. Why, then, do you say you have to make up things when
35 you get back to your normal job?
36 A. Well, no-one does my job like I do my job. You know,
37 like, they don't do it to my standard, so then I have to
38 bring it back up to where I want it to. That's just
39 a personal thing.
40
- 41 Q. Do you have to do overtime to do that?
42 A. No. No.
43
- 44 Q. Make it up as best you can?
45 A. Yes, yes.
46
- 47 Q. What about detecting unsafe practices? It sounds like

- 1 you do that walking around on a daily basis; is that right?
2 A. Oh, every day. Every day.
3
- 4 Q. Is that a big part of what you do?
5 A. Yes.
6
- 7 Q. Just being observant?
8 A. Yes. It should be everyone's role, but I've had to
9 make a few - I've had to make a few decisions - or I've
10 seen a few unsafe acts where I've had to pull the job up
11 straightaway and have really been in a bit of a dog fight
12 with management about it.
13
- 14 Q. It's not only detecting unsafe practices, is it?
15 You're supposed to take some action in relation to them.
16 A. Oh, absolutely, yes.
17
- 18 Q. What do you do - point out to workers that something's
19 wrong. Fix it?
20 A. Absolutely, yes.
21
- 22 Q. How regular is that an occurrence?
23 A. Couple of times a week, maybe. Like, it depends on
24 what you're doing, where it's happening. You're always
25 just sort of looking around, and there's just stuff going
26 on all the time.
27
- 28 Q. Do you keep any records of that kind of thing?
29 A. I can do, yes, yes.
30
- 31 Q. Do you use a diary or something?
32 A. Oh, the safety document management system at work. It
33 can be documented in there.
34
- 35 Q. Is that a computer screen?
36 A. Yes, or I let Randall know, which he documents it as
37 well. I just keep a bit of a diary every now - like, yes.
38
- 39 Q. Do you do that routinely for every occasion that you
40 find something and take some action?
41 A. Not - no. No, not routinely. Just for instance,
42 "Hey, mate, put your glasses on, will you." "Hey, mate,
43 you haven't got your seatbelt on." "Can you get your
44 shirt - make sure you're wearing reflective safety gear."
45 You know, like, they're the types of things. You get a mob
46 of people and there's one guy in there without the proper
47 safety gear on, so you pull him up.

- 1
2 Q. You mentioned in your statement that perhaps 80 to
3 90 per cent of the things that you get involved in are of
4 a trivial kind - I think that's your word.
5 A. Yes.
6
7 Q. Is that the sort of scenario you're talking about?
8 A. Yes.
9
10 Q. There's a lot of that?
11 A. A lot of it, yes.
12
13 Q. Then you've got your inspections?
14 A. Yes.
15
16 Q. The review process that you spoke about?
17 A. Yes.
18
19 Q. What about complaints? That is the other area. Do
20 you get complaints from workers?
21 A. Yes. Yes. Trivial complaints and major complaints as
22 well.
23
24 Q. Can you give us an example of a major one?
25 A. We had a roof on the 23 cut-through - I think it was
26 23 or 26 cut-through on the way underground. There was an
27 overcast which had been cut out and the roof had started to
28 fall away, and I did the inspection and no-roaded it on all
29 sides. It was slabbing out. And this was under - blokes
30 had told me about it. We went down and inspected it, and
31 we had a crew in there for a month repairing - rebolting it
32 up. Yes, and that was wholly and solely I went to the SSE
33 about it, and then they did another inspection of it, and
34 then we - then they repaired it, fixed the safety issue,
35 yes. That was our second means of egress, too.
36
37 Q. Do you get complaints from across the spectrum of
38 employees? You know some are full-time workers, some are
39 contractors and some are labour hire.
40 A. Yes.
41
42 Q. Do you see what I mean by "the full spectrum of
43 workers"?
44 A. Yes.
45
46 Q. Do you get complaints from all of those different
47 groups?

1 A. Yes, and sometimes you've got to sort them out.
2 Sometimes you can just - you can talk to them about it and
3 satisfy their grievance, you could say. Other times you
4 might have to go and see their boss about it, you know.
5

6 Q. Is there any difference in the proportion of
7 complaints you get as between the groups that I've
8 mentioned - employees, contractors, labour hire?

9 A. Not - oh, it's just general coal mine workers, you
10 know.
11

12 Q. Would you know who's who if you --

13 A. Oh, absolutely.
14

15 Q. You know who the labour hire fellows are?

16 A. Absolutely, yes. Yes, I know all them. I know all
17 the permanent blokes there, and then you know the contract
18 labour there as well. You know, like, you have to work
19 with them. You can't - you know, like, they're all your
20 friends, so you've just got to look after all of them.
21

22 Q. Does each of those groups come to you on occasions?

23 A. Yes.
24

25 Q. With complaints or requests for assistance, maybe?

26 A. Yes, yes.
27

28 Q. No reluctance in that regard from any one of those
29 groups?

30 A. Oh, some do, but that could be personal.
31

32 Q. What about the industry reps? You've said a little
33 bit about them in your statement. Is their function of use
34 to you in what you have to do?

