

Investigative Report

U.S. Department of Labor Office of Inspector General

Subject Martin County Coal Corporation Accident Investigation	Violation Character 18 U.S.C. § 1505 (obstruction of proceedings)	File No.	11-0801-0006-PC
		Report Type	Memorandum of Investigation
		By	SA [REDACTED]
		At	Washington Regional Office
		Date	12/09/02

Introduction

This investigation is predicated on a complaint letter from Jack Spadaro, an employee of the DOL Mine Safety and Health Administration (MSHA). Spadaro, who is the Superintendent of the National Mine Health and Safety Academy (NMHSA), was assigned as a member of the MSHA accident investigation team that investigated an impoundment spill at the Martin County Coal Corporation (MCCC) mine in Martin County, KY, on October 11, 2000. According to Spadaro, MSHA Management, including the Acting Assistant Secretary, attempted to interfere regarding the scope and content of the MCCC accident investigation report. During the course of the investigation, the Office of Inspector General received other allegations from Spadaro related to the MCC accident investigation. Each of these allegations was investigated.

Reports of Interviews are referenced in this Memorandum of Investigation and are listed as exhibits. Some individuals were interviewed multiple times and the information they contributed applies to several separate sections in this report. When information included in this report is drawn from an interview, the Report of Interview will only be referenced as an exhibit the first time it is referenced in the report. Subsequent uses of the information each witness provided can be referenced in the attached Table of Contents. The accident investigation report MSHA produced to document its findings is not attached as an exhibit, but is available at:

www.msha.gov/impoundments/martincounty/martincounty.htm

Background

From September 1990 to September 1994, Jesse Cole was the MSHA District Manager for District 6 located in Pikeville, KY. Included in District 6 is the MCCC operation near Inez, KY. Following an impoundment breakthrough at the MCCC mine in 1994, Cole

requested MSHA Technical Support review the breakthrough and make recommendations for the continued use of the impoundment.

A MSHA Technical Support engineer, Larry Wilson, visited the impoundment on May 25, 1994, and issued a memorandum outlining nine recommendations regarding the continued use of the impoundment. Cole forwarded those recommendations to MCCC for consideration in their future plans. In August 1994, MCCC responded with a proposed impoundment use plan that Cole rejected because he felt it did not adequately address all of the issues that Larry Wilson had raised. In October 1994, under Cole's replacement, Carl Boone, and following District review, the District approved an impoundment plan for MCCC. The plan was developed by Ogden Environmental & Energy Services Company (Ogden). Between the initial plan approval in 1994 and the subsequent impoundment failure in 2000, MSHA approved several modifications to the plan. The plan consisted, in part, of using overburden from the higher elevation Stockton coal seam to construct a seepage barrier in the impoundment. The seepage barrier was designed to prevent drainage in the impoundment from entering the mined areas of the Coalburg seam, below and near the impoundment. The plan also called for the drainage outflow from the Coalburg seam mines to be monitored by MCCC to identify unusual drainage levels from the impoundment and for seals to be constructed in the mine entrances of the mined Coalburg seam to provide protection to the active areas in the Coalburg seam mines.

Following the impoundment failure at MCCC on October 11, 2000, former MSHA Assistant Secretary Davitt McAteer created an accident investigation team and appointed his Special Assistant, Tony Opegard, as the team leader. The team's investigation included interviews and sworn testimony of company officials, former miners, various witnesses, geo-technical analysis (a portion of which was contracted through Triad Engineering), and document reviews. Following the change in Presidential Administrations in late January 2001, Tony Opegard, a political appointee, was removed as the team leader and Timothy Thompson, District Manager for MSHA District 3 in Morgantown, WV, was appointed as the new team leader.

Summary of Investigation

The MCCC case was opened by the Office of Labor Racketeering and Fraud Investigations (OLRFI) and assigned to SA [REDACTED] on May 31, 2001. On May 31, 2001, OLRFI agents seized the MSHA administrative files pertaining to the Martin County Coal Corporation accident investigation, from the MSHA District Office in Morgantown, West Virginia. The OLRFI conducted over 40 interviews during the investigation. In July 2002, SA [REDACTED] was reassigned the MCCC investigation.

During the course of the OLRFI investigation, the agents received allegations concerning the MCCC accident investigation and other matters. Only those allegations related to the MCCC are addressed in this report. Allegations related to other matters have been forwarded to the appropriate offices to evaluate and investigate, as appropriate.

Based on the allegations related to the MCCC accident investigation and information received during the investigation, the following areas of investigative interest have been included in this report: Former District Manager Transferred, Team Leader Transition, Investigative File Transfer to MSHA District 3, Access Denied to Shared "w" Drive, Report Signing Issues, "Post Script" to Draft Report, Skiles' Draft Memorandum, District Response Memorandum, Citations Issued Against MCCC, Mine Seals Construction, Mapping Accuracy, Triad Engineering Qualification Letter, Former Special Assistant to Assistant Secretary Departure, Retaliation against Spadaro, Personnel Actions Resulting From MCCC Investigation, and Validity of MCCC Accident Investigation Report.

Former District Manager Transferred

Jesse Cole was alleged to have been removed as District 6 District Manager and replaced by Carl Boone, under pressure by MCCC or its' parent company A.T. Massey.

From September 1990 to September 1994, Jesse Cole was the MSHA District Manager for MSHA's District 6 located in Pikeville, KY. The MCCC operation near Inez, KY is included in District 6. Following the first impoundment breakthrough at the MCCC mine in 1994, Cole reviewed the breakthrough area and the MCCC mining maps. He was concerned that another breakthrough might occur into the underground mine workings beneath the impoundment. Cole requested MSHA Technical Support review the breakthrough and make recommendations for the continued use of the impoundment. Additionally, according to Cole, in the spring of 1994, several mine operators held a meeting in Pikeville, KY with Davitt McAteer and Marvin Nichols to complain about Jesse Cole and how he took too long to approve plans (Exhibit 1). Cole was not allowed to attend this meeting. Cole also stated he applied for the position he currently holds at the NMHSA, was not moved at the request of senior MSHA management, nor was he coerced or pressured into taking the position. The MSHA Technical Support engineer, Larry Wilson, issued a memorandum outlining nine recommendations regarding the continued use of the impoundment (Exhibit 2). Cole forwarded those recommendations to MCCC for consideration in their future plans. In August 1994, MCCC responded with its proposed impoundment use plan and Cole rejected the plan because he felt it did not adequately address all of the issues that Larry Wilson had raised. After rejecting the MCCC plan, Cole accepted the position with NMSHA for which he had applied. Cole felt that MCCC was reluctant to do significant work in order to continue using the impoundment. Cole also acknowledged not being surprised that operators disliked his management style because he routinely sent plans to MSHA Technical Support for review, a process that historically has extended backlogs and holds up operator schedules.

