

Exhibit 6

Howard Berkes, NPR
Correspondent – Investigations
1565 Garfield Ave
Salt Lake City, UT 84105
202-513-3410

VIA EMAIL TO: Kate O'Scannlain

June 25, 2018

Kate O'Scannlain
Solicitor of Labor, Office of the Solicitor
FOIA Appeals Unit
Division of Management and Administrative Legal Services
U.S. Department of Labor
200 Constitution Avenue NW, Room N-2420
Washington, DC 20210

FOIA Request Tracking No.: 859334
Subject: Release of MSHA's Quarterly Employment Production Data

ADMINISTRATIVE APPEAL FROM DENIAL OF FOIA REQUEST

To Whom It May Concern:

I hereby appeal from the Mine Safety and Health Administration's ("MSHA") June 12, 2018 letter denying my May 11, 2018 FOIA Freedom of Information Act ("FOIA") request for the MSHA's quarterly employment and production data from 1986 to 1999. The basis of my appeal is that the MSHA has not adequately justified its failure to respond to the request within the 20-day time limit required under FOIA, which passed on June 8, 2018. Although FOIA allows an extension under "unusual circumstances," including the need to consult with other agencies that have a substantial interest in the request, MSHA has failed to demonstrate that it qualifies for this extension. MSHA has made the same data from 2000 on publicly available on the Department of Labor's website, and has made top-level summaries of this data available from 1978 on. In its response to this FOIA request, MSHA has failed to show any reasons for its sudden need to consult with any other agency before releasing this historic data. As such, MSHA fails to meet FOIA's requirements and must promptly release the record.

I. Background

On May 11, 2018, I submitted a FOIA request to the MSHA. I requested "the quarterly summation of employee hours and coal production reported by mine operators for each quarter in a calendar year, by subunit and mine ID beginning on 1/1/1986 and continuing through 12/31/1999." This data provides crucial information on mine operations and mine safety. MSHA's website already makes this quarterly data available after 2000, and has historical summaries dating to 1978.

As a representative of the news media seeking these records on behalf of National Public Radio, Inc. (“NPR”) for dissemination to the public, I requested a fee waiver. I also asked that if my request is denied, in whole or in part, the MSHA justify all redactions in a *Vaughn* index that references the specific claimed exemption, and that the MSHA release all segregable portions of otherwise exempt material. A copy of my original request is attached hereto as Exhibit A.

I received a response from the MSHA stating that “due to the unusual circumstances surrounding the records you are seeking, the statutory time limits for processing your request cannot be met.” The letter did not describe these “unusual circumstances,” saying only that “there is a need to consult with another agency or two or more agency components.” MSHA said it would provide a response within 60 working days. MSHA included contact information for its FOIA liaisons and for the Office of Government Information. MSHA said it would grant my request for a fee waiver. A copy of the response letter is attached hereto as Exhibit B.

II. Arguments Supporting Disclosure

The MSHA is required to release this quarterly employment and production data under FOIA and the Federal Mine Safety and Health Act of 1977 (the “Mine Act”). If the MSHA believes that this report falls under one of FOIA’s narrow exemptions—which it does not—it must explain any denial in detail. The Supreme Court’s directive is that “disclosure, not secrecy, is the dominant objective of FOIA.”¹ The MSHA’s unexplained failure to release the quarterly employment and production data is not consistent with this objective, or with the text of the law.

FOIA requires agencies to respond within 20 business days, or 30 under “unusual circumstances.” There are three narrow categories of allowed “unusual circumstances,” one of which is the need to consult with other agencies. However, this is not an open-ended extension. Agencies may only request extensions to consult with other agencies “to the extent *reasonably necessary* to the proper processing of the particular requests.”² Further, this consultation must be “conducted with *all practicable speed*,” and the other agencies must have “a *substantial interest* in the determination of the request.”³ Further, agencies must provide detailed responses when seeking such an extension. Under FOIA’s “unusual circumstances” provision, the D.C. Circuit has held that “it is not enough that, within the relevant time period, the agency simply decide to later decide. Therefore, within the relevant time period, the agency must at least inform the requester of the scope of the documents that the agency will produce, as well as the scope of the documents that the agency plans to withhold under any FOIA exemptions.”⁴ Otherwise, agencies could simply request extensions on every request, and requesters would not have the information they needed to appeal or file suit.

Here, MSHA provided no details on its delay, nor did it provide any information regarding its planned response to the FOIA request. The MSHA states only that it must “consult with another agency or two or more agency components.” This formulaic response provides no information on which agencies these might be, why this consultation is necessary, or why it will take 60 additional business days to complete. The MSHA has not met its burden to explain its

¹ *U.S. Dep’t of Def. v. Fed. Labor Relations Auth.*, 510 U.S. 487, 494 (1993).

² 5 U.S.C. § 552(a)(6)(B)(iii) (emphasis added).

³ 5 U.S.C. § 552(a)(6)(B)(iii)(III) (emphasis added).

⁴ *Citizens for Responsibility & Ethics in Wash. v. FEC*, 711 F.3d 180, 186 (D.C. Cir., 2013).

failure to release the record, and “although the agency may desire to keep FOIA requests bottled up in limbo for months or years on end, the statute simply does not countenance such a system.”⁵

In addition, the disclosure of these records cannot be “unusual” because the Mine Act *requires* MSHA to release these records and MSHA has done so since at least the year 2000. The Act requires that “all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and *shall be made available for public inspection.*”⁶ Indeed, MSHA’s website has already published the very quarterly data we seek from 2000 on; we simply seek the same data from the years 1986 to 1999. *See* Exhibit C.⁷ The website also contains summaries of annual employment and production data dating to 1978. *See* Exhibit D.⁸ The requested quarterly data goes to the core of the MSHA’s responsibilities in overseeing mine operators’ employment and production, and under the Mine Act (and FOIA) must be made available to the public.