35 A. Oh, absolutely, yes.
36

37 Q. Can you explain how?

38 A. If we need a bit of back-up, we can - they're always
39 on call for us if we want to ring them up.
40

41 Q. What can they do, though, to assist you?

42 A. They've got a little bit more clout than we have.
43 Sometimes we - because we - our immediate - we can go to
44 the SSE. We're the link between the workforce and the SSE.
45 Sometimes we need the ISHR to come in with us to help us,
46 you know, and they can shed a different light on things,
47 yes.

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Q. You mentioned, I think, that might occur if you need to escalate something?

A. Yes.

Q. What do you mean by "escalate" and how would they help you do that?

A. Well, if someone - if it got to the stage where someone needed - may - may need to be prosecuted or there was - that's pretty harsh, but that's - if it needs to be taken to the next level past our jurisdiction, well, then, we go to the ISHR, and then they would probably take it to the inspectorate, I suppose. But then we can ring the inspectorate if we wish.

Q. Could you have a look at paragraph 79 of your affidavit.

A. Yes.

Q. You were telling me before a bit about your interaction with the workers.

A. Yes.

Q. I mentioned those three categories - full time, contractors and then the labour hire.

A. Yes.

Q. You said, I think, that each of those groups will come to you?

A. Yes. Most of them will, yes.

Q. And you mentioned some people might have a personal reason for not doing so.

A. Yes.

Q. What's the basis, then, for the belief that you talk about in paragraph 79? Take a moment to have a look at it, if you need to. What you say there seems to be a bit in conflict with what you were telling me earlier. Is it?

A. No.

Q. No?

A. Contractors have a problem with job security. You could go and ask any worker at Oaky North, permanent - especially permanents, you could go and ask them, and the contractors are just the - they value their - like, their jobs are more easily pushed aside. They would rather not -

1 they'd rather turn a blind eye to things, more so than
2 a permanent. I've actually said to contract labour, "If
3 you've got a problem and you're too scared, come to me and
4 I will put your case forward."
5

6 Q. You've said at paragraph 80 that many contractors
7 won't even talk to you.

8 A. Yes.

9

10 Q. Can you explain a bit more about your experience of
11 that?

12 A. Yes, I had one contractor abuse me.

13

14 Q. For doing what?

15 A. He tried to blame me for something, told me I was
16 sitting on the fence, and it was in front of a deputy at
17 the time who was at the coalface, and he was told to pull
18 his head in by the deputy, by the ERZ controller, yes.
19 That was probably personal. I don't know. But I didn't
20 really know him until that day.

21

22 Q. Go back a little bit. I was asking you about
23 paragraph 79.

24 A. Yes.

25

26 Q. Do you see the last sentence there. You talk about
27 a sudden departure of labour hire workers and contractors.
28 What's your experience about that?

29 A. Oh, sometimes their jobs just aren't required.

30

31 Q. Are you talking about --

32 A. Labour hire.

33

34 Q. And contractors?

35 A. Labour hire, contractors, they'll just say, "Your
36 presence isn't required anymore. We don't - see you
37 later."

38

39 THE CHAIRPERSON: Q. How do you know that, Mr Barber?

40 A. I've seen it a few times. I can't give you an
41 example, but I definitely have seen it.

42

43 Q. But do you know what the reason might be that their
44 presence is no longer required? Is the job finished, their
45 job finished, or don't you know?

46 A. Their job's definitely not finished. Their job still
47 goes on, but it goes on to someone else.

1
2 Q. Yes, but do you know whether there's anything behind
3 it, whether there's a genuine problem with the worker,
4 which might mean that he should go?

5 A. It could be. It could be.

6
7 Q. I'm just having difficulty getting to any proper
8 evidence about the result of labour hire workers feeling
9 vulnerable, and that's what you're referring to, I take
10 it --

11 A. Yes.

12
13 Q. -- and one can readily understand that a person who
14 isn't an employee, isn't a permanent employee, would feel
15 vulnerable about the position, but have you got any
16 evidence that labour hire workers would not come to you
17 about a safety issue, because obviously a safety issue is
18 important for them and important for other workers as well?

