
TRANSCRIPT OF PROCEEDINGS

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2014 HAZELWOOD MINE FIRE INQUIRY

MORWELL

FRIDAY, 29 MAY 2014

(5th day of hearing)

BEFORE:

THE HONOURABLE BERNARD TEAGUE AO - Chairman

PROFESSOR EMERITUS JOHN CATFORD - Board Member

MS SONIA PETERING - Board Member

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1 MR ROZEN: Good morning, Members of the Board. As indicated
2 by my learned friend Ms Richards yesterday afternoon,
3 today's evidence will focus on the discrete area of
4 firefighter safety - that is, firefighters both
5 employees of the mine operator and also Emergency
6 Services, as well as volunteer firefighters. 10.03AM

7 The first witness that the Inquiry will hear from
8 is Mr Craig Lapsley. I call Mr Lapsley.

9 <CRAIG LAPSLEY, recalled:

10 MR ROZEN: Welcome back, Mr Lapsley?---Thank you. 10.04AM

11 As you no doubt know, and as you've just heard, we're going
12 to be asking you some questions today about firefighter
13 safety. I also would like to follow-up on some of the
14 matters that you were given some homework on Monday to
15 address a couple of issues during the course of your
16 evidence and you've been kind enough to do that, and
17 the Inquiry has been provided with a letter from the
18 Victorian Government solicitors' office dated 29 May
19 2014 that addresses those issues. Apparently some
20 copies are just coming down to us now so I might put
21 that to one side and come back to it if that's all
22 right. 10.04AM

23 In addition to your initial statement which is
24 exhibit 1 in these proceedings, you have made a further
25 supplementary statement dated 22 May 2014 that
26 addresses the discrete issue of firefighter safety; is
27 that right?---That's correct. 10.05AM

28 That statement is some 56 paragraphs long, 12 pages. Just
29 confirm that for us please?---That's correct.

30 Have you read through the supplementary statement before
31 coming to the Inquiry to give evidence today. Yes, I 10.05AM

1 have, and there are a couple of amendments that need to
2 be noted.

3 Let's go through those if we could, please?---As I see it at
4 point 3, the date should be 20 May, not 14 May.
5 20 May, first statement. Yes, thank you?---At 10.06AM
6 paragraph 20.2, page 4, it should finish with "point 21
7 below", not "point 20 below".

8 At paragraph 30, and it repeats at paragraph 55.8,
9 the word "poisoning" should be replaced with
10 "exposure". 10.06AM

11 So that's line 2 of paragraph 30. Is that right? Instead
12 of "CO poisoning", it should be "CO exposure"?---Yes,
13 that's in the second line; "CO poisoning" should be
14 placed with "CO exposure".

15 And then again at?---At paragraph 55.8. 10.06AM

16 Page 11 in the first line, "CO exposure"?---That's all that
17 I've detected as amendments.

18 With those changes can you confirm for us that the contents
19 of your statement are true and correct?---Yes.

20 I tender the supplementary statement. 10.07AM

21

22 #EXHIBIT 26 - Supplementary statement of Commissioner
23 Lapsley.

24 MR ROZEN: Mr Lapsley, I see that copies of that letter of
25 29 May that I mentioned a moment ago have arrived so it 10.07AM
26 might be best to deal with that as a discrete issue if
27 that's all right with you?---Yes.

28 And then we'll come back to the safety issue. I don't know
29 if you've seen this letter, it's a letter dated 29 May
30 2014 addressed to Ms Stansen, the principal legal 10.07AM
31 advisor of the Inquiry from the Victorian Government

1 Solicitors' Office?---No, I haven't sighted it until
2 now, but I was aware of the content.

3 I won't read it out in full but I will refer to a couple of
4 the paragraphs. As it indicates, it's following up on
5 some questions that were asked of you whilst you were 10.08AM
6 giving evidence on Monday, 26 May 2014 and notes that
7 you were asked to follow-up three particular issues.
8 The first of them was the total number of fires burning
9 in East Gippsland on 8 and 9 February 2014. You will
10 note there, and I won't go through the numbers in 10.08AM
11 detail, that there are a significant number of fires
12 which have been itemised by category, grass bushfire,
13 structure and so on and they are set out in the
14 letter?---Just one point for clarity.

15 Certainly?---It refers to the number of fires in Gippsland 10.09AM
16 which reaches from the Bunyip River to the border and
17 also there makes special reference to those that are in
18 East Gippsland, so 62 in total for Gippsland and 24
19 were ongoing events in East Gippsland.

20 Yes, thank you. The second matter that is dealt with in the 10.09AM
21 letter on page 2, starting at paragraph 3, is the
22 question of aircraft availability on the afternoon of
23 8 February 2014 and the morning of 9 February 2014.
24 Documents have been attached, two documents; firstly, a
25 map setting out the deployment location of all aircraft 10.09AM
26 in Victoria and some aircraft sourced from interstate
27 on 8 February 2014, that's attachment 1; secondly, a
28 spreadsheet setting out under separate tabs the
29 deployment location of all aircraft in Victoria and
30 some sourced from interstate on those two dates, that's 10.10AM
31 attachment 2. I should ask you, are you comfortable,

1 and if you need a moment to look at those documents,
2 are you comfortable that they adequately respond to the
3 enquiries that were made of you on Monday?---Yes, they
4 are. It's interesting, the map is dated on the top
5 8 February which shows that it's the readiness plan of 10.10AM
6 where those aircraft were to start on that morning, so
7 it's the readiness plan to show what would be the
8 starting point on the 9th and then the aircraft become
9 very dynamic and are moved depending on what fires
10 occur, so it's the readiness level. 10.10AM

11 I see a readiness plan for the 8th. Do you also say there's
12 a readiness plan for the 9th?---No, the readiness plan
13 dated the 8th is where the planes are located for the
14 starting point on the 9th.