III. Conclusion

The MSHA has failed to release a record critical to the public’s understanding of mine operations and mine safety, and has failed to adequately respond to NPR’s FOIA request. The MSHA did not include any information to support its claim of “unusual circumstances,” nor did it meet its burden to demonstrate that the requested record falls under one of FOIA’s exemptions. In addition to FOIA, the MSHA is also required to release these records under the Mine Act. MSHA has released this same data from 2000 on, as well as top-level summaries dating to 1978, and has cited no explanation for its inability to produce historical versions of this data. Thus, the MSHA should release the quarterly employment and production data for the requested time period immediately.

Sincerely,

Howard Berkes

⁵ *Id* at 186-87.

⁶ 30 U.S.C. § 813(h).

⁷ I have excerpted the first page of the dataset due to the file’s large size, but I am happy to provide the full document upon request. The data is also available online at <https://arlweb.msha.gov/OpenGovernmentData/OGIMSHA.asp>, under “6. Contractor Employment/Production (Quarterly).”

⁸ This report, covering 1978 to 2015, is available online at https://www.msha.gov/sites/default/files/Data_Reports/DEC_15_2016_Historical_MIWQ_Employment_and_Production.pdf.

Exhibit A

U.S. Department of Labor - MSHA
 FOIA Officer
 201 12th Street South Room 4E401
 Arlington, Virginia 22202-5450

Re: Freedom of Information Act Request

Dear FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. Section 552. We are full time journalists for National Public Radio, Inc. (NPR) and we are focused on stories about coal mine safety. NPR is a non-commercial, non-profit entity organized and incorporated in the District of Columbia which creates and distributes awarding winning news and information programming.

We request from the Mine Safety and Health Administration, for the years 1986 through 1999, the quarterly summation of employee hours and coal production reported by mine operators for each quarter in a calendar year, by subunit and mine ID beginning on 1/1/1986 and continuing through 12/31/1999. The subunit code identifies the location or operation of the mine relating to the: (01) Underground; (02) Surface at underground; (03) Strip, quarry, open pit; (04) Auger; (05) Culm bank/refuse pile; (06) Dredge; (12) Other mining; (17) Independent shops or yards; (30) Mill operation/preparation plant; (99) Office workers at mine site.

This is the definition file for this data beginning 1/1/2000 to the present:

TABLE_NAME	COLUMN_NAME	DATA_TYPE	DATA_LENGTH	FIELD_DESCRIPTION
QRTLY EMPLOY/PROD	MINE_ID	VARCHAR2	7	Identification number assigned to the operation by MSHA. Use mine_id to join to the Mines table.
QRTLY EMPLOY/PROD	MINE_NAME	VARCHAR2	50	Current mine name.
QRTLY EMPLOY/PROD	STATE	VARCHAR2	2	State in which the mine is located that is reporting employment and production.
QRTLY EMPLOY/PROD	SUBUNIT_CD	VARCHAR2	2	Code that identifies the location within a mine.
QRTLY EMPLOY/PROD	SUBUNIT	VARCHAR2	32	Description of the subunit code referring to a location within a mine: (01) Underground operation; (02) Surface operation at underground mine; (03) Strip, quarry or open pit; (04) Auger (Coal only); (05) Culm bank or refuse pile (Coal only); (06) Dredge; (12) Other surface (Metal/Non-Metal only); (17) Independent shop or yard; (30) Mill operation/preparation plant; (99) Office workers at mine site.
QRTLY EMPLOY/PROD	CAL_YR	NUMBER	4	The 4-digit year of the employment/production data.
QRTLY EMPLOY/PROD	CAL_QTR	NUMBER	1	The single-digit quarter for which the employment and coal production is reported.
QRTLY EMPLOY/PROD	FISCAL_YR	NUMBER	4	The four-digit fiscal year of the employment/production data. MSHA's fiscal year begins October 1 and ends September 30.
QRTLY EMPLOY/PROD	FISCAL_QTR	NUMBER	1	The single-digit fiscal quarter for which the employment and production data is reported.

QRTLY EMPLOY/PROD|AVG_EMPLOYEE_CNT|NUMBER|6,2|Average number of employees reported by the operator for the applicable quarter, subunit and year beginning with 2000. Can be zero.
QRTLY EMPLOY/PROD|HOURS_WORKED|NUMBER|9|Total employee hours reported by the operator during the quarter for this subunit, year and quarter. Can be zero.
QRTLY EMPLOY/PROD|COAL_PRODUCTION|NUMBER|9|Quarterly coal production, in tons, reported by the operator for the applicable subunit. May be zero or null values.
QRTLY EMPLOY/PROD|COAL_METAL_IND|VARCHAR2|1|Identifies if the employment and production are being reported for a Coal or Metal/Non-Metal mine.

We request the same data in the same format from 1/1/1986 and continuing through 12/31/1999.

We request a waiver for all fees for this request. Disclosure of the requested information to us is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the status of coal mine safety in the United States, and/or the process by which the government protects the welfare of miners. This request is part of the reporting process and will be used for further story development.

If our request is denied in whole or in part, we ask that you justify each and every denial by referencing the specific exemption to FOIA which you rely on. We further ask that you release any and all portions of the material that can be segregated from the exempt material.

Please contact me at the phone numbers or email address below if there are any questions about this request.