19 A. I've had them come to me and say, "Don't mention my
20 name."

21

22 Q. But they come to you nonetheless and tell you about
23 the issue?

24 A. Yes, they do.

25

26 Q. And I think you said that you actually proactively
27 told labour hire workers that they could do that with you?

28 A. Yes. I can give you an example of that. The ladies
29 who clean our bathrooms at night-time, daytime, the
30 temperature in the bathrooms is incredible, and we had one
31 lady nearly pass out and I had to tell her, "Come out of
32 there, sit down." You know, like, we actually had fans
33 installed in the bathrooms. I had to tell her, "Listen, if
34 you get too hot, come out, cool down, go back in." You
35 know, like - and it's frowned upon them doing that.

36

37 Q. Sorry?

38 A. It is frowned upon them doing that from their
39 supervisors.

40

41 Q. But they retained their jobs, I take it?

42 A. I've got no evidence to say that they have.

43

44 Q. They did not?

45 A. Yes.

46

47 Q. How did you intervene? Apart from making sure that

1 they were safe and getting out of the overheated bathrooms,
2 did you take it a step further and see if you could get
3 fans in there or something of that nature?

4 A. I made it a point to go and see someone to have the
5 heaters turned off. They had heaters going. Then someone
6 forgets to turn them off. Then they've got to be turned
7 off by an electrician. I had them turned off and the fans
8 put on. Then someone goes and gets changed, so the guys
9 will turn the fans off because they don't like the fan on
10 them, and then the ladies have got to come in and work.
11 It's like this (indicating) and, yes.

12
13 THE CHAIRPERSON: Thank you, Mr Rice.

14
15 MR RICE: Q. In your time, has there been any SSHR who
16 was not a permanent employee?

17 A. Not that I can recall, no, no.

18
19 Q. You mention at paragraphs 84 and 85 that mine workers
20 don't really care about the Act or regulations. What are
21 you getting at there?

22 A. Just simply that. They don't read it, they don't
23 read - they don't know the regulations. They don't know
24 the Act. I don't know it fully, either. You know, like,
25 I'm not - but they don't - I suppose it's not that they
26 don't really care, but they just - they just - they
27 sometimes go a bit bull at a gate.

28
29 Q. What would you like to see?

30 A. They need more active training in the regulations.

31
32 Q. Does that apply to site procedures as well, because
33 they're a written document as well, aren't they?

34 A. Yes.

35
36 Q. Does it apply to that as well?

37 A. Yes, like, the regulations could be broken down into
38 major ones that certain people need to know about. For
39 example, I've mentioned in my affidavit about an
40 electrician who took it on himself to turn a fan off in the
41 section in a development panel without the ERZ controller
42 being there. You can't do that, there's that much gas in
43 there. And he turned the fan off and turned it back on
44 without the ERZ - he got hauled over the coals for it, and
45 I ended up - he got spoken to by the engineer and the
46 inspector at the time, and I heard him talking later -
47 I witnessed him talking to someone that he didn't really

1 think that he'd done anything wrong. So then I pulled the
2 extraction out of the regs and took it to him and showed
3 him his obligations and said that if I ever found him doing
4 that again, I would personally take him to the SSE. That's
5 where they don't - a young bloke in the industry and just
6 had no regard for it at all and didn't know what was -
7 there was gas build-up in the stubs there.

8
9 Q. With what regularity would it appear to you that
10 workers simply don't know the rules as they are in the
11 regulations?

12 A. I was with an inspector one day and we went into
13 a development panel and spoke to a permanent who didn't,
14 and the inspector was horrified as to the answers we were
15 getting back from this guy, as far as if the power went off
16 and the fans went off, what would you do? You know, what's
17 the first thing you'd do, would you pull back, would you do
18 this, would you do that?

19
20 Q. How big a problem is it? You talk about a lack of
21 awareness of regulations.

22 A. Yes, yes.

23
24 Q. How big a problem is it, in your experience?

25 A. I think it's a big problem. I don't know whether
26 it's - you can train people. You know, you can give them
27 as much training as you want to, but they've got to - it is
28 a problem. We've got such a big workforce, and the push to
29 get the coal out, you know, like, "She'll be right, mate.
30 Let's just keep going."

31
32 THE CHAIRPERSON: Q. Are you talking about the coal mine
33 worker wanting to push on to get the coal out?

34 A. Yes.

35
36 Q. What's the incentive there? Why do they do that?

37 A. Coal bonus. They look good when they've got X amount
38 of metres, more coal than the previous shift.

39
40 Q. So I think as you mentioned in your statement and just
41 did before, no matter how much training the company gives
42 them, some people just won't follow it, won't comply
43 entirely; is that right?