15 On the 9th?---Yes. 10.10AM

16 Thank you for that explanation. The final matter I want to
17 address in a little more detail. You were asked to
18 follow-up with ESTA, the Emergency Services
19 Telecommunications Authority, whether any calls were
20 made to 000 by GDF Suez, the operator of the Hazelwood 10.11AM
21 Mine on 9 February 2014. The Inquiry's heard some
22 evidence about this matter.

23 Perhaps if I could read into the transcript what
24 is included in the letter at paragraph 6, "The VGSO
25 advises the Inquiry that the Commissioner has caused 10.11AM
26 enquiries to be made of ESTA in relation to this. ESTA
27 operates the 000 call service which Telstra directs 000
28 calls made in Victoria. Calls to 000 record the number
29 from which a call is made and sometimes information
30 regarding the caller such as their name and address. 10.11AM

31 The logs are grouped as according to the relevant

1 incident. We understand that the relevant incidents
2 for the purposes of the mine fire are the Hernes Oak
3 log and the Miners Way log. These ESTA logs do not
4 record any call being made from numbers used by GDF
5 Suez on 9 February 2014. For completeness, nor do the 10.12AM
6 logs refer to a call being received from some other
7 number by a person stating that he or she is within the
8 mine, nor do the logs record any calls from persons
9 identifying themselves to be mine employees. Attached
10 are PDF copies of the Hernes Oak and Miners Way logs 10.12AM
11 being respectively...", and then they're identified by
12 a number.

13 Paragraph 7, "In the course of giving evidence on
14 27 May 2014 Mr Shanahan, a GDF Suez employee, referred
15 to a call being logged as being made by Diamond 10.12AM
16 Protection, the firm we understand that provides
17 security services for GDF Suez, to 000 at 1340 on
18 9 February 2014", and there's a transcript reference
19 and I interpolate that Mr Shanahan's statement is in
20 evidence together with a copy of that log. 10.12AM

21 Paragraph 8, returning to the letter, "On 28 May
22 2014 we [that is, the VGSO] wrote to the solicitors
23 acting for GDF Suez, King & Wood Mallesons, asking them
24 to urgently provide us with the number from which that
25 call at 1340 on 9 February 2014 was allegedly made or 10.13AM
26 numbers from which the call could have been made. The
27 letter was sent by email", and the timing is then set
28 out and a copy of the letter is attached.

29 Paragraph 9, "The purpose of requesting the
30 information sought in the letter is to allow the 10.13AM
31 Commissioner to make a request to ESTA for searches to

1 be made of its logs for any numbers provided by
2 Mallesons. To date we've received no response to the
3 letter from Mallesons regarding the numbers allegedly
4 utilised by staff of Diamond Protection to make a call
5 to 000 on 9 February 2014. In view of this, no further 10.13AM
6 request has been made to ESTA in this regard. We note
7 there is no reference in the ESTA logs to a call being
8 made to 000 at 1340 on 9 February 2014."

9 I would seek to tender that correspondence and the
10 attachments. Copies have been provided. 10.14AM

11
12 #EXHIBIT 27 - VGSO letter dated 29 May 2014.

13
14 MR ROZEN: I understand Dr Wilson wishes to address the
15 Inquiry on this. 10.14AM

16 MR WILSON: If the Board pleases, the logs that are referred
17 to at the top of page 3 of the letter to which my
18 learned friend has just taken the Board contain
19 information to which privacy details and particulars
20 apply. As we speak, those who instruct Mr Burns and I 10.14AM
21 are seeking to redact that document so as to make
22 perfectly clear that no infringements of privacy issues
23 are being done, so when the document ultimately comes
24 to the Board it will be in that form.

25 CHAIRMAN: Thank you. 10.14AM

26 MR ROZEN: That seems entirely appropriate from our
27 perspective.

28 I'll just ask you a couple of questions about the third of
29 those issues, that is the 000 call to ESTA.

30 Mr Lapsley, you may have been in court yesterday when 10.15AM
31 some evidence was given and in fact on Wednesday by GDF

1 Suez employees about contact with both the Traralgon
2 ICC and also there was some evidence of contact by
3 mobile phone to the Morwell Fire Station.

4 Can you explain to us the importance, if from your
5 perspective there is any, of making a 000 call in 10.15AM
6 addition to or separate from those sorts of
7 contacts?---Thank you. It is fairly simple in the
8 sense that, a call registered to the 000 centre is the
9 starting point of the call record, and from that
10 generates electronic information for call alert 10.15AM
11 dispatch, so brigades in those areas would be aware of
12 a fire call that's come in by pager to be able to
13 respond appropriately and, if they are already
14 responding to that, they would deal with that
15 effectively. So that would either be the Morwell or 10.16AM
16 Traralgon Fire Brigades or wherever the call may come
17 from.