Sincerely,

Howard Berkes



| Howard Berkes | Correspondent - Investigations | hberkes@npr.org |

202-513-410

801-598-9372 (cell)

Exhibit B

U.S. Department of Labor

Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, Virginia 22209-3939



JUN 12 2018

Mr. Howard Berkes
NPR
1565 Garfield Ave.
Salt Lake City, UT 84105

Re: Freedom of Information Act Request Acknowledgement – Tracking No. 859334

Dear Mr. Berkes:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request dated May 11, 2018. Your request has been referred to the Mine Safety and Health Administration (MSHA), Directorate of Program Evaluation and Information Resources (PEIR) and has been assigned Tracking Number 859334. Please refer to this number in any future correspondence relative to your FOIA request.

You have requested “the quarterly summation of employee hours and coal production reported by mine operators for each quarter in a calendar year, by subunit and mine ID beginning on 1/1/1986 and continuing through 12/31/1999. The subunit code identifies the location or operation of the mine relating to the: (01) Underground; (02) Surface at underground; (03) Strip, quarry, open pit; (04) Auger; (05) Culm bank/refuse pile; (06) Dredge; (12) Other mining; (17) Independent shops or yards; (30) Mill operation/preparation plant; (99) Office workers at mine site.”

Due to the unusual circumstances surrounding the records you are seeking, the statutory time limits for processing your request cannot be met. There is a need to consult with another agency or two or more agency components. Based on these unusual circumstances, we estimate that you will receive a response within 60 working days of the date of this letter.

Your request for a fee waiver has been granted.

If you have any questions or wish to discuss narrowing the scope of your request or an alternative time frame for the processing of your request, you may contact Steven Grubb at (202) 693-9731 or by email at grubb.steven@dol.gov or the DOL FOIA Public Liaison, Thomas Hicks, at (202) 693-5427 or hicks.thomas@dol.gov. Alternatively, you may contact the Office of Government Information Services (OGIS) within the National Archives and Records Administration (NARA) to inquire about the mediation services they offer. The contact information for OGIS is as follows:

U.S. Department of Labor

Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, Virginia 22209-3939



Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001
Phone - (202) 741-5570
Toll free - (877) 684-6448
Fax - (202) 741-5769
Email - ogis@nara.gov

Please note that FOIA applies to existing records and does not require agencies to conduct research or generate documents based on that research. The FOIA requires that agencies generally disclose records unless agencies are authorized or required to withhold requested records, either in whole or part due to one or more of the nine established exemptions.

For information about FOIA practices and procedures, please visit our website at www.msha.gov or visit the DOL website at www.dol.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Syed Hafeez". The signature is stylized and includes a long horizontal line extending to the right.

Syed Hafeez
Director, Program Evaluation and Information Resources

Exhibit C

Search MSHA Data Sets

- These files are updated every Friday afternoon unless otherwise noted here.

1. [Accident Injuries Data Set](#)

This dataset contains information on all accidents, injuries and illnesses reported by mine operators and contractors beginning on 1/1/2000. The data in the table is obtained from the Mine Accident, Injury and Illness Report form (MSHA Form 7000-1). Document number is the unique key for this data. It provides information about the accident/injury/illness such as type, mine location, lost days and the degree of injury.

- [Definition File](#) - [PC7014 Report on 30 CFR Part 50](#) (Yellow Jacket) (PDF)

2. [Area Samples](#)

This dataset contains information about samples taken at Metal/Non-Metal mines and the locations where the samples were taken beginning on 1/1/2000. It includes such information as the sample date, contaminant code, location code, concentration and the action taken upon analysis of the sample. Sample No. is the unique key for this file.

- [Definition File](#)

3. [Coal Dust Samples Data Set](#)

The Coal Dust Samples dataset lists all operator and inspector dust samples taken since 1/1/2000 for gravimetric samples. It includes information such as cassette numbers, date the sample was taken, initial and final weights, sample type, occupation codes related to the person taking the sample and mine information. Cassette number is the primary key for gravimetric samples. It also contains operator Continuous Personal Dust Monitor (CPDM) samples for operators as of 2/1/2016. The unique key is the CPDM file name. This dataset can be linked to the Mines dataset for further mine information.

- [Definition File](#)

4. [Conferences](#)

This dataset contains information about completed conferences beginning on 1/1/2000. When citations are contested by an operator, contractor, agent or miner, a conference may be held to discuss the details of the citations to determine whether or not a particular violation will be assessed a penalty or if an alternate action will be taken. Data beginning on 1/1/2000 contains the conference number, the responsible party requesting the conference, the event number leading to the citation and the final status of the conference for all completed conferences.

- [Definition File](#)

5. [Civil Penalty Dockets and Decisions](#)

This dataset lists civil penalty dockets both in the litigation process and those that received an ALJ/Commission Settlement Approval or Decision. The dataset includes the original proposed penalty amount as well as the decision amount, if the decision is recorded. Violations at a mine for a specific violator are bundled together into billing statements referred to as Assessment Cases (assess case no). Each Assessment Case may be associated to one or more docket numbers. Excluded from this dataset are discrimination dockets and agent/miner dockets.

- [Definition File](#)

6. [Contractor Employment/Production](#) (Quarterly)

This dataset contains employment and coal production reported by contractors for each quarter in a calendar year, by subunit and mine ID beginning on 1/1/2000. The subunit code identifies the location or operation of the mine relating to the: (01) Underground; (02) Surface at underground; (03) Strip, quarry, open pit; (04) Auger; (05) Culm bank/refuse pile; (06) Dredge; (12) Other mining; (17) Independent shops or yards; (30) Mill operation/preparation plant; (99) Office workers at mine site.