In October 1994, following District review, the District, now under District

Manager Carl Boone, approved an impoundment plan for MCCC. The plan was developed by Ogden Environmental & Energy Services Company (Ogden). Between the initial plan's approval and the impoundment failure in October 2000, MSHA approved several modifications to the plan. The plan consisted, in part, of using overburden from the higher elevation Stockton coal seam to construct a seepage barrier in the impoundment. The seepage barrier was designed to prevent drainage from the impoundment from entering the mined areas of the Coalburg seam, near the impoundment. The plan also called for the drainage outflow from the Coalburg seam mines to be monitored by MCCC to identify unusual drainage levels from the impoundment and for seals to be constructed in the mine entrances of the mined Coalburg seam to provide protection to the active areas in the mines (see MSHA Report of Investigation, www.msha.gov/impoundments/martincounty/martincounty.htm).

According to Mark Skiles, MSHA Director of Technical Support, who came to MSHA from industry where he operated a mine very near the MCCC operation, Jesse Cole had the reputation as a very conservative, by-the-book District Manager who did not cut any corners for the operators (Exhibit 3). Joe Main, Administrator for Health and Safety for the United Mine Workers of America (UMWA), was interviewed in August 2001 (Exhibit 4). According to Main, the UMWA was concerned when Jesse Cole transferred to the NMHSA. When he learned of Cole's transfer, Main called Marvin Nichols, MSHA Administrator for Coal Mine Safety, to inquire about it. According to Main, Nichols told him that Cole was transferred because there were a lot of complaints from the coal operators about plans taking too long for approval under Cole's supervision.

In his September 12, 2002 interview, Marvin Nichols stated Cole was not removed because of complaints of operators, but acknowledged attending the August 1994 meeting (Exhibit 5).

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MSHA management did not force Cole out. The position at the MSHA Mining Academy opened and Cole applied; Nichols believed Cole's selection at the academy was a good fit.

Joe Pavlovich, MSHA District 7 District Manager and team leader for the MSHA internal review regarding the MCCC impoundment failure, said he doubted that there was pressure from MCC or its owner, A.T. Massey, which affected the approval process of their impoundment or Jesse Cole's departure as District Manager (Exhibit 6). MCCC coal operations were never held up as a result of the '94 impoundment failure or the impoundment plan process. According to Pavlovich, mining operations continued throughout this time period, with only a short stoppage (1 day) to stop leaks following the '94 failure. MCCC or A.T.

Massey would have had nothing to complain about or any reason to pressure MSHA officials.

Carl Boone, the District Manager who replaced Cole, said nobody tried to exert any influence in getting the plans approved (Exhibit 7). Neither MCC nor MSHA officials ever interceded outside of the normal course of business to affect the District's operations.

Team Leader Transition

At the direction of MSHA management, Tim Thompson is alleged to have stopped the investigative phase and changed the scope of the MSHA accident investigation, after he replaced Oppegard (Exhibit 12).

According to team members Spadaro, Brock and Sorke (Exhibits 8, 9, 10), Tony Oppegard had instructed the team to review the previous impoundment breakthrough at the MCCC mine in 1994 to trace the cause of the October 2000 breakthrough. Harold Owens (Exhibit 11) and Ronnie Brock understood Oppegard's directions to mean that only the cause of the breakthrough was to be investigated and that an internal review of the MSHA approval process following the 1994 breakthrough would be conducted later. Brock, Spadaro, and Sorke also stated that Oppegard had instructed the team that Spadaro was second in charge of the team when Oppegard was absent. According to Brock, Spadaro, Owens, and Sorke, when Thompson became the Team Leader he directed the team to finish the interviewing and evidence gathering phases of the investigation and begin assembling the draft report. According to Spadaro's complaint letter on April 11, 2001 (Exhibit 12), Marvin Nichols (Administrator for Coal Mine Safety) and Michael Lawless (Deputy Administrator of Field Operations for Coal Mine Safety) had instructed Thompson to avoid any discussion in detail regarding the review and approval process of the MCCC impoundment plan. At a team meeting in April 2001, Thompson returned to the room from a phone call with Lawless and he instructed the team to remove two paragraphs from the draft accident investigation report that addressed MSHA's review of the impoundment plan (Exhibit 13). According to Spadaro, Thompson attributed these instructions to Michael Lawless and Marvin Nichols.

Collectively, the MSHA accident investigators described intense and often heated discussions regarding various facets of the investigation. The conflicts included the inclusion of information related to the MCCC impoundment approval process, proposed violations against MCCC, the seal construction in the 1-C mine, access to investigative records, the inclusion of Thompson's "postscripts," the accuracy of MCCC impoundment maps, the Triad Engineering report, MSHA management influence, and the relevance and availability of several memorandums written by [REDACTED] Mark Skiles and Carl Boone. Team members

and management officials who were interviewed stated the disagreements primarily occurred between Spadaro and Thompson, each with varying degrees of support from team members, depending on the subject. Both men were described as headstrong and unwilling to compromise. Team members described Thompson as difficult to influence.

Thompson denied ending the evidence-gathering phase of the investigation (Exhibit 14). He believed it was wrapping up when he took over from Oppgard. He participated in several interviews and supported authorizing additional Triad Engineering core borings after his arrival. Thompson included a historical background relating to the MCCC impoundment process in the final report, but he was only concerned with what was approved, not how it was approved. He believed the latter was only relevant to an internal review. Thompson discussed this point with Lawless and Nichols and they concurred.

On July 17, 2002, OLRFI obtained a draft copy of the MSHA internal review conducted on the MCCC impoundment process (Exhibit 15). The report addresses seventeen (17) issues related to the MCCC impoundment approval process and subsequent failure. The draft report did not identify any individuals who may have violated MSHA policy.

Thompson acknowledged some tension with Spadaro from the time he became team leader, but noted the initial major disagreement began during a team meeting on April 1, 2001. Thompson recalled Spadaro threatening to go to the press and IG regarding his concerns with the investigation. Thompson contacted Marvin Nichols, Administrator for Coal Mine Safety, via Mike Lawless, Nichols' Deputy, to discuss his concerns. Thompson noted a lack of adherence to investigative standards established in MSHA's accident investigation manual, when he took over as team leader. He was concerned that the team expected to include information that should be addressed in an internal review in the accident report.