18 Second, and it is important, is it then triggers
19 of a number of steps about what we do in mapping in
20 point of origin. So, the point of origin of the fire 10.16AM
21 is logged and registered, and obviously you would see
22 that that then becomes important later on as far as
23 fire investigation and other issues, so it is the
24 single point of entry for the start of the initiation
25 of a fire call and all of those things, both in a 10.16AM
26 technical call taking and dispatch process.

27 Does a 000 call have any effect on the awareness within
28 either the Regional Emergency Management Team or the
29 State Emergency Management Team of the particular
30 fire?---Well, it does because, once the mapping comes 10.17AM
31 up through the e-mapping process, it is then

1 distributed and can be sighted as a fire call. Now,
2 for example, and I'll take you back to the Driffield
3 Fire, when those calls came in, and it was put up that
4 there was multiple calls on a roadside, that was seen
5 in a timely sense at State level the same as what would 10.17AM
6 have been seen at regional or incident level. For that
7 fact, I bring into there, that was one of the things
8 that the Deputy State Controller and I spoke about to
9 say, there's another group of calls that had occurred
10 and it was generated the fact that they were rung in 10.17AM
11 through 000, so it is important.

12 I suppose the other technical thing that is worth
13 mentioning, when you ring 000 you're ringing a national
14 service. They ask you and you are then diverted to
15 ESTA, and what I've just described is what happens at 10.17AM
16 ESTA, so it's the ESTA process and I think that's a
17 point of technical clarification of what 000 is in the
18 national system versus what ESTA have the
19 responsibility to do in the State of Victoria.

20 To get a little more specific, on 9 February the ESTA 10.18AM
21 operator who would have received any such call would
22 not have been located at the same place as the State
23 Control Centre; is that correct?---That's true, yes.

24 But was there any mechanism on the day, for example, for
25 there to be a representative, say, of the CFA at 10.18AM
26 ESTA?---Yes, there is. On those days of significance
27 there is obviously an officer put in place that
28 understands call taking dispatch from the agencies. In
29 that case a CFA officer would have been in the centre,
30 in the ESTA centre, as that strategic liaison to say 10.18AM
31 there are now multiple calls in an area and to make

1 sure that that can be managed effectively.

2 So a call saying that there's a fire in a coal mine, an open
3 cut coal mine in Gippsland, might be the sort of thing
4 that triggers some interest?---It would, and it also
5 triggers the interest as an oversight to say there's 10.19AM
6 multiple calls of other - not only multiple calls,
7 other fires in the area. So that person is not in line
8 management, he is able to oversight and intervene and
9 communicate that appropriately back within the agencies
10 and across the agencies. 10.19AM

11 Could that communication also have triggered some action on
12 your part for example about resource allocation?---It
13 would have. At State, regional and incident level once
14 that intervention occurs, so the liaison officers out
15 of the call centres would be able to have that 10.19AM
16 discussion because they are separate from the process
17 of call taking dispatch and can oversight and ensure
18 their intervention is an important intervention and
19 that's hence why we run those officers in those centres
20 on the more significant days. 10.19AM

21 In your first statement, exhibit 1, which I don't need to
22 take you to, but you have told the Inquiry that the
23 State Emergency Management Team became aware, or was
24 aware I should say, of the Hazelwood Mine fire at 1800
25 hours or 6 p.m. I can't recall now whether you were 10.20AM
26 asked what the source of that information was?---It
27 would have been from the Regional Controller and I
28 think, and I'd have to go - it also talked about, it
29 was minuted in the Regional Emergency Management
30 Team minutes and was detected then at State level and 10.20AM
31 reported.

1 Just for completeness, you did note that it was in
2 the minutes at the regional level at 1430 hours?---Yes.
3 I might add, Mr Rozen, that's not the first time we
4 were aware of those fires at 1800, we were aware of
5 those in an operational sense but it was the first time 10.20AM
6 it was reported to the State Emergency Management Team
7 in any detail.

8 MEMBER PETERING: Mr Rozen, can I just seek clarification?

9 MR ROZEN: Certainly:

10 MEMBER PETERING: Mr Lapsley, you referred to significant 10.20AM
11 days, could you just describe what a significant day
12 is?---We use the fire danger rating system so where we
13 have days of severe extreme, they are the more
14 significant days, they are the days that normally
15 generate total fire bans and they're the days that sees 10.21AM
16 when fires start, that they move to the fires or have
17 the potential to be fires of significance very quickly.
18 So, attached to the fire danger rating system of
19 severe, extreme and code red.

20 MR ROZEN: Do Members of the Board have any other questions 10.21AM
21 on that issue before I move to the firefighter safety
22 question?