- [Definition File](#)

7. [Contractor Employment/Production](#) (Yearly)

This dataset contains the annual summation of employee hours and coal production reported by contractors where the average quarterly employment is greater than zero with grouping by calendar year, subunit code and mine ID beginning on 1/1/2000. The subunit code identifies the location or operation of the mine relating to the: (01) Underground; (02) Surface at underground; (03) Strip, quarry, open pit; (04) Auger; (05) Culm bank/refuse pile; (06) Dredge; (12) Other mining; (17) Independent shops or yards; (30) Mill operation/preparation plant; (99) Office workers at mine site.

- [Definition File](#)

8. [Controller/Operator History](#) (Yearly)

This dataset shows the history of controllers at mining operations and the associations to the operators at those mines. Included are the starting and ending dates for a controller at each mine and the operator history at that mine.

- [Definition File](#)

9. [Employment/Production Data Set](#) (Yearly)

This dataset contains the annual summation of employee hours and coal production reported by mine operators where the average quarterly employment is greater than zero with grouping by calendar year, subunit code and mine ID beginning on 1/1/2000. The subunit code identifies the location or operation of the mine relating to the: (01) Underground; (02) Surface at underground; (03) Strip, quarry, open pit; (04) Auger; (05) Culm bank/refuse pile; (06) Dredge; (12) Other mining; (17) Independent shops or yards; (30) Mill operation/preparation plant; (99) Office workers at mine site.

- [Definition File](#) (MNM Operators are not required to report production)

10. [Employment/Production Data Set](#) (Quarterly)

This dataset contains employment and coal production reported by mine operators for each quarter in a calendar year, by subunit and mine ID beginning on 1/1/2000. The subunit code identifies the location or operation of the mine relating to the: (01) Underground; (02) Surface at underground; (03) Strip, quarry, open pit; (04) Auger; (05) Culm bank/refuse pile; (06) Dredge; (12) Other mining; (17) Independent shops or yards; (30) Mill operation/preparation plant; (99) Office workers at mine site.

- [Definition File](#) (MNM Operators are not required to report production)

11. [Inspections Data Set](#)

The Mine Inspections dataset lists every mine inspection conducted by MSHA beginning on 1/1/2000. The data includes the name of the mine inspected, MSHA's internal inspection number (event number), the type of inspection and the start and end dates of the inspection. Event Number is the unique key for this dataset. It also includes the Mine ID associated with the inspections which can be used to relate it to the Mines Data Set.

- [Definition File](#)

12. [Mine Addresses of Record Data Set](#)

This dataset contains mine addresses for all mines in the database except for Abandoned mines prior to 1998 from MSHA's legacy system. The address is the one entered by the mine operator at the time a Legal ID form is completed for a requested mine identification number. It is updated by MSHA district offices as required. The mine id is the unique key for this data.

- [Definition File](#) (Includes Abandoned or Abandoned and Sealed Mines)

13. [Mines Data Set](#)

The Mine dataset lists all Coal and Metal/Non-Metal mines under MSHA's jurisdiction since 1/1/1970. It includes such information as the current status of each mine (Active, Abandoned, NonProducing, etc.), the current owner and operating company, commodity codes and physical attributes of the mine. Mine ID is the unique key for this data.

- [Definition File](#) (Includes Abandoned or Abandoned and Sealed Mines)

14. [Noise Samples](#)

The Noise Samples dataset includes information about noise samples taken and the types of protection being used, the machines active and environment at the time beginning on 1/1/2000. Form No. and Survey No. together create a unique key for the file.

- [Definition File](#)

15. [Personal Health Samples](#)

This dataset contains information about samples taken at Metal/Non-Metal mines as it relates to miners beginning on 1/1/2000. Information included is the sample number and date, contaminant codes, concentration amounts and action taken upon analysis of the sample. Sample No. is the unique key for this file.

- [Definition File](#)

16. [Quartz Samples](#)

The Quartz Samples dataset lists all operator and inspector dust samples taken since 1/1/2000. It includes information such as cassette numbers, date the sample was taken, quartz percentage, sample type, occupation codes related to the person or area sampled and mine information. Cassette number is the primary key for this dataset and it can be linked to the Mines dataset using Mine ID for further mine information.

- [Definition File](#)

17. [Violations Data Set](#)

This dataset contains violations issued as a result of MSHA inspections conducted beginning on 1/1/2000. Each inspection results in a unique Event Number that can be associated with many violations and is a direct link to the Inspections Data Set. The violator name at the time of the violation, the actual date the violation occurred and the date the violation was issued are in this file. This table contains details about the specific citation/order/safeguard issued, such as Section of the Act, relevant dates and the conditions or practices which caused and constituted a violation or an imminent danger. The data is captured from (MSHA form 7000-3).

- [Definition File](#) (Does not include Vacated Violations) (includes Type_Action1)

18. [Contested Violations](#)

This dataset contains assessed violations since 1/1/2000 that have been contested by the violator and the

contest request has been accepted by the Federal Mine Safety and Health Review Commission (FMSHRC). These dockets are tracked through the hearing process and ultimately receive a decision. Decisions can affect the penalty amount and/or citation attributes

- [Definition File](#)

19. [Assessed Violations](#)

This dataset contains information about violations that have been assessed penalties as a result of MSHA inspections beginning on 1/1/2000. Some of the values available are assessment case number, Mine Act Section Code, proposed penalty amounts, assessment and interest amounts, various penalty points and assessed case status information.

- [Definition File](#)

[107\(a\) Orders](#)

107(a) Orders (Excel Spreadsheet) - Data as of 10/2/2017 -- Violations issued through 9/28/2017

20. [107\(a\) Orders Issued](#)

* All updates are complete replacements of each of the files.