The MSHA Accident/Illness Investigation Handbook (MSHA Handbook Number PH00-I-5), promulgated November 2000, established the purpose of the accident investigation for the MCCC accident investigation team. The handbook defines the objective of an accident investigation as follows:

The objective of an accident investigation is to determine the root cause(s) of the mine accident and to utilize and share this information with the mining community and others for the purpose of preventing similar occurrences. The Mine Safety and Health Administration's (MSHA) accident investigations include determinations of whether violations of the Federal Mine Safety and Health Act of 1977 (Mine Act) or implementing regulations contributed to the accident. In addition to providing critical, potentially life-saving information, the findings of these investigations provide a basis for formulating and

evaluating MSHA health and safety standards and policies.

The MSHA Administrative Policy and Procedures Manual covering Internal Review Policy and Procedures (Exhibit 53), dated September 24, 1992, directs MSHA to conduct an internal review of its enforcement activities after each mining accident that results in three or more fatalities, or at the direction of the Assistant Secretary, as was the case involving the MCCC impoundment failure. The manual lists the objective of the internal review as follows:

- a. thoroughly and objectively evaluate the quality of its enforcement activities at a mine that has experienced an accident resulting in three or more fatalities;
- b. identify any weakness in its enforcement activities at the mine;
- c. provide appropriate recommendations for addressing any weaknesses found; and
- d. disseminate internal review findings, conclusions, and recommendations to Agency managers and employees, members of Congress, and other interested parties.

On April 4, 2001, Nichols sent a memorandum and an Email to Thompson and team members regarding the MCCC investigation (Exhibit 16). The memorandum provided instructions to include information in the accident report relative to the "cause of the failure and physical conditions and practices that led to the failure" and to report other concerns or issues directly to Nichols in a separate report, in accordance with the MSHA accident investigation manual. Nichols said the intent of this memorandum was to relieve the team's concern that internal issues would be overlooked by MSHA and to insure team members understood there would be two separate reports. Nichols' Email was sent to the entire team. In it, Nichols cautioned Thompson to allow team members to freely exchange views and ideas and he cautioned the team to seek unanimous agreement, followed by consensus, or to rely on Thompson (team leader) to make final decisions. Nichols stated he had hoped the memorandum would prevent future problems and clarify the roles of the team members and Thompson.

Spadaro reported his desire to resign from the team in an Email, dated April 6, to his supervisor, Jeff Duncan and Robert Elam, the acting Assistant Secretary for MSHA (Exhibit 17). In his Email, Spadaro alleged an effort by senior management to cover-up serious deficiencies identified during the investigation. Duncan forwarded the Email to Nichols, who responded by forwarding a memorandum to Elam (Exhibit 18). On April 10, Elam forwarded a memorandum to Duncan, instructing him to have Spadaro report to Arlington, VA, the same week, to substantiate his allegations (Exhibit 18). On April 10, Spadaro was quoted in The Courier-Journal, a Louisville, KY newspaper, alleging a "concerted effort" by MSHA management to influence the investigative report (Exhibit 19). On April

11, Elam reported the situation to Steven Law, the Chief of Staff for the Secretary of Labor, via a memorandum (Exhibit 20). Spadaro mailed letters to the Department of Labor Inspector General on April 11 and April 16, 2001 (Exhibits 12 & 21), alleging improper management involvement in the investigation.

Thompson briefed Elam, Nichols, and Lawless (Exhibits 22, 5, 23), regularly regarding the contentious issues in the MCCC impoundment investigation. All three readily acknowledged interceding, at times, on behalf of Thompson, to the investigative team and Spadaro. They communicated in person, in telephone conversations, and through written correspondence in an effort to clarify roles and resolve issues. They also acknowledged their efforts were not effective. Assistant Secretary Lauriski, who assumed his responsibilities in May 2001, remarked that he was displeased with MSHA management's response to the investigative teams conflicts (Exhibit 24).

Investigative File Transfer to MSHA District 3

The MSHA accident investigation administrative file was moved from Beckley, WV to Morgantown, WV. It is alleged that it was moved in an effort to further a cover-up.

From the beginning of the accident investigation, the team had maintained the accident investigation administrative file at the NMSHA in Beckley, WV. In April 2001, following his first complaint letter to the DOL-OIG, the press contacted Spadaro regarding his allegations and he provided details to the press in response to their inquiries. According to Ronnie Brock, who was the investigative file evidence custodian, within a week of Spadaro's allegations becoming public, Thompson ordered the accident investigative file moved to the conference room at the MSHA District 3 Office in Morgantown, WV. According to Brock, after the move, the file was disorganized and no longer up-to-date.

Thompson acknowledged moving the administrative investigative files from the NMSHA to his office in Morgantown, WV. Thompson noted Spadaro's quotes appearing in the press in April 2001 and believed Spadaro had effectively quit the investigative team. He thought his relationship with Spadaro had degraded so much that he feared Spadaro might try to deny Thompson or other team member's access to the records and he wanted to prevent future unauthorized press releases. Thompson also wanted the records close to his office. In his interview, Thompson stated that sufficient access was provided to team members to complete the accident investigation report. Thompson pointed out the records were ultimately seized by the Office of the Inspector General on May 31, 2001 and were not available to MSHA.

Robert Elam, the acting Assistant Secretary from January 2001 until May 2001,

knew Thompson moved the records. He did not think it was unusual for a team leader to maintain administrative records at a convenient location. Marvin Nichols believed Thompson decided to move the records to prevent unauthorized press releases. Nichols thought Spadaro's comments to the press were disruptive and inaccurate; he supported Thompson's decision to move the records to prevent releases to the press.

Access Denied to Shared "w" Drive

Several investigative team members reported being denied access to the MSHA administrative investigation file stored on a common or shared "w" drive. When accessible, the file allowed members to input, review, and discuss investigative materials from their respective offices, without traveling to a common location.

Thompson admitted denying access to the "w" drive to team members. He became frustrated with the unauthorized press releases and although he suspected Spadaro was releasing the information, he was not sure who was responsible. He denied access to everyone. Team members were given access on a need-to-know basis. By the time he took this action, the team had already formulated a fairly thorough draft report.