23 CHAIRMAN: There are a couple of questions that relate to
24 other matters. The question of fires starting in the
25 mine has been raised, in other words they were not 10.21AM
26 triggered externally. Almost all of the evidence,
27 perhaps if I put it that way, is to the contrary. Do
28 you have any information that would lead you to still
29 feel that there is a possibility that the mine fire
30 started internally rather than externally in effect 10.22AM
31 through spotting or otherwise?---If I may, Your Honour,

1 on that day - and the reason I say this is, the amount
2 of fire in the landscape around the mine, with two
3 fires and the types of behaviour, and I think you would
4 have seen the other day the convection columns that
5 were being generated by both fires, and the fact that 10.22AM
6 the convection columns actually interacted with each
7 other at a fairly high level would suggest that
8 airborne embers, there would be a lot of airborne
9 embers that had the potential to start multiple fires
10 in the mine. 10.22AM

11 I haven't heard all the evidence this week, but I
12 think it's fairly clear by the Phoenix mapping and the
13 way it was described the other day, the upper
14 atmosphere was of significance that has the potential
15 to spray fire around, when I say spray fire, that's 10.23AM
16 embers that would be very hot and not that far from the
17 fire so they haven't travelled to cool. That's one
18 point.

19 On the same token, though, the probability of
20 having a fire start within the mine from some vehicle 10.23AM
21 movement, mechanical device or other things, you
22 couldn't actually take away. I suppose the third
23 point, Your Honour, is, it would be my view that the
24 coal in that area would be extremely dry for a number
25 of reasons. 10.23AM

26 If you were to look at the weather conditions
27 from October, November, December, the driest part of
28 Gippsland was Latrobe Valley and it showed up on all of
29 the (indistinct) maps all the way through that the
30 driest part of Gippsland was in the valley. Second to 10.23AM
31 that, over those weeks heatwave conditions, which means

1 high temperatures during the day, overnight
2 temperatures on a number of occasions stayed well up in
3 the mid and high 20s, which seems conducive to have
4 extremely dry brown coal. I'm not a brown coal expert,
5 but brown coal traditionally has a large water content, 10.24AM
6 a large percentage of water content in it and I think
7 we've seen now that this coal was extremely dry.

8 So it to me, looking at the fire activity around,
9 most probable from embers starting spot fires in the
10 mine, could not say categorically that it could not 10.24AM
11 have started from some effort in the mine of vehicles
12 moving around devices. But as I said on Monday, we've
13 had no report from the mine of fires, but we certainly
14 have had where the mines people were putting fires out,
15 extinguishing fires in the mine in that period, 10.24AM
16 certainly in that period after 1.30.

17 One point that's linked to that is the rapidity of fires in
18 batters. The indications are that in effect a small
19 area of smoke has been detected and within a relatively
20 short space of time lengths of batters are on fire, and 10.25AM
21 one can understand that those facing winds, where
22 you've got the heat, plus the winds going directly into
23 them are a recipe for that potential, and I really just
24 comment upon whether what was described appears to you
25 to be totally feasible?---It is feasible. The other 10.25AM
26 element that I think - and again I would not be able to
27 describe this on the morning of the 9th because I
28 wasn't in the valley, but the vegetation that was in
29 some parts of the rehabilitated parts of the batters
30 and also the floor of the mine means there's vegetation 10.25AM
31 there as well. The vegetation would have been

1 available to burn and would have been 100 per cent
2 cured unless it was watered, unless it actually had
3 water on it during that period and it wouldn't be from
4 moisture from the environment.

5 So you've got available fuels that are growing, 10.26AM
6 that are either grass, bush or scrub, and I think the
7 other point that should be noted is that it would be
8 fair to say that the fire that travelled the Princes
9 Freeway, so the fire that was the Hernes Oak extension
10 fire, would have travelled with vegetation right up to 10.26AM
11 the mine of different types of vegetation. That wasn't
12 the case were the Driffield Fire.

13 The Driffield Fire was able to be suppressed
14 through running into a riverbed, and also fire
15 suppression and in grassland that they were able to 10.26AM
16 suppress it so it didn't run into the mine from the
17 Driffield side, the Driffield side that did get
18 spotted, whereas the Hernes Oak side had fuel that
19 could carry very close to the mine if not up to the
20 mine. 10.27AM

21 Could I briefly then move to a subject of map availability.

22 We've had a couple of excellent annexures to statements
23 from Messrs Shanahan and Mauger which make it easy to
24 pinpoint things, but the evidence from others has been
25 more difficult to follow because there's nothing been 10.27AM
26 made available to us in the nature of a grid map
27 approach. Have you at any stage had something that
28 would have enabled you to be on top of questions as to
29 where gates are, where various other buildings
30 et cetera are such that you would have been able to 10.27AM
31 and, therefore, perhaps this is the second question,

1 whether what would have been available to the CFA;
2 perhaps you can say your own experience because I can
3 raise it with Mr Harkins?---Without trying to make a
4 short question a long answer, I think we've got an
5 issue that presents is, the Pre-Incident Plans that are 10.28AM
6 built for such a facility will be owned by the primary
7 fire brigade, the home fire brigade and in that
8 incident will be Morwell.

9 As you escalate the incident and bring in multiple
10 numbers of fire trucks, the distribution at that level 10.28AM
11 of planning is very difficult and I would say poorly
12 done and is a clear lesson of something that is a
13 significant asset and, when it does catch fire, relies
14 on multiple resources from multiple agencies.

15 If it is a map that is not able to be distributed 10.28AM
16 electronically or if it is distributed electronically
17 who's got access to it on the devices. If it's a hand
18 or a manual map that is in hard copy, where do you pick
19 it up from, have you got the capability to photocopy,
20 is it going to be available? I think that's an issue 10.28AM
21 on the dynamics and the size of this mine and the
22 incident we've got in front of us.