Each of the data files have been compressed (.zip) to speed up the downloading time. The definition files are .txt. All of the data sets are text delimited files. The delimiter is a vertical bar (|). Each file's first row is a header containing the names of each field.

[How to work with the files .TXT and .ZIP in Excel](#)

ContractorProdQuarterly

CONTRACTOR_ID	CONTRACTOR_NAME	CAL_YR	CAL_QTR	FI SCAL_YR	FI SCAL_QTR	SUBUNIT_CD	SUBUNIT	AVG_EMPLOYEE_CNT	HOURS_WORKED	COAL_PRODUCTI ON	COAL_METAL_IND
1AD	O K Combs Trucking	2005	3	2005	4	02	SURFACE AT UNDERGROUND	0	0	0	C
1AD	O K Combs Trucking	2005	3	2005	4	03	STRIP, QUARY, OPEN PIT	2	36	0	C
1AF	Ac & S Inc	2000	1	2000	2	30	MILL OPERATI ON/PREPARATI ON PLANT	2	540		M
1AF	Ac & S Inc	2000	3	2000	4	30	MILL OPERATI ON/PREPARATI ON PLANT	6	2086		M
1AF	Ac & S Inc	2000	4	2001	1	30	MILL OPERATI ON/PREPARATI ON PLANT	4	1954		M
1AF	Ac & S Inc	2001	1	2001	2	30	MILL OPERATI ON/PREPARATI ON PLANT	5	2123		M
1AF	Ac & S Inc	2001	2	2001	3	30	MILL OPERATI ON/PREPARATI ON PLANT	3	896		M
1AF	Ac & S Inc	2001	3	2001	4	03	STRIP, QUARY, OPEN PIT	12	1495		M
1AF	Ac & S Inc	2001	4	2002	1	30	MILL OPERATI ON/PREPARATI ON PLANT	2	530		M
1AF	Ac & S Inc	2002	2	2002	3	30	MILL OPERATI ON/PREPARATI ON PLANT	0	0		M
1AF	Ac & S Inc	2002	3	2002	4	03	STRIP, QUARY, OPEN PIT	0	0		M
1AF	Ac & S Inc	2002	3	2002	4	30	MILL OPERATI ON/PREPARATI ON PLANT	0	0		M
1AF	Ac & S Inc	2003	3	2003	4	30	MILL OPERATI ON/PREPARATI ON PLANT	0	0		M
1AF	Ac & S Inc	2003	4	2004	1	03	STRIP, QUARY, OPEN PIT	0	0		M
1AF	Ac & S Inc	2003	4	2004	1	30	MILL OPERATI ON/PREPARATI ON PLANT	0	0		M
1AI	Dri ft Explorati on Drilling	2000	1	2000	2	03	STRIP, QUARY, OPEN PIT	3	2268		M
1AI	Dri ft Explorati on Drilling	2000	1	2000	2	99	OFFICE WORKERS AT MINE SITE	1	360		M
1AI	Dri ft Explorati on Drilling	2000	2	2000	3	03	STRIP, QUARY, OPEN PIT	2	960		M
1AI	Dri ft Explorati on Drilling	2000	2	2000	3	99	OFFICE WORKERS AT MINE SITE	1	240		M
1AI	Dri ft Explorati on Drilling	2000	3	2000	4	03	STRIP, QUARY, OPEN PIT	5	304		M
1AI	Dri ft Explorati on Drilling	2000	3	2000	4	99	OFFICE WORKERS AT MINE SITE	1	384		M
1AI	Dri ft Explorati on Drilling	2000	4	2001	1	03	STRIP, QUARY, OPEN PIT	5	1455		M
1AI	Dri ft Explorati on Drilling	2000	4	2001	1	99	OFFICE WORKERS AT MINE SITE	1	480		M
1AI	Dri ft Explorati on Drilling	2001	1	2001	2	03	STRIP, QUARY, OPEN PIT	4	990		M
1AI	Dri ft Explorati on Drilling	2001	1	2001	2	99	OFFICE WORKERS AT MINE SITE	1	260		M
1AI	Dri ft Explorati on Drilling	2001	2	2001	3	03	STRIP, QUARY, OPEN PIT	0	0		M
1AI	Dri ft Explorati on Drilling	2001	3	2001	4	03	STRIP, QUARY, OPEN PIT	0	0		M
1AI	Dri ft Explorati on Drilling	2001	3	2001	4	99	OFFICE WORKERS AT MINE SITE	0	0		M
1AI	Dri ft Explorati on Drilling	2001	4	2002	1	03	STRIP, QUARY, OPEN PIT	4	1386		M
1AI	Dri ft Explorati on Drilling	2002	1	2002	2	03	STRIP, QUARY, OPEN PIT	0	0		M
1AI	Dri ft Explorati on Drilling	2008	4	2009	1	03	STRIP, QUARY, OPEN PIT	10	600		M
1AR	Mi d-Conti nental Fuel s Inc	2000	1	2000	2	02	SURFACE AT UNDERGROUND	9	2709		C
1AR	Mi d-Conti nental Fuel s Inc	2000	2	2000	3	02	SURFACE AT UNDERGROUND	19	9353		C
1AR	Mi d-Conti nental Fuel s Inc	2000	3	2000	4	02	SURFACE AT UNDERGROUND	24	11902		C
1AR	Mi d-Conti nental Fuel s Inc	2000	4	2001	1	02	SURFACE AT UNDERGROUND	23	8560		C
1AR	Mi d-Conti nental Fuel s Inc	2001	1	2001	2	02	SURFACE AT UNDERGROUND	25	6412		C
1AR	Mi d-Conti nental Fuel s Inc	2001	2	2001	3	02	SURFACE AT UNDERGROUND	31	13350		C
1AR	Mi d-Conti nental Fuel s Inc	2001	3	2001	4	02	SURFACE AT UNDERGROUND	33	14537		C
1AR	Mi d-Conti nental Fuel s Inc	2001	4	2002	1	02	SURFACE AT UNDERGROUND	39	17572		C
1AR	Mi d-Conti nental Fuel s Inc	2001	4	2002	1	05	CULM BANK/REFUSE PILE	0	0		C
1AR	Mi d-Conti nental Fuel s Inc	2002	1	2002	2	02	SURFACE AT UNDERGROUND	34	10046		C
1AR	Mi d-Conti nental Fuel s Inc	2002	2	2002	3	02	SURFACE AT UNDERGROUND	10	3953		C
1AR	Mi d-Conti nental Fuel s Inc	2002	2	2002	3	05	CULM BANK/REFUSE PILE	10	3954		C
1AR	Mi d-Conti nental Fuel s Inc	2002	3	2002	4	02	SURFACE AT UNDERGROUND	23	9310		C
1AR	Mi d-Conti nental Fuel s Inc	2002	4	2003	1	02	SURFACE AT UNDERGROUND	21	9591		C
1AR	Mi d-Conti nental Fuel s Inc	2003	1	2003	2	02	SURFACE AT UNDERGROUND	7	3387		C
1AR	Mi d-Conti nental Fuel s Inc	2003	2	2003	3	02	SURFACE AT UNDERGROUND	9	2319		C
1AR	Mi d-Conti nental Fuel s Inc	2003	3	2003	4	02	SURFACE AT UNDERGROUND	9	3272		C
1AR	Mi d-Conti nental Fuel s Inc	2003	4	2004	1	02	SURFACE AT UNDERGROUND	9	2511		C
1AR	Mi d-Conti nental Fuel s Inc	2004	1	2004	2	02	SURFACE AT UNDERGROUND	7	1938		C
1AR	Mi d-Conti nental Fuel s Inc	2004	1	2004	2	05	CULM BANK/REFUSE PILE	0	0		C
1AR	Mi d-Conti nental Fuel s Inc	2004	2	2004	3	02	SURFACE AT UNDERGROUND	7	641		C
1AR	Mi d-Conti nental Fuel s Inc	2004	2	2004	3	05	CULM BANK/REFUSE PILE	0	0		C
1AR	Mi d-Conti nental Fuel s Inc	2004	3	2004	4	02	SURFACE AT UNDERGROUND	6	2180		C
1AR	Mi d-Conti nental Fuel s Inc	2004	3	2004	4	05	CULM BANK/REFUSE PILE	0	0		C
1AR	Mi d-Conti nental Fuel s Inc	2004	4	2005	1	02	SURFACE AT UNDERGROUND	11	5116		C
1AR	Mi d-Conti nental Fuel s Inc	2004	4	2005	1	05	CULM BANK/REFUSE PILE	0	0		C
1AR	Mi d-Conti nental Fuel s Inc	2005	1	2005	2	02	SURFACE AT UNDERGROUND	9	1970		C
1AR	Mi d-Conti nental Fuel s Inc	2005	1	2005	2	05	CULM BANK/REFUSE PILE	0	0		C
1AR	Mi d-Conti nental Fuel s Inc	2005	2	2005	3	02	SURFACE AT UNDERGROUND	12	5209		C
1AR	Mi d-Conti nental Fuel s Inc	2005	2	2005	3	05	CULM BANK/REFUSE PILE	0	0		C