Elam was not aware of Thompson denying access to the "w" drive. Nichols knew of Thompson's action and supported it. MSHA accident investigators informed Lauriski of the access issue when the final report was signed. Lauriski told OLRFI (Exhibit #24) that he believed Thompson had denied access to the "w" drive as a result of a discussion the two had had. Lauriski, shortly after his arrival, had told Thompson to secure the investigative materials to prevent unauthorized press releases.


Report Signing Issues

In a January 15, 2002 interview, Spadaro alleged MSHA management coerced a team member to sign the final MCC accident investigative report (Exhibit # 54).

Joe Pavlovich, the District 7 District Manager, provided information regarding the report-signing incident. Team members Sorke and Brock work for Pavlovich. On October 10, 2001, Brock Emailed Thompson and stated he did not want to sign the report because he had been removed from a committee working on the citations and that he had been left out of conference calls concerning citations (Exhibit 25).



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 Thompson forwarded Brock's Email to Lauriski. Pavlovich, Brock and Lauriski subsequently spoke in a conference call. Prior to the conversation, Pavlovich told Brock that Brock was not responsible for every detail in the report – only his contributions. During the conversation with Lauriski, Brock said he had reconsidered his position and agreed to sign the report.

OLRFI interviewed every team member who signed the report. Brock, Sorke, Fredland, and Owens stated that together they had all met Thompson to sign the final report (Exhibits 26, 27, 28, and 29, respectively). Thompson provided them with the signature page to sign. They all refused to sign the signature page without the benefit of reviewing the entire final report and making appropriate corrections. Thompson insisted they had reviewed the report "to death" and just needed to sign the signature page. They refused and Thompson made a conference call to Assistant Secretary Lauriski. The team members expressed their reluctance to sign the report without review, having been denied access to the "w" drive, to Lauriski. Lauriski agreed with the team members and had Thompson allow them to review and make corrections to the latest version. Thompson provided a copy, which the team members reviewed and edited. Only a few typographical errors were identified and corrected. The four members willingly signed the final report without reservation. They all stated that they stood by the accuracy of the report.

Thompson corroborated the team members' story, except that he did not remember showing them a copy of the final report before they signed. Lauriski recalled the details of the event the same as described by the team members.

Weaver, Evanto, and Betoney acknowledged willingly signing the report, without any reservations (Exhibits 30, 31, 32, respectively). Spadaro did not sign the report; his name was removed from the report.

"Post Script" to Draft Report

During the course of Inspector General's (IG) investigation, a document titled "Response to Pre-report Information Release," commonly referred to as the Post Script, written by Thompson, was presented to the team members for signature and inclusion in the report. The document concerned the team members.

In mid-April, 2001, the local press in West Virginia and Kentucky ran newspaper articles regarding the disagreements on the accident investigation team and Spadaro's allegations of a cover-up by MSHA management. In response to the press coverage, Timothy Thompson drafted a "post script" to the draft accident investigation report (Exhibit 33). This "post script" attempted to refute Spadaro's allegations, and, it included points made in a "District Response" memo

purportedly dated November 2, 2000 (This "District Response" will be addressed under a separate heading). Thompson instructed the team members to sign the "post script," and according to Ronnie Brock, Harold Owens, Jack Spadaro and Steve Sorke, the team members refused. Thompson relayed to the team, after a phone call with then Acting Assistant Secretary Bob Elam, that Elam wanted the "post script" included in the accident investigation report.

According to Brock and Sorke, the team members had concerns regarding the truthfulness of the "post-script," and in particular, the truthfulness of the "District Response" memo, that addressed the installation of weirs at the MCCC impoundment. Neither Brock nor Sorke had seen any evidence that weirs had been installed at the MCCC site. The "post script" was eventually dropped, and was not included in the final version of the accident investigation report.

Thompson admitted to writing the "post script" at the request of Nichols. Nichols recalled telling Lawless or Thompson to write the document, believing it would provide MSHA the opportunity to address erroneous information raised in the press. After the document was created, presented and dismissed by the investigative team, Thompson discussed the issue with Nichols. Thompson and Nichols decided to not include the document in the accident investigation report because it would not be worthwhile. Nichols believed MSHA's role in the MCCC impoundment failure and subsequent investigation had been unfairly maligned and wanted to include a document to respond. However, during a conversation with Thompson, following the team's opposition to including it in the report, they agreed it would not add any value to the report and it was discarded.

Skiles' Draft Memorandum

During the investigation, it was alleged MSHA senior managers attempted to improperly influence the content of a memorandum written by Mark Skiles, MSHA's Director of Technical Support.

Following the MCCC impoundment breakthrough, then Assistant Secretary Davitt McAteer instructed Mark Skiles to travel to Pittsburgh, PA to review the MSHA Technical Support's records regarding the previous impoundment breakthrough in 1994 (MSHA's regional Technical Support office is located in Pittsburgh, PA). Skiles, assisted by Stephen Gigliotti, MSHA Accident Reduction Program Manager, traveled to Pittsburgh and reviewed the Technical Support records pertaining to Technical Support's analysis and recommendations following the impoundment breakthrough at MCCC in 1994.

Because of the volume of information he obtained, Skiles wrote a draft memo to McAteer dated October 31, 2000, describing his initial findings from the MSHA Technical Support files (Exhibit 34). Skiles' draft memo caused considerable

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controversy within Coal Mine Safety and Health because Skiles asserted that the MSHA District Manager did not follow the Technical Support recommendations provided in 1994, in [REDACTED] memorandum, and instead the District Manager approved the company's proposed recommendations. McAteer provided the memorandum to his Deputy, Robert Elam, and instructed him to look into the matter. Elam believed the memorandum, alone, was inadequate because it did not report the sequence of events that took place in District 6. Elam also thought Skiles had contradicted himself by concluding the District failed to follow Technical Support's recommendations and also referred to Technical Support having approved the MCCC plan in 1998.

Elam, through the chain of command, forwarded Skiles' memorandum to District 6 to obtain a response. Elam wanted to obtain a response to provide a complete assessment of the impoundment approval process. Elam, Nichols and Lawless believed Skiles' memorandum, alone, would create the appearance that MSHA had not processed the impoundment plan properly and Elam was concerned that would generate additional negative and inaccurate publicity.

