

**From:** Ojeda, Stephanie

**Sent:** Monday, July 06, 2009 7:17 PM

**To:** Blankenship, Don L.; Phillips Jr., Baxter F.; Adkins, Chris

**Cc:** Davis, Sandra; Suboleski, Stan; Harvey, Shane

**Subject:** MSHA Violation Reduction -- Follow-Up Recommendations from Bill Ross --  
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**Attachments:** ROSS RECOMMENDATIONS FOR VIOLATION REDUCTION.pdf

Attached is a memo prepared by Bill Ross as follow-up to the June 17th meeting he had with Stan and I.

Bill was asked to provide specific recommendations for ways to address the problems he identified during that meeting.

I asked Bill to clarify his general references to "management" or "upper management," but have not heard from him about who he is referring to with those general terms.

Bill also asked that the following message be included in sharing his memo with you and Chris: "Mr. Blankenship or Mr. Adkins must announce to all members our serious approach to establish and reflect our commitment of compliance to the health and safety regulations. Demanding a higher standard be set at all mines and requiring all personnel to be responsible. Establish compliance accountability programs and policy."

Let me know if you have any questions.

Stephanie L. Ojeda

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# MASSEY COAL SERVICES, INC.



## MEMORANDUM

CONFIDENTIAL – ATTORNEY CLIENT PRIVILEGED  
COMMUNICATION/PRIVILEGED AND CONFIDENTIAL

**TO:** Stephanie Ojeda, Esq.  
**FROM:** Bill Ross  
**DATE:** July 2, 2009  
**SUBJECT:** Recommended Measures for Reduction of MSHA Violations

Per the request of Chris Adkins, I am suggesting the following solutions to eliminate some of our problems and to prevent or lower the number of violations we receive.

### Recommended Measures to Put in Place

(A) Training. The front line supervisors must be trained by MSHA and the State or by Massey to “know the regulations” for which they are being held accountable. It must be our responsibility to require this – no exceptions. Their involvement must be allowed to include follow-up on cause and effect to prevent re-occurrences.

(B) Staffing. We must staff-up mine personnel to adequately maintain the everyday mining activities. Establish an outby crew for all outby work! The No. 1 complaint – not enough personnel to keep up the mine to prevent citations and orders – cleaning and maintaining belts, rock dusting, supplying, section moves, supplies retrieval, stoppings.

We must staff-up the safety departments – new and existing regulations require more training and oversight. There must be adequate personnel to oversee the entire respirable dust program. This one area alone shows weakness, lack of concern, high non-compliance records and lack of experience. We stand liable and are presently vulnerable to heavy penalties and loss of deep-cuts. A trained, experienced person should accompany the cassettes on the day of sampling for compliance monitoring!

- Start PDM Surveys!
- Start Pre-shift, on-shift retraining for all face foremen now!
- Review P-2 mining practices to include compliance-based procedures on ventilation and dust control!
- A safety clerk should be on company property 24-7, except idle periods!

(C) Compliance. Establish our own internal review panel for compliance. They must interact with mine personnel and company presidents. The presidents must play an active role in accountability, oversight and prevention! The members must be informed. All plans must be reviewed and personnel must be trained on their contents.

(D) Re-establish P-2! Today's management does not know or follow P-2 Procedures. This policy standard in most cases exceeds the MSHA and State regulations. The P-2 Procedures are allowed to be changed at will by face "production" foremen and outby foremen. This results in the receipt of violations.

(E) Biased MSHA. We must change our prideful attitude to a business-caring attitude. We must use diplomacy! Be diligent, be respectful by showing respect. Establish an honest relationship! Call upon MSHA's resources for compliance assistance. They offer a multitude of training and advice. We must take advantage of this! Require upper management to be present at all MSHA-Company meetings and mine close-out conferences.

- Do what we say we will do!
- Do what we are approved to do!
- Do NOT mine without a plan!
- Do NOT cause our plan to be violated!

We should also make courtesy calls to MSHA. Call and inquire about what's new or what's coming down the road. Ask what new regulations are being considered and how are they going to be enforced.

(F) "Slow" Plan Approval Process by MSHA. Our written material and mapping must be accurate and up to date. We must be knowledgeable and experienced in our request. We must research and review our proposals thoroughly prior to submission! Share the draft with mine personnel supervisors.

(1) Mr. Blankenship and Mr. Adkins must step above the District level to complain about the costly effect of slow plan review and approval process.

(2) Massey needs also to put into place a tracking system to follow there plans from start to finish! Include in the system due dates and timelines of annual/6-month reviews require communications to the agencies on most important plans issues. Have accountability! Make the system available to the necessary personnel.

(G) Massey Planning. We often pay the price when we have to re-think, re-configure, re-locate, re-establish, re-do, and re-submit mine plans over and over again. This costs time and money! We should draft a plan, communicate the proposed plan to personnel, and allow all necessary personnel who will be part of the plan to be involved in the plan review and approval process. Sign-off sheets requiring signatures should accompany the plan through the entire process. This establishes accountability. Require certified engineers to review the mine plan and maps with mine-level supervisory personnel for accuracy and scheduling. Post all plan proposals at the mine site bulletin board.

Don't allow long-term mine plants to be "short sighted"! Stay the course! Don't mine in reverse! Don't mine out coal reserves near main entries that will shorten the mine life!!

(H) Multi-tasking. Do not require the face foreman to fill a vacancy in the production line-up. This will allow the foreman to perform his required duties and responsibilities and correct obvious hazards and violations. Otherwise, we stand liable and vulnerable. Do not require the face foreman to be responsible for outby activities! Share all enforcement statistics.

(1) Provide outby foreman and staff outby crews for outby up-keep of the mine. Allow the necessary time to do the required work assignments. This prevents violations and eliminates half-completed job tasks.

(2) Do not send mine personnel home when sections of the mine are closed! Other compliance situations or areas need attentions. There is always work to improve the mines safety and compliance standing! Use them while they are there!

(I) Communication of Plans. When any proposed change to mine plans is initiated, it usually came from the president or chief operating officer. All necessary information pertaining to instructions and requirements of the plan and/or a copy of the plan itself does not make it to the mine level.

The drafted plan in its earliest stage should be reviewed and discussed at the mine level! All parties who will be involved in the development of the plan need to be present. Post the proposal! Then, if there are any changes to the proposed plan, the review process must start over again! Post the changed proposal! Upon approval, review once again to ascertain full understanding of the changes involved! Follow sign-off procedures.

Evaluate any plan change. The certifying engineer must review mine plans and maps with mine supervisory personnel for accuracy and scheduling. Require mine engineers who draft the plans for underground mines to obtain a state underground miners' certificate.