End of excerpt

Exhibit D

Average Number of Employees (From MSHA's Mine, Injury & Worktime Quarterly Reports)
Including Operators & Contractors, excluding Office Workers*
CY1978 - CY2015

		2008	2009	2010	2011	2012	2013	2014	2015
Coal	Coal Underground Mines	57,053	57,118	58,561	63,765	64,047	57,425	54,726	47,794
	Coal Surface Mines & Facilities	70,692	70,973	70,797	73,474	67,700	60,581	55,949	50,711
	Total Coal	127,745	128,091	129,358	137,239	131,747	118,006	110,675	98,505
MNM	MNM Underground Mines	20,068	16,140	17,600	20,161	22,936	22,482	22,550	22,731
	MNM Surface Mines & Facilities	208,658	177,392	180,246	189,146	197,896	198,928	198,901	196,133
	Total MNM	228,726	193,532	197,846	209,307	220,832	221,410	221,451	218,864
Total All Mines (MSHA)		356,471	321,623	327,204	346,546	352,579	339,416	332,126	317,369

		2000	2001	2002	2003	2004	2005	2006	2007
Coal	Coal Underground Mines	46,133	48,394	46,615	43,629	45,282	49,395	52,197	52,387
	Coal Surface Mines & Facilities	56,158	60,002	58,751	55,729	57,970	61,525	65,253	64,695
	Total Coal	102,291	108,396	105,366	99,358	103,252	110,920	117,450	117,082
MNM	MNM Underground Mines	14,981	14,492	12,331	11,549	12,482	13,330	14,714	17,862
	MNM Surface Mines & Facilities	195,451	189,668	178,329	176,610	180,083	186,877	196,618	207,164
	Total MNM	210,432	204,160	190,660	188,159	192,565	200,207	211,332	225,026
Total All Mines (MSHA)		439,158	397,692	388,506	397,466	413,397	421,617	432,783	443,890