In late April and early May 2001, after receiving the "District Response" memorandum dated October 31, 2000, Marvin Nichols, Michael Lawless and Robert Elam met with Skiles and instructed him to write a qualifying memo to clarify his original draft memorandum. Elam and Nichols maintain their efforts were intended to correct deficiencies in Skiles' memorandum, related to its contradictory statement regarding Technical Support's involvement and the District not having followed or considered Technical Support's [REDACTED] nine recommendations. Skiles provided Elam with several versions of his memorandum, acknowledging they all supported his original findings (Exhibit 35). At one point, Elam had MSHA Solicitor Thomas Mascolino edit Skiles' third version of the qualifying memo (also included in Exhibit 35). Skiles' was reluctant to make changes to his memorandum. Skiles believed the changes Elam, Nichols and Lawless wanted were intended to "cover his (Elam's) ass" and would result in his memorandum not being accurate. He delayed completing the assignment until Assistant Secretary for MSHA David Lauriski was sworn-in in May 2001. After meeting with Skiles, Lauriski instructed Skiles not to write the qualifying memo until after the DOL-OIG finished its investigation.

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Elam admitted to insisting Skiles qualify his memorandum, even after Lauriski instructed Skiles not to continue. Elam, supported by his staff, was convinced Skiles' memorandum, when compared to the District's response, did not present an accurate assessment of the impoundment approval process. He initially intended to get a qualifying memorandum from Skiles and then discuss the matter with Lauriski. Elam recognized Skiles' reluctance to modify his memorandum and at some point, ceased his efforts to resolve the matter. Nichols stated he supported Elam's approach and that it was only to make appropriate corrections, not to change facts or cover-up any findings. Lawless did not recollect being

involved in requesting Skiles to qualify his memorandum.

District Response Memorandum

District 6 produced a memorandum, in response to Skiles' memorandum that allegedly contained false information.

After receiving Skiles' draft memorandum regarding Technical Support's involvement in the MCCC impoundment approval process, from McAteer, Elam forwarded it to Nichols, the Administrator for Coal Mine Safety and Health with instructions to have the District respond. Nichols, through his Deputy, Mike Lawless, forwarded Skiles' memorandum to the District Manager for District 6, Carl Boone. Boone instructed his staff to respond to the memorandum. His staff produced the "District Response" memorandum (Exhibit 36), dated October 31, 2000.

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The "District Response" provided information regarding the District's role in the approval of MCCC's impoundment plan, following the 1994 failure and contained a section outlining the District's adherence or consideration to each of [REDACTED] nine recommendations. Skiles believed the memorandum was inaccurate because Boone's District had not complied with Wilson's nine recommendations. Team members Brock and Sorke also reviewed the "District Response" memo and both of them believed the memorandum was not truthful. In particular, the accident investigation team had not discovered any evidence that MCCC had installed the weirs that Wilson had recommended in his memorandum. Additionally, Sorke noted that MCCC had also not completed a dye test, nor had a coarse refuse barrier been accomplished.

Joe Pavlovich, the District Manager for District 7 and team leader for MSHA's internal review of the MCCC impoundment approval process, provided information obtained during the Internal Review (Exhibit 6). Pavlovich's investigators interviewed [REDACTED] regarding [REDACTED] following the '94 impoundment failure. Pavlovich summarized his investigator's findings as follows: [REDACTED] the memorandum, following [REDACTED] visit to the site, May 25, 1994, days after the impoundment failure. He based his findings on his observations; no tests or record reviews were conducted. There were still visible minor leaks from the impoundment. His memorandum listed 9 recommendations addressing the leaks and future use of the impoundment. [REDACTED] told Pavlovich's investigators that he believed the impoundment should not have been used in the future, but did not state this directly in his memorandum. Instead, he worded his document to make it difficult or unfeasible to continue its use. For example, [REDACTED] suggested backfilling mined out areas close to or under the impoundment, an impossible feat in the opinion of Pavlovich, [REDACTED] and other mining experts, who said the areas requiring backfill were inaccessible. Some of [REDACTED]

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suggestions were not relevant to the future impoundment plan, submitted by Ogden; [REDACTED] suggested constructing weirs to measure water flow at the mine entrances. This suggestion was valid a couple of days after the '94 failure when [REDACTED] viewed water leaking from the mines, but not useful months later after the leaking had effectively stopped. Pavlovich contends the MCCC plan, created by Ogden, took a different approach to resolving issues at the impoundment, negating the need to adhere to all of [REDACTED] recommendations.

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Pavlovich said that following the '94 impoundment failure, MCCC submitted a plan to the District office to continue use of the impoundment. According to Pavlovich, at the time, MSHA's standard operating procedure was to have the plans forwarded to technical support for study and recommendations. There was also, generally, a long turn around time to get submissions approved, typically, two years. In this case, as with other "minor" plans, the District staff reviewed the plan without technical support from Denver. Pavlovich also noted that the District had and maintains an appropriate staff capable of dealing with relatively complex engineering problems. The District evaluated the plan and returned it with [REDACTED] recommendations for MCCC to consider. During this time, Jesse Cole left the District Manager's position and was replaced by Carl Boone. Pavlovich also provided his impression that Boone, who was not familiar with the impoundment failure at MCC, because it was a relatively minor failure and MSHA does not "flag" files, subsequently approved an MCC plan for the impoundment. The plan was approved without Technical Support review (against standing SOPs), but thoroughly reviewed at the District level according to Pavlovich.

Carl Boone, the District 6 District Manager who approved the MCCC impoundment plan, recalled approving the MCC impoundment plans. Boone's staff had recommended he approve the impoundment plan based on their evaluation of the proposal. Boone had been to several management meetings where Technical Support's backlog of pending operator plans was discussed. According to Boone, MSHA management encouraged districts to evaluate and make decisions on minor plans submitted to the Districts, if they had the technical ability. Only larger more significant plans should be forwarded to Technical Support, due to their limited resources and backlog. Boone had and maintains confidence in his former staff and their ability to effectively evaluate plans, specifically those submitted by MCC. Boone did not know MCC had had the 1994 impoundment failure until sometime in 1997. The 1994 leak was considered minor and MSHA files are not marked to show these types of things.

Mark Skiles confirmed that the District Managers have ultimate discretion and authority when it comes to approving a company's proposed plans, and he can accept or decline any recommendations received from MSHA's Technical Support.