23 So, there are Pre-Incident Plans, there would be
24 people that understand gate A, B, C, D, there would be
25 people that understand the road networks and the types 10.29AM
26 of sheds and what those sheds are used for and what's
27 the infrastructure. That is held by a small group of
28 people, not a large group, and as the incident grows
29 it's more difficult, particularly in the dynamics of
30 the first 12 hours, to get that communicated and 10.29AM
31 communicated well.

1 Add to confusion the word business. I've heard
2 the word "chaos", I think it's not necessarily chaos, I
3 think it's just a very busy dynamic environment as an
4 incident, and that's as in every fire, as an incident
5 develops with smoke moving into the night and not 10.29AM
6 having that, we talk about it, local knowledge and the
7 understanding of what this environment is. It is a
8 challenge. It challenges us all the time as we
9 escalate to be large incidents. That is to me
10 obviously a challenge of improvement that you would 10.29AM
11 hope to think that we can take the next step in that
12 because it's very important to have base level
13 information, not only for tactical firefighting but for
14 the health and safety and orientation of people.

15 It would not be difficult for us to get hold of what was 10.30AM
16 available at the Morwell Station?---Yes.

17 Which may or may not be available at the Traralgon
18 ICC?---The Pre-Incident Plan would be available for the
19 tactical operations and would be seen by the Operations
20 Officers, Divisional Commanders and Sector Commanders, 10.30AM
21 and the Incident Action Plan that is the responsibility
22 of the Incident Controller would be looking at the
23 incident strategies and then would be attaching the
24 appropriate mapping for that shift period.

25 So, the Pre-Incident Plan is different than the 10.30AM
26 Incident Action Plan but they are important to have
27 interaction with each other.

28 Thank you.

29 MR ROZEN: Could I just follow that up. You've referred to
30 a Pre-Incident Plan. Can you please follow that up for 10.30AM
31 us, Mr Lapsley?---Yes.

1 If you can locate any such document?---That would also be
2 the mine's operational plan. So, there are - and I'll
3 use the term "Pre-Incident Plan", but I would suggest
4 Suez would use the word - the mine's "operational plan"
5 is likely to be the term they would use, but those 10.31AM
6 plans that are there in a pre-incident sense, yes, we
7 can.

8 Just so you know what we have, Mr Lapsley, we have the
9 mine's Emergency Response Plan, that's exhibit 11. Is
10 that the sort of document that you're thinking 10.31AM
11 of?---Yes, operational response plan would be what they
12 used, and I would expect that that would have been
13 exercised and I think the last time they exercised that
14 as a joint was late in 2013.

15 Do I understand the evidence you have just given in response 10.31AM
16 to a question from His Honour that there would also be
17 in existence or should be in existence a Pre-Incident
18 Plan developed by the local CFA?---Yes, and they would
19 be interacting with each other but they might hold
20 different information. For example, the Pre-Incident 10.32AM
21 Plan may have security keys, types of keys that
22 wouldn't be published to the general community but
23 would be something the Morwell Fire Brigade officers
24 would be aware of for security reasons. So, yes,
25 there's a different level of detail how that is and we 10.32AM
26 can get those.

27 We would certainly appreciate that. The question of
28 distribution, particularly to people coming from
29 interstate and so on is a somewhat separate issue and I
30 also understand what you say about that?---I think 10.32AM
31 there is also two parts to that, though. The initial

1 12 hours of incident is different than when you've got
2 a management structure in place that you can formally
3 brief people, understand them, know that we're dealing
4 with fire in the northern batters, where it's quite
5 different if you've got a dynamic environment where 10.32AM
6 there's smoke over the whole mine, what is that initial
7 information that people need. I think I've heard that
8 there's that level of detail that's different. You
9 think of the Incident Controller, either Barry or
10 Haynes yesterday, had somewhat a different level of 10.32AM
11 control and management around an incident than what
12 would have been the very initial stages. Now, very
13 dynamic and busy.

14 I think we all appreciate that, we heard yesterday they had
15 an 80 member Incident Management Team and so on. If I 10.33AM
16 could press you a little bit on what you said before,
17 Mr Lapsley, there being smoke and nightfall approaching
18 and so on, none of that is unforeseeable in an
19 emergency situation?---No.

20 And presumably that's exactly why you have a plan in 10.33AM
21 place?---That's right.

22 So that you can hit the ground running to the extent
23 possible because, of course as with any other fire, but
24 maybe a coal mine fire particularly, the earlier you
25 get to it in an organised way, the better your chances 10.33AM
26 of early suppression?---Correct.

27 MEMBER PETERING: Could I just clarify, Mr Lapsley, the
28 Pre-Incident Plan would also have to be dynamic,
29 wouldn't it? So whose responsibility is it for that to
30 be continually updated because presumably something two 10.33AM
31 or three years ago is quite different as the mine

1 grows?---Two things: The Pre-Incident Plan is an input
2 to the initial Incident Action Plan, and the evidence
3 that I presented the other day was from Senior Station
4 Officer Ross Mal who had a handwritten Incident Action
5 Plan on the day shift, 10 February. That's the
6 Incident Action Plan. He would have, being an Officer
7 out of Morwell, known about the Pre-Incident Plan.