		1992	1993	1994	1995	1996	1997	1998	1999
Coal	Coal Underground Mines	71,994	64,126	65,359	59,822	56,905	55,869	53,284	49,061
	Coal Surface Mines & Facilities	72,137	68,409	70,159	64,243	62,434	63,174	62,026	59,183
	Total Coal	144,131	132,535	135,518	124,065	119,339	119,043	115,310	108,244
MNM	MNM Underground Mines	16,306	15,251	15,918	17,078	16,320	16,664	15,766	15,022
	MNM Surface Mines & Facilities	177,150	174,168	180,170	183,452	183,882	189,829	190,098	194,068
	Total MNM	193,456	189,419	196,088	200,530	200,202	206,493	205,864	209,090
Total All Mines (MSHA)		403,888	393,579	386,748	388,689	392,767	406,700	417,196	434,116

		1984	1985	1986	1987	1988	1989	1990	1991
Coal	Coal Underground Mines	105,377	101,012	94,156	85,799	81,969	80,201	82,441	76,375
	Coal Surface Mines & Facilities	92,220	85,841	81,444	78,006	75,210	75,128	77,336	73,732
	Total Coal	197,597	186,853	175,600	163,805	157,179	155,329	159,777	150,107
MNM	MNM Underground Mines	19,988	18,177	16,406	16,219	17,603	19,435	18,656	17,244
	MNM Surface Mines & Facilities	170,752	171,280	165,754	168,953	179,057	184,865	186,349	182,031
	Total MNM	190,740	189,457	182,160	185,172	196,660	204,300	205,005	199,275
Total All Mines (MSHA)		384,196	378,876	378,248	385,702	396,862	410,793	410,869	408,365

				1978	1979	1980	1981	1982	1983
Coal	Coal Underground Mines			143,993	148,925	142,649	137,305	132,875	101,484
	Coal Surface Mines & Facilities			101,666	101,301	99,499	101,252	97,152	87,501
	Total Coal			245,659	250,226	242,148	238,557	230,027	188,985
MNM	MNM Underground Mines			33,862	36,092	38,793	39,915	29,419	22,137
	MNM Surface Mines & Facilities			217,759	233,014	224,264	218,964	167,739	162,792
	Total MNM			251,621	269,106	263,057	258,879	197,158	184,929
Total All Mines (MSHA)				433,781	454,278	459,717	463,179	402,163	384,204

*Figures presented on this chart are summarized from historical *Mine, Injury, and Worktime Quarterly* (MIWQ) reports. Preliminary MIWQ reports are published quarterly, and the final MIWQ is published 6 months after year-end. Since the MIWQ report does not breakout office workers by mine type (Underground, Surface, or Facility), office worker metrics are not reported here. This is of particular importance when comparing figures here and those reported in *MSHA At A Glance*, which reports employment figures at a less granular level, which allows for the accounting of office worker data.

For historical MIWQ reports see: <http://arlweb.msha.gov/ACCINJ/accinj.htm>

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Employee Hours Worked (From MSHA's Mine, Injury & Worktime Quarterly Reports)
Including Operators & Contractors, excluding Office Workers
CY1978 - CY2015

		2008	2009	2010	2011	2012	2013	2014	2015
Coal	Coal Underground Mines	113,397,108	109,916,537	116,337,161	128,590,770	123,006,868	112,852,533	108,055,738	90,331,924
	Coal Surface Mines & Facilities	129,026,908	123,046,639	123,010,335	130,138,568	118,910,051	105,618,944	97,752,816	85,086,698
	Total Coal	242,424,016	232,963,176	239,347,496	258,729,338	241,916,919	218,471,477	205,808,554	175,418,622
MNM	MNM Underground Mines	31,754,973	26,046,723	28,731,095	33,247,615	37,016,561	36,506,649	35,499,557	35,116,004
	MNM Surface Mines & Facilities	346,177,833	275,851,101	283,695,338	302,839,371	317,762,542	323,469,586	326,577,334	321,670,666
	Total MNM	377,932,806	301,897,824	312,426,433	336,086,986	354,779,103	359,976,235	362,076,891	356,786,670
Total All Mines (MSHA)		620,356,822	534,861,000	551,773,929	594,816,324	596,696,022	578,447,712	567,885,445	532,205,292

		2000	2001	2002	2003	2004	2005	2006	2007
Coal	Coal Underground Mines	86,160,480	91,459,962	85,703,901	82,983,111	89,026,111	98,247,172	103,610,194	103,095,924
	Coal Surface Mines & Facilities	97,391,245	106,922,450	105,088,040	100,064,111	107,040,835	116,392,424	122,357,505	118,986,887
	Total Coal	183,551,725	198,382,412	190,791,941	183,047,222	196,066,946	214,639,596	225,967,699	222,082,811
MNM	MNM Underground Mines	26,089,189	24,829,531	20,989,277	20,776,294	22,575,804	24,434,440	26,450,361	29,903,758
	MNM Surface Mines & Facilities	354,141,871	338,455,895	314,245,135	309,959,615	323,400,335	338,135,559	351,343,780	359,846,102
	Total MNM	380,231,060	363,285,426	335,234,412	330,735,909	345,976,139	362,569,999	377,794,141	389,749,860
Total All Mines (MSHA)		563,782,785	561,667,838	526,026,353	513,783,131	542,043,085	577,209,595	603,761,840	611,832,671