In regard to the construction of weirs at the MCCC impoundment, OLRFI interviewed two inspectors cited in the District Response Memo as having

observed the MCCC weirs. [REDACTED], said he had conducted inspections at the MCCC impoundment and was familiar with the site. [REDACTED] described the weirs as not constructed in a fashion normally associated with weirs – a “v” notch in a dam or overflow used to measure water (Exhibit 37). The weirs at MCC consisted of a pipe carrying water run-off from a pond created by an earthen dam outside the entrances. The pond created by the earthen dam measured about 20' X 30'. Inspectors could check the depth of the water running through the outlet pipe to estimate the volume of the outflow in gallons-per-minute.

[REDACTED] also observed the weirs during inspections of the impoundment (Exhibit 38). [REDACTED] described them as not designed like a normal weir, but serving the same purpose. The weirs at MCCC were constructed in two locations, one at the South Main Portals and another at the site of the 1994 hillside blowout. The blowout was a location where the 1994 failure burst through the ground and runoff ran down the hill. The “weir” at the South Mains consisted of a settling pond outside the entrance that caught the water running out of the mine. The pond was about 20' X 30' and 5' deep. A 15" discharge pipe carried the runoff out of the pond and the rate of runoff could be measured at this point. The 1994 blowout “weir” consisted of an 18" pipe that had been backfilled into the hillside. Water ran out of the pipe and down the hill. The height of water in the pipe enabled people to estimate the rate of outflow. Immediately after the 1994 impoundment failure, a lot of water ran out this discharge pipe, but in subsequent months, the level dropped to a low rate of outflow.

Several MSHA engineers familiar with the MCCC impoundment and impoundment failure stated that the erosion created by the failure would have obliterated the failure site and areas downstream, effectively destroying any evidence of weirs that were previously used.

Sorke's assertion that MCCC had not completed a dye test was not denied in the District Response. The District Response indicates that the dye test may not have been a conclusive means to obtain the information for which the test was recommended and that flow that would have carried the dye had stopped, implying the test was unnecessary or impractical.

OLRFI was unable to determine if a coarse barrier was placed around the Coalburg seam in the area of the 1994 breakthrough prior to the placement of overburden from the Stockton seam, as stated in the District Response and refuted by Sorke.

Citations Issued Against MCCC

Allegedly, appropriate citations were not issued against MCCC due to improper influence by MSHA management.

The 2003 report read:

Team members Ronnie Brock, Harold Owens, Pat Betoney, and Steve Sorke were...

The phrase "team members" along with Harold Owens and Pat Betoney's names are now redacted.

[REDACTED] Ronnie Brock, [REDACTED] Steve Sorke were assigned to the violations committee, and they were responsible for drafting and preparing the proposed citations that were to be issued against MCCC. According to Brock, [REDACTED] the committee developed eight possible violations, three of which were Section 104(d) violations (willful and negligent), with which a majority of the team members agreed.

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[REDACTED] his points with the MSHA Solicitor's office and the investigation team. Ultimately, two Section 104(d) citations were issued against MCCC in the final accident investigation report.

According to Brock, the team discussed the types of violations that might be issued and Thompson disagreed with the majority of the proposed violations. At one point during the discussions, Thompson left the room to call Marvin Nichols. The following day, Nichols sent an Email to the team members telling them that Thompson was in charge of the team and his word was final (Exhibit 16).

The process of determining appropriate citations was contentious and addressed in over 20 interviews. The investigative team members and team leader, MSHA management, the MSHA Solicitor's Office, and the internal review team leader were interviewed regarding the process. Two violations, one regarding mine seal construction and another regarding mapping, are addressed in detail by OLRFI, under separate headings. The numerous recollections, statements, and opinions obtained by OLRFI regarding the process in general are too lengthy to be presented in detail, but are provided in the extensive list of exhibits attached to this report.

Brock stated that initially, under team leader Opegard, the investigative team established a list of eight tentative violations by MCCC. Spadaro provided a list of the initial violations, dated 05/17/01 (Exhibit 39). The initial list contained three Section 104(d) and five Section 104(a) violations. Some participants in the violation evaluation process stated Opegard and Spadaro, with the support of McAteer, the Clinton appointed Assistant Secretary, aggressively applied the regulations broadly to support violations against MCCC. After Thompson became the team leader (having been appointed by Elam, the acting Assistant Secretary prior to Bush appointee Lauriski's arrival as Assistant Secretary), the tone changed and Thompson took a more limited view toward violations. Following initial team discussions, Thompson assigned the team members who were MSHA Authorized Representatives (AR) the responsibility of finalizing a draft list of citations to be reviewed by the Solicitor's Office and MSHA management. ARs are the MSHA employees who have the statutory authority to issue citations on behalf of MSHA.

They have specialized training and are typically associated with MSHA's inspections branch.

Herman Narcho and James Crawford, attorneys from the MSHA Division of the Solicitor's Office helped the ARs evaluate the proposed violations in regard to supporting evidence and case law. Some investigative team members who were not present in these detailed discussions expressed frustration with not being involved and not understanding how the resulting final violations were determined. Some individuals who participated in the discussions felt Thompson aggressively controlled the discussions to achieve his desired results. The discussions with the ARs, Thompson, and the Solicitor's Office resulted in the initial violation list being reduced to one Section 104(d) violation and five or six Section 104(a) violations. Violations were downgraded to Section 104(a) because the evidence did not support the "aggravated conduct" requirements of a Section 104(d) violation and/or because MSHA had not taken sufficient action to support a citation. During the detailed discussions, two of the three Section 104(d) violations ["Failure to take actions to eliminate potentially hazardous conditions at impoundment" 30 CFR § 77.216-3(b), "Mine Seals not built according to plan" 30 CFR § 77.216(d)] were reduced to Section 104(a) violations. During part of the violation discussion phase, team members and the Solicitor's Office did not have access to the shared "w" drive and had to travel to Morgantown, WV to review the draft report and administrative record.

The team ultimately drafted a list of citations that was presented to MSHA management and the Solicitor's Office for review. It consisted of only one Section 104(d) violation. The draft citations were not reached unanimously, but a majority of participants did agree on each change to the list. Crawford stated he did not discuss or participate in any changes to the single violation list, with the investigation team or MSHA management, after it was forwarded to MSHA management (Exhibit 40). The list was subsequently modified by upgrading a citation, "Fine refuse not directed along barrier per plan" 30 CFR § 77.216(d), to a Section 104(d) level citation. Crawford presumes that the change was made by MSHA management and noted that it is normal for MSHA management to make adjustments in citations. All parties interviewed acknowledged the contentious process, at times, of finalizing the citations, but stated that they believed they achieved a fair and accurate result.