10.34AM

8 The Pre-Incident Plan would be, where are the
9 critical assets, where's the security gates, where do I
10 get keys to get access, so on and so on. So the
11 Pre-Incident Plan, in many instances once you've got on
12 site and then you actually do your own size up of the
13 fire, has done its job, then it's about building what
14 is the Incident Action Plan or the strategy you take
15 forward. So they are not one to the other, but they do
16 support each other in the development of how to manage
17 a fire.

10.34AM

10.34AM

18 So the Pre-Incident Plan is an important plan, to
19 know that I go to gate A and when I get to gate A I'll
20 do X, Y and Z and then you development your Incident
21 Action Plan from that.

10.34AM

22 Yes, I do understand that, what I was asking is who updates
23 the Pre-Incident Plan?---The Pre-Incident Plan would be
24 the responsibility there of the officer-in-charge of
25 Morwell Fire Brigade.

10.35AM

26 MR ROZEN: With that slight diversion, we can return to what
27 we told you we were going to ask you about today,
28 Mr Lapsley, and that's firefighter safety. There was
29 an indication given by my learned friend, Ms Richards,
30 late yesterday that the United Firefighters Union would
31 seek leave to appear in relation to this issue today.

10.35AM

1 We've just been informed that that will not in fact
2 occur, they will not seek leave, just for the benefit
3 of everyone in the room.

4 Mr Lapsley, the question of firefighter safety
5 raises particularly difficult and in some respects 10.35AM
6 unique problems for firefighting agencies, does it
7 not?---Yes, it does.

8 Perhaps I'll clarify that and might ask you to comment.

9 Every employer under Victorian health and safety law
10 has obligations in relation to protecting the safety of 10.36AM
11 their employees to do what is reasonably
12 practicable?---That's correct, yes.

13 Emergency Services like the CFA, the MFB and so on are
14 deliberately putting their employees into hazardous
15 situations; that's what they do?---Yes. 10.36AM

16 They send them to fight fires in all sorts of hazardous
17 situations, including coal mines, and that's why I say
18 it's an almost unique situation where they have to
19 manage the risks in those circumstances?---Which means
20 their training and procedures are very important. 10.36AM

21 Indeed. So you've got employers that send their employees
22 into dangerous situations and then they have duties
23 which are not necessarily in conflict but can be in
24 conflict. You've got a duty to the community to put
25 fire out?---Correct. 10.37AM

26 And you've got at the same time a duty to protect the health
27 and safety of your firefighters, and it can be the case
28 that meeting the second duty can hamstring you to some
29 extent in meeting the first?---True, but again, in the
30 true sense of understanding risk, hazard and the 10.37AM
31 consequence of them, so a risk management approach can

1 be applied and obviously judgments need to be made.
2 So, yes, the principle's there and I accept everything
3 you say about, we are asking firefighters to go into an
4 environment that is not necessarily in a controlled
5 environment and they need to put in control mechanisms 10.37AM
6 to bring it to control.

7 In saying, though, that's why we spend so much
8 time, energy and resource into how they do that, what
9 equipment they use, the training and procedures they
10 operate from, and I think that plays out today about 10.37AM
11 how well we've done that in the coal mine fire itself.

12 In your first statement, exhibit 1, which I think we can do
13 this without bringing it up on the screen, but we asked
14 you in that statement to provide your views to the
15 Inquiry about what worked well and what did not work 10.38AM
16 well and what could have been done better in relation
17 to the response to the fires at the mine. At para 144
18 of that statement you set out a number of matters that
19 in your view worked well. One of those was health
20 monitoring, the provision of health and safety 10.38AM
21 monitoring for the fighters, the
22 firefighters?---Correct, yes.

23 Interestingly, at paragraph 145 where you listed the things
24 that needed improvement, you identified the same issue,
25 health monitoring of firefighting personnel in the 10.38AM
26 initial stages needed to be implemented quickly?---And
27 the reason for that is, it's the size. It's the fact
28 that we had in place, and CFA had led it, and it was
29 the learnings of those 2006 and 2008 fires in the
30 valley, the need for a health assessment team early in 10.39AM
31 incident to monitor the health and well-being of

1 firefighters including carbon monoxide exposure.

2 One of the challenges, though, when you plan from
3 the previously event and do not run scenarios that are
4 bigger, it's interesting to see that when you normally
5 can operate 30, 40 people an hour through a health 10.39AM
6 monitoring system and all of a sudden you need to run
7 200. So we did well, we had to be agile in the way we
8 did it, and I think you've heard that from evidence
9 particularly from Incident Controller Haynes, that the
10 system of work and the constant management requirement 10.39AM
11 to ensure that it was dealing with what we had to deal
12 with. Hence why, did well, need to do better in a
13 systems sense and the system of work needs to be
14 embedded to ensure that we can deal with, not only 30
15 or 40 firefighters in the environment, but the shifts 10.40AM
16 of 200, 300, 400 if it was to happen again.