		1992	1993	1994	1995	1996	1997	1998	1999
Coal	Coal Underground Mines	132,265,116	113,187,605	117,763,086	110,353,091	107,363,858	105,752,094	101,157,210	92,283,677
	Coal Surface Mines & Facilities	128,899,073	119,025,432	122,708,135	112,601,684	110,079,211	110,595,942	109,247,950	102,981,948
	Total Coal	261,164,189	232,213,037	240,471,221	222,954,775	217,443,069	216,348,036	210,405,160	195,265,625
MNM	MNM Underground Mines	29,188,257	27,013,519	27,853,692	29,390,063	30,087,144	29,967,186	28,685,148	26,382,396
	MNM Surface Mines & Facilities	322,738,445	322,877,686	333,444,547	344,616,519	349,544,889	353,145,814	352,771,083	355,043,194
	Total MNM	351,926,702	349,891,205	361,298,239	374,006,582	379,632,033	383,113,000	381,456,231	381,425,590
Total All Mines (MSHA)		613,090,891	582,104,242	601,769,460	596,961,357	597,075,102	599,461,036	591,861,391	576,691,215

		1984	1985	1986	1987	1988	1989	1990	1991
Coal	Coal Underground Mines	187,603,392	182,037,380	170,201,349	156,317,309	149,781,918	147,109,244	153,347,464	140,982,065
	Coal Surface Mines & Facilities	170,382,097	159,294,671	149,352,878	143,210,844	138,187,688	138,907,023	142,414,412	132,667,737
	Total Coal	357,985,489	341,332,051	319,554,227	299,528,153	287,969,606	286,016,267	295,761,876	273,649,802
MNM	MNM Underground Mines	35,582,707	32,047,788	29,361,408	29,396,253	32,769,368	33,878,065	34,096,120	31,320,784
	MNM Surface Mines & Facilities	311,557,770	307,823,995	303,558,895	315,008,503	335,169,184	343,271,309	342,523,425	329,571,557
	Total MNM	347,140,477	339,871,783	332,920,303	344,404,756	367,938,552	377,149,374	376,619,545	360,892,341
Total All Mines (MSHA)		705,125,966	681,203,834	652,474,530	643,932,909	655,908,158	663,165,641	672,381,421	634,542,143

				1978	1979	1980	1981	1982	1983
Coal	Coal Underground Mines			217,364,678	256,826,740	248,546,274	224,050,292	225,511,730	174,238,761
	Coal Surface Mines & Facilities			169,421,620	184,935,632	185,494,459	178,958,879	173,426,635	156,690,343
	Total Coal			386,786,298	441,762,372	434,040,733	403,009,171	398,938,365	330,929,104
MNM	MNM Underground Mines			63,046,432	67,768,568	68,765,699	69,980,499	49,864,325	36,795,651
	MNM Surface Mines & Facilities			407,532,819	427,437,765	402,534,453	384,849,771	209,373,904	290,852,046
	Total MNM			470,579,251	495,206,333	471,300,152	454,830,270	259,238,229	327,647,697
Total All Mines (MSHA)				857,365,549	936,968,705	905,340,885	857,839,441	658,176,594	658,576,801

*Figures presented on this chart are summarized from historical Mine, Injury, and Worktime Quarterly (MIWQ) reports. Preliminary MIWQ reports are published quarterly, and the final MIWQ is published 6 months after year-end. Since the MIWQ report does not breakout office workers by mine type (Underground, Surface, or Facility), office worker metrics are not reported here. This is of particular importance when comparing figures here and those reported in MSHA At A Glance, which reports employments figures at a less granular level, which allows for the accounting of office worker data.

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Coal Production (From MSHA's Mine, Injury & Worktime Quarterly Reports)

**Operators & Contractors
CY1978 - CY2015**

	2008	2009	2010	2011	2012	2013	2014	2015
Underground Mines	357,847,157	332,146,721	337,594,564	345,406,727	343,349,532	341,220,033	354,709,128	306,826,873
Surface Mines & Facilities	815,292,635	743,046,025	748,938,128	750,132,494	675,490,262	642,948,380	645,517,689	590,305,224
Total	1,173,139,792	1,075,192,746	1,086,532,692	1,095,539,221	1,018,839,794	984,168,413	1,000,226,817	897,132,097

	2000	2001	2002	2003	2004	2005	2006	2007
Underground Mines	373,754,882	380,919,546	358,534,766	352,615,521	367,147,343	369,370,807	359,344,662	351,996,028
Surface Mines & Facilities	705,310,802	749,412,992	738,248,866	719,740,942	745,276,213	765,662,208	805,231,461	795,748,272
Total	1,079,065,684	1,130,332,538	1,096,783,632	1,072,356,463	1,112,423,556	1,135,033,015	1,164,576,123	1,147,744,300

	1992	1993	1994	1995	1996	1997	1998	1999
Underground Mines	403,932,688	348,436,286	396,610,662	396,140,037	410,577,156	419,810,539	419,653,258	391,685,324
Surface Mines & Facilities	585,489,569	594,853,622	635,084,523	635,945,011	654,810,661	672,321,630	702,389,196	708,241,693
Total	989,422,257	943,289,908	1,031,695,185	1,032,085,048	1,065,387,817	1,092,132,169	1,122,042,454	1,099,927,017

	1984	1985	1986	1987	1988	1989	1990	1991
Underground Mines	343,167,938	343,560,086	353,625,702	364,940,375	377,463,230	387,696,287	419,899,597	404,295,712
Surface Mines & Facilities	540,660,764	519,631,439	526,419,273	539,085,644	566,474,759	584,054,567	599,443,181	583,457,264
Total	883,828,702	863,191,525	880,044,975	904,026,019	943,937,989	971,750,854	1,019,342,778	987,752,976

			1978	1979	1980	1981	1982	1983
Underground Mines			229,075,592	300,440,004	321,018,628	299,425,866	328,610,350	292,164,426
Surface Mines & Facilities			402,675,504	441,259,435	477,063,106	488,185,043	482,961,122	470,234,898
Total			631,751,096	741,699,439	798,081,734	787,610,909	811,571,472	762,399,324