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Mapping Accuracy

MSHA's failure to cite a violation for inaccurate mapping resulted in the allegation that management was attempting to cover-up findings that may reflect poorly against the agency.

No citation for inaccurate maps was listed on the tentative violation list provided by Spadaro, dated May 17, 2001. Initially Spadaro and other team members supported a mapping citation. Ensuing discussions resulted in the violation not being included.

In 1994, MCCC provided MSHA with a "typical" barrier plan illustrating the makeup of the barrier between the impoundment and the mine entrances (Exhibit 44). This "map" was a typical drawing and did not accurately reflect distances or materials for any given location around the perimeter of the impoundment. MCCC intended the document to simply illustrate the basic layout of the impoundment sealing plan. MCCC did not submit any testing results (e.g. core samples) or

other documents proffering specific details related to the makeup of the barrier between the impoundment and the mines. MSHA accepted the "typical" barrier plan as a part of the impoundment sealing plan and did not question its intent or request further data to substantiate the existence or makeup of the barrier. MSHA ultimately approved MCCC's sealing plan based on the plan's basic principles. Some of the basic features of the plan included constructing an adequate barrier between the impoundment and the underground mine, sealing the barrier by depositing slurry fines around the barrier, building seals in the mine entrances, and measuring drainage outflow from the impoundment. The plan proposed, based on existing conditions and added barrier material, to create an acceptable seal consisting of the materials in varying amounts and thickness.

Team members reviewed Triad Engineering's analysis of the 47 test borings taken at the impoundment following the 2001 failure. With the exception of two samples that appeared off by short distances, each boring sample produced materials, at depths and locations, that indicated the MCCC underground maps were accurate -- indicating that pillars and entrances were accurately mapped. Other maps provided by MCCC were verified for accuracy as well.

The majority of the team members ultimately agreed that a citation for inaccurate maps should not be issued.

Triad Engineering Qualification Letter

Some team members alleged that, after receiving the Triad Engineering report detailing Triad's findings in the MCCC investigation, MSHA management inappropriately attempted to influence Triad's findings.

Thompson, the investigative team leader, admitted contacting Triad on numerous occasions regarding the report they provided MSHA management. Thompson had several issues with the report, dated March 30, 2001 (attached to MSHA Report of Investigation). MSHA contracted with Triad to obtain and analyze test borings at specific points around the failure location and to report their analysis of the borings. They were not to provide a conclusion regarding the cause(s) of the impoundment failure. Triad's conclusion was based on limited information, only two maps and their bore sample evaluations. Thompson feared Triad's conclusion would create confusion regarding the MSHA conclusion, which was different and based on all of the information obtained during the extensive investigation. Thompson reviewed the report and identified several other points that bothered him. He discussed all of these issues with the MSHA investigative team on April 1, 2001. In addition to their conclusion, his concerns included Triad's analysis of the actual coal crop barrier and their definition of an "outcrop." Thompson believed Triad's references were vague, meaningless, and misleading. Triad's conclusion speculated on the possible causes for missing coal in the Coalburg

seam and Thompson did not believe they had adequate information to form this conclusion and should not have included these comments in their report. The Triad report referenced two maps or drawings that they should have included in their report, as attachments. Thompson believed they should have included the maps to avoid confusion.

Lawless acknowledged that there was an issue with the Triad Engineering report. Triad was contracted to analyze core-drilling samples and provide an analysis of what they reflected; MSHA did not contract them to draw a conclusion about the cause of the accident. Lawless was confused as to why Triad would provide these conclusions; Thompson was angry. Evidently, Spadaro had asked Triad to provide their conclusions even though they were not contracted to do so. Thompson wanted Triad to qualify their conclusions to reflect the fact that they had not reviewed any other evidence in the investigation and drew their conclusions based solely on their borings. The technical issue was that Triad addressed the lack of coal barrier and piping as the cause of the failure.

Nichols had instructed Thompson, with concurrence with Lawless, to discuss the Triad findings with Triad. MSHA had not contracted for Triad to supply findings and Triad's analysis was based on borings – not the entire investigative picture. MSHA wanted a qualifying letter from Triad, stating such. Once they received the letter, Nichols was content.

Elam recalled being surprised reading the Triad Engineering report, which provided conclusions not requested or called for in the contract with MSHA. MSHA had contracted for bore samples and analysis, not opinions. Elam believed Spadaro might have requested the conclusions during his interaction with the contractor (Triad). There was also an issue over several facts presented by Triad regarding the size of the coal barrier and the cause of the accident. Elam was involved in several calls discussing these matters and the calls resulted in Triad providing a qualifying letter, which was included in the report. Triad was not privy to many findings in the investigation and their conclusions were not entirely accurate or welcomed.

Lauriski was involved with obtaining a qualifying letter from Triad Engineering following the issuance of their report on the MCC impoundment accident investigation. Lauriski questioned why Triad had been hired in the first place, given their relationship with Spadaro. He was also troubled by Triad's report including conclusions regarding the cause of the accident. Triad exceeded the scope of the contract. Their opinions were based on a limited amount of the information gathered during an extensive investigation. Lauriski believed Spadaro had interceded and encouraged Triad to exceed their authority and role.

██████████ Triad Engineering's Principal Engineer, ██████████
Triad Project Geologist and ██████████ Triad Senior Engineer, recalled

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working closely with Spadaro, in setting up and managing the contract (exhibits 45, 46). Spadaro told Triad that MSHA expected Triad to evaluate the bore samples and provide conclusions. Triad's management was surprised when Thompson expressed concern with their report because Triad had worked closely with Spadaro and other MSHA engineers when they evaluated the evidence and developed their findings. Thompson expressed concern about Triad drawing conclusions without having had access to all the evidence obtained during the investigation. There was disagreement over the definition of a coal outcrop, Triad defined it as where the coal seam actually ended and Thompson defined it as where the coal seam would end if were to exit the surface; both definitions are commonly accepted in geology text. The bore samples Triad analyzed (near the failure point) showed the coal barrier was significantly less than described in the MCCC map illustrating the "typical" barrier. The fact that the distance between the impoundment and the mine may have consisted of soil and rock and less coal contributed to the failure because these materials are more susceptible to piping than coal. Triad concluded this condition led to the failure where MSHA concluded MCCC's failure to spread fines, in accordance with the sealing plan, caused the piping that resulted in the failure. Thompson, who Triad did not initially realize was involved in the investigation, argued his points to try and show Triad's conclusions were erroneous. [REDACTED] did not believe Thompson was trying to suggest that Triad change their findings, but he believes Thompson would have been happy if they had. Triad, following numerous discussions with Thompson and other MSHA officials, decided to write their qualifying letter, at Thompson's request, to acknowledge Thompson's concerns, not to change their findings.