17 We'll go to the detail in a moment, Mr Lapsley, but is it
18 fair to say that you got better at this issue through
19 the course of the fire fight? You reviewed what you
20 were doing, you improved your approach to protecting 10.40AM
21 the firefighter safety through the course of the fire
22 fight?---Yes, and I'd hope to be able to give good
23 examples of this morning of how and why that occurred.

24 I'm sure we'll give you that opportunity. Can I start with
25 one of those earlier fires that you've just referred to 10.40AM
26 and I will ask that this be brought up on the screen.
27 In your first statement, exhibit 1, you attach at
28 Annexure 35 which starts at?---This is my first
29 statement?

30 This is your statement?---At page? 10.41AM
31 It's the CFA report into the 2006 fire at the Hazelwood Coal

1 Mine. This is a fire at the same mine in 2006 which,
2 as we can see from the photo on the front page of the
3 report, involved a dredger at the mine?---Yes.

4 We can see from the dates there that it was a fire that ran
5 for a week in total, so a significant fire but 10.42AM
6 certainly not of the dimensions of this year's
7 fire?---Yes.

8 I think you told us on Monday that you had had some
9 operational role in relation to this?---Yes.

10 What was that?---I was a Deputy Chief Officer at the time 10.42AM
11 and was asked to attend on the first day of the fire to
12 give an oversight and support to the Incident
13 Controller, the then Operations Manager of CFA district
14 10, region 10, and the Area Manager to ensure that we
15 had connection at a strategic level and as what we now 10.43AM
16 know as the Central Gippsland Essential Industries
17 Group, it was a different title in those days but a
18 connection across the industry, and to ensure that
19 again production of power was maintained and fire
20 extinction didn't go from the production area of the 10.43AM
21 open cut into the conveyor belt, the bunker and
22 ultimately into the Hazelwood Power Station.

23 I attended for probably the first 36 hours of that
24 incident. Or not - it was late in the afternoon and it
25 started around lunchtime and for the next 36 hours to 10.43AM
26 ensure that occurred.

27 If we go to page 20 of this report which is 0228 on our
28 coding. Firstly, can you help us with that acronym,
29 IMSS, it's a new one for us, I think, top of the
30 page?---That's interesting, it's across the top. 10.44AM
31 The page numbers should be on the bottom right-hand corner

1 of the page?---No, no, I'm looking back at the front.
2 On page 3 it's Incident Management Support Services
3 under "disclaimer" and it's actually the author, I
4 think, which is the then Brian Potter. I think they
5 named that as the company he was operating under. 10.44AM

6 So that's the explanation of the acronym?---Yes.
7 Could I take you to page 20 of the report, please, and
8 direct your attention to the third paragraph there.
9 Just for a bit of context, this report's written as a
10 day-by-day account of the fire fight and it's in day 2 10.45AM
11 that this paragraph is located, a description of day 2.
12 You will see that the third paragraph, "A completely
13 new problem had emerged during the morning the St John
14 Ambulance first aid officers had issued large
15 quantities of paracetamol to firefighters and mine 10.45AM
16 workers who were complaining of severe headaches. It
17 gradually became clear that potentially deadly pockets
18 of carbon monoxide had formed in the mine. The lengthy
19 exposure of crews at the fire face exacerbated the
20 danger to health. The CFA health support team 10.45AM
21 travelled from Melbourne and commenced monitoring of
22 the atmosphere and also detailed medical examinations
23 of crews coming up from the fire."

24 It then goes on to set out what were the
25 procedures that were put in place for addressing those 10.46AM
26 risks. Were you familiar at the time that there was
27 this safety issue for firefighters in the 2006
28 fire?---Yes, I was.

29 Just before leaving this document, over to page 30, please.
30 The top of the page there, the report acknowledges the 10.46AM
31 input from specialists within the CFA, health

1 monitoring, medical and scientific officers in
2 assisting the Incident Management Team in establishing
3 appropriate strategies and tactics for safeguarding
4 personnel exposure to carbon monoxide. Then the next
5 paragraph is the one I wanted to draw your attention
6 to, "Consequently any similar fires in this environment
7 in the future will require the careful management of
8 this now known risk."

10.46AM

9 Skipping down to the third-last line of that
10 paragraph, "It is fundamental to ensure preventive
11 strategies are in place to limit the potential for fire
12 and then, if one should occur, rely on fixed
13 suppression systems that are not labour-intensive in
14 managing their operation."

10.46AM

15 It's clear from that report that the CFA was, if I
16 can put it this way, formally on notice about this risk
17 and the importance of having in place adequate
18 protections for firefighters in the event of any future
19 fire in this and presumably in any other open cut coal
20 mine?---Yes.

10.47AM

10.47AM

21 In your statement you refer us to a draft Standard
22 Operating - this is your second statement - a draft
23 Standard Operating Procedure which seems to respond to
24 that recommendation in that report and it's at
25 attachment 1 to your second statement?---That's
26 correct.

10.47AM

27 If we scan down so we can read the top of that, "Latrobe
28 Valley Open Cut Coal Mines - Response to Fires." If we
29 scan down to the bottom right-hand corner of the first
30 page. Bottom left-hand corner firstly, it's apparent
31 that this is a draft document and you seem to

10.48AM

1 acknowledge that, or you certainly acknowledge that in
2 your statement at paragraph 11?---That's correct, yes,
3 it's still a draft as we sit here today.

4 That's what I want to ask you about, because it's a draft
5 that appears to be dated 29 April 2010. Certainly from 10.48AM
6 our perspective it seems perplexing to say the least
7 that it remained a draft for nearly four years before
8 the advent of the February 2014 fire where the same
9 issues had to be dealt with. Can you assist us with
10 what investigations you've made to determine why it was 10.49AM
11 never advanced to being a fully operational
12 SOP?---There is a CFA State SOP that deals with a
13 broader set of issues, however delete that for the
14 moment. The issue at hand is, there is a draft that is
15 dated April 2010, it's continued to be a draft. It's 10.49AM
16 been debated within CFA of whether it is sufficient to
17 do the job, and my observation is that it should have
18 been signed at an earlier date and published. The
19 reason I say that is that, Station Officer Ross Mal in
20 his Incident Action Plan for 10 February, you can read 10.49AM
21 that he has used this as the guiding document to enable
22 his Incident Action Plan to be put in place, which is a
23 credit to him, which means there's a level of
24 confidence from the Operational Officers on the ground
25 that this is an appropriate SOP. 10.50AM

26 To the best of my knowledge is that there has been
27 a number of acting Operations Managers in region 10 or
28 district 10 of CFA and it has not necessarily been
29 signed off and it hasn't been a priority of CFA to have
30 it signed off. 10.50AM

31 To step forward from here we are waiting for the

1 debrief, not the Inquiry, the operational debrief to
2 ensure that this is then signed off and a document that
3 is there to guide firefighters in dealing with the
4 Latrobe Valley Open Cut, not power generation in
5 general, but the Latrobe Valley Open Cut Mines. That's 10.50AM
6 the best of my observation at this point in time and
7 there are a series of iterations that I've sighted
8 between appropriate officers in the CFA in regards to
9 this being a document that is formally signed.

10 On a matter as significant as exposure of its employees to 10.51AM
11 potential carbon monoxide poisoning in doing their job,
12 it's not good enough, is it, Mr Lapsley, that this was
13 not a priority for the CFA for a period of nearly
14 four years to implement an SOP?---I accept that.

15 You've made reference to the document prepared by Mr Mal, 10.51AM
16 and I should for completeness take you to that, it's at
17 attachment 16 to your first statement,
18 CFA.0007.001.0001. Is this the handwritten plan
19 prepared by Mr Mal that you refer to?---That's the one,
20 yes. 10.52AM

21 It should be on the screen there if it's not handy to you.
22 If I understand you correctly, it's page 8 of that
23 document that you're referring to?---Yes, I haven't got
24 it in front of me.

25 Perhaps the next page I think. That second asterisk, 10.52AM
26 "CO monitoring - crews to have access to CO monitoring
27 and record levels of exposure to carbon monoxide, total
28 withdraw at 200 ppm"?---That's correct.

29 I don't know if there are other parts of it that you would
30 seek to draw our attention to, but that certainly seems 10.53AM
31 to be - it's a recognition of the issue?---Yes, it is.

1 I think you've got a single point there where it refers
2 to, in 7.3 of the draft regional SOP, to 200 ppm, but I
3 think in a broader context it shows that the
4 Operational Officers out of Morwell have used this as a
5 guiding document in the way in which they approached 10.53AM
6 the mines and, apart from the fact it's still draft
7 they've used it, therefore they have operational faith
8 and understanding of the document itself. And although
9 exactly what you say, it's not a signed document so it
10 doesn't give it status, it's being used as the tool to 10.53AM
11 guide the operational plans that these officers are
12 responding to.

13 As we'll see when we examine your statement in a little bit
14 more detail, a quite sophisticated set of written
15 procedures was put in place for the management of CO 10.53AM
16 exposure, certainly within the first week of the fire
17 fight. Would you agree with that?---Yes, that's
18 correct.

19 In truth, given the experience of the 2006 fire, those
20 procedures ought to have been in place unambiguously 10.54AM
21 for all concerned as at 9 February, should they
22 not?---Correct.

23 The overall safety record, if I can put it that way, is
24 something you deal with in your statement, and as I
25 understand what you're telling the Inquiry, there were 10.54AM
26 15 firefighters who were treated in hospital, not
27 necessarily as inpatients, but were treated in
28 hospital, 14 of them for carbon monoxide poisoning and
29 one employee of the MFB for a serious hand
30 injury?---Yes, that's correct. 10.55AM

31 There was a total of 23 WorkCover claims made by obviously

1 employee firefighters working for the fire
2 agencies?---Correct, 19 of those are CFA and four of
3 those are MFB.

4 It would be the case, wouldn't it - and you can I hope
5 answer this from your experience - that there would be 10.55AM
6 other firefighters who suffered ill-effects from their
7 experience perhaps to various degrees but for whatever
8 reason didn't either seek hospital treatment or put in
9 a WorkCover claim?---I'm unsure of the WorkCover claim,
10 but there certainly were others that were being treated 10.55AM
11 on site for exposure issues or other minor injuries and
12 grazes. So, yes, the health and safety in an
13 environment like that is important and obviously the
14 carbon monoxide was one of those key issues.

15 There were other health and safety issues that were dealt 10.56AM
16 with and that are addressed in your statement,
17 including concerns about water contamination; is that
18