44 A. Correct, yes. It's a hard one.

45
46 MR RICE: That's all I have, Mr Martin, thank you.
47

1 THE CHAIRPERSON: Thank you. Mr Dighton?

2

3 MR DIGHTON: No questions, thank you.

4

5 THE CHAIRPERSON: Mr Clothier?

6

7 MR CLOTHIER: No questions, thank you.

8

9 THE CHAIRPERSON: Ms Holliday?

10

11 <EXAMINATION BY MS HOLLIDAY:

12

13 MS HOLLIDAY: Q. Mr Barber, my name is Deborah Holliday.
14 I'm one of the barristers appearing for Resources Safety
15 and Health Queensland.

16

17

18 Q. You refer to it as the inspectorate?

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- 1 Q. When you say "that long", are you aware that you've
2 actually been part of unannounced inspections at the mine
3 conducted by the inspectorate?
4 A. I was not aware, no.
5
6 Q. If I can bring up, Mr Operator, RSH.002.350.0001.
7 This is a mine record entry.
8 A. Yes.
9
10 Q. You recognise that?
11 A. Yes.
12
13 Q. If you look at the top right-hand corner, and
14 Mr Operator, if we can zoom in there, it has the activity
15 date, so the date of the inspection being 15 October 2019?
16 A. Yes.
17
18 Q. It has "Activity Type" and it has "Inspection -
19 Unannounced".
20 A. Yes.
21
22 Q. I could take you to other mine record entries, but it
23 either says "Announced" or "Unannounced".
24 A. Yes.
25
26 Q. Have you ever seen one of these documents before?
27 A. No. I've filled in a mine record entry, or I've got
28 other people to write them out for me, but, no, I haven't
29 seen that.
30
31 Q. These aren't put up at the mine?
32 A. Yes, they are.
33
34 Q. But you haven't had a look at one of these?
35 A. I haven't looked at it that closely, no.
36
37 Q. So in relation to the fact that it's an unannounced
38 inspection, the inspectorate has the right to either
39 conduct announced or unannounced inspections?
40 A. Okay.
41
42 Q. In relation to this particular inspection, you can see
43 there that you're consulted - "Site Safety & Health Reps
44 Consulted", it has your name there?
45 A. Yes.
46
47 Q. If we can go down to the bottom of that first page,

1 Mr Operator, it says:

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*During my underground inspection I was
accompanied by Barry Brigden, Joe Barber --*

being yourself?

A. Yes.

Q. -- "and Michael Downs".

A. Yes.

Q. Is it the case that the reason why you don't know whether an inspection is announced or unannounced is because the mine tells you about the fact that the inspection is going to happen on the morning or something of that nature?

A. Mostly we would get to know maybe two days, three days prior, "Such and such inspector will be here on Wednesday." "I will be making an inspection next Wednesday week", or something, and I wasn't sure I - generally we are notified.

Q. In this case, you may well have been notified, but you would have been notified that morning, I suggest, by the mine that the inspectorate had arrived?

A. More than likely, yes, yes.

Q. And then you took part in the unannounced inspection at the mine?

A. Yes, yes.

Q. Just two other points. At paragraph 54 of your statement, so if we can bring up again that statement, Mr Operator, BJO.001.001.0001, at paragraph 54, you speak there about asking about an investigation and the response that you received.

A. Yes.

Q. I take it, Mr Barber, that that was the SSE, the mines investigation that you're referencing there?

A. Yes, the ICAM.

Q. Yes.

A. Yes.

Q. So it was an investigation being conducted by the mine, not by the inspectorate?

A. Yes, yes. Yes.

1
2 Q. Similarly at paragraph 67, you speak there about an
3 incident at a mine?
4 A. Yes.
5
6 Q. And that you were deliberately excluded from the
7 engagement with the investigation. That's what you say in
8 paragraph 67.
9 A. Yes.
10
11 Q. Again, I take it that that is the mine's
12 investigation?
13 A. That's the mine - yes, yes.
14
15 MS HOLLIDAY: Mr Martin, those are the only questions that
16 I have.
17
18 THE CHAIRPERSON: Thank you. Mr Crawshaw?
19
20 MR CRAWSHAW: No questions, thanks, Mr Chair.
21
22 THE CHAIRPERSON: Thank you. Mr Rice?
23
24 MR RICE: No, thank you.
25
26 THE CHAIRPERSON: Mr Clough?
27
28 MR CLOUGH: No questions for me, thank you.
29
30 THE CHAIRPERSON: Mr Barber, thank you for your
31 attendance. You are excused.
32
33 **<THE WITNESS WITHDREW**
34
35 MR RICE: Mr Martin, those are the witnesses whose
36 appearance was scheduled for today. Could I ask that the
37 Board adjourn until 10 tomorrow?
38
39 THE CHAIRPERSON: Yes, very well. We will adjourn until
40 10 o'clock tomorrow morning.
41
42 **AT 12.36PM THE BOARD OF INQUIRY WAS ADJOURNED**
43 **TO TUESDAY, 11 AUGUST 2020 AT 10AM**
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