Former Special Assistant to Assistant Secretary Departure

Celeste Monforton, a former Special Assistant to the Assistant Secretary for MSHA, was alleged to have been forced to leave her government position with MSHA, based on her involvement with Skiles' draft memorandum.

Monforton worked as a special assistant to the Assistant Secretary for MSHA, and she recalled receiving Skiles' original draft memorandum from Steve Gigliotti in late October 2000 (Exhibit 47). Monforton gave the original memo to Assistant Secretary McAteer and she was later surprised to learn that the memo had been distributed because it was clearly labeled as a draft. Monforton did not know about the "District Response" memorandum until late April or early May 2001 when Skiles showed it to her following his meeting with Acting Assistant Secretary Robert Elam. Monforton later saw an unsigned version of the "District Response" memo on Elam's desk and she questioned Elam about it. Later that same day, Elam provided Monforton with a signed copy of the "District Response" memorandum.

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Monforton, who had been hired by McAteer during the Clinton administration, acknowledged a philosophical change with Lauriski's arrival (Exhibit 48). She attempted to adjust to the changes, but found it difficult. She believed Lauriski had been honest with her and treated her fairly, allowing her to represent him outside of the office. [REDACTED]

[REDACTED] She was not forced out, or treated poorly. She left of her own volition.

Retaliation against Spadaro

In interviews with OLRFI, Spadaro alleged MSHA management was preparing to retaliate against him for his contact with the press.

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When Spadaro alleged MSHA management knew of his IG complaint letter, dated March 4, 2002, OLRFI encouraged Spadaro to report his concerns to the Office of Special Counsel.

[REDACTED] did not recall ever hearing Nichols, or others state they would fire Spadaro for his involvement in the MCCC affair (Exhibit 52).

Elam spoke with Spadaro on several occasions in an attempt to temper Spadaro's public comments and assure him that management was interested in his issues and would take immediate action on any viable allegation. Elam had Spadaro report to MSHA's Arlington, VA office to explain and document his criticism of the investigation shortly after he became aware of it in April 2001. Elam did not believe Spadaro supported his allegations and the matter was not pursued. Elam never discussed Spadaro's public comments with him, out of fear of aggravating the situation. Elam and his subordinates believed Spadaro had a "whistleblower" status [REDACTED]

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In his September 12, 2001 interview, Nichols stated that he had communicated with Spadaro in order to clarify Thompson's role as team leader and resolve the confusion between an accident investigation and an internal review. Nichols was outside of Spadaro's chain-of-command and could not take any action against him. Under any circumstance, Nichols was afraid to take any action against Spadaro because of his perceived "whistle blower" status. Nichols has been in his current position, Director of Standards, Regulations and Variances, since January 2002 and has had nothing to do with the MCCC case or Jack Spadaro. Nichols did not have any specific knowledge of Spadaro's letters to the IG.

Lawless was aware of Spadaro's public comments and his poor relationship with Thompson. Lawless had contact with Spadaro only to explain Thompson's role as team leader and in an attempt to explain the difference between what information belongs in the accident investigation report and what belongs in an internal review. Lawless never took any action against Spadaro nor is he aware of any being taken. Lawless pointed out that Spadaro reported to and was evaluated by another Deputy Assistant Secretary. Lawless could not have taken any action against Spadaro even had he wanted. Lawless was not aware of Spadaro's March 2002 letter to the IG.

John Caylor, MSHA Deputy Assistant Secretary and Jeff Duncan's supervisor (since October 2001), stated he was aware of, but not involved in Spadaro's complaints (Exhibit 49). He has taken no action against Spadaro regarding the MCCC investigation. Caylor is not aware of any action against Spadaro based on his role in the MCCC case. He acknowledged his visit to Spadaro in March 2002. Caylor traveled with Jeff Duncan, Spadaro's supervisor. Caylor discussed

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[REDACTED] Caylor has no knowledge of any Spadaro letters to the IG.

[REDACTED] Assistant District Manager for Technical Support of Spadaro, recalled the conversation Spadaro referred to in his allegation (Exhibit 50). [REDACTED] did not recall any discussion or knowledge of Spadaro's March 4, 2002 letter to the IG.

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Jeff Duncan, Director of Educational Policy & Development and Spadaro's supervisor, stated that [REDACTED] based on the MCCC incident, nor has anyone ever encouraged him to take any action (Exhibit 51). Duncan acknowledges [REDACTED]

The IG complaint files were reviewed as part of this investigation. All complaint

letters received related to the MCCC case were accounted for and handled in accordance with the IG's standard operating policies. No evidence surfaced to indicate any letter was released outside of the receiving office's file, except to the case agent's control.

Personnel Actions Resulting From MCCC Investigation

OLRFI questioned each interviewee about actual or possible personnel actions resulting from the MCCC investigations, both the accident investigation and the internal review. With the exception of Assistant Secretary Lauriski, each interviewee denied any knowledge of any adverse personnel action related to the investigations.

Lauriski acknowledged his displeasure with the management of the MCCC accident investigation. He believed Spadaro should have been allowed to step down from the accident investigation team when he forwarded that request to MSHA management in April 2001. Lauriski further stated that [REDACTED] management of the affair contributed to Lauriski's decision to initiate his transfer to his current position, [REDACTED].

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Robert Elam, former Deputy Assistant Secretary and former acting Assistant Secretary retired from government service in February 2002.

Michael Lawless, former Deputy Administrator for Coal Mine Safety retired from government service in June 2002.

Validity of MCCC Accident Investigation Report

With the exception of Jack Spadaro, every individual interviewed in connection with the MCCC accident investigation and internal review affirmed their belief that the report was accurate, truthful and fairly presented the facts associated with the MCCC impoundment failure. OLRFI did not obtain evidence of improper influence on behalf of MCCC, its parent company, A.T. Massey, MSHA management, or MSHA employees. The OLRFI investigation did not disclose any criminal activity or willful negligence on the part of any participants.

Summary

During the entire investigation, no evidence was uncovered to substantiate any allegations relating to MSHA's MCCC impoundment failure accident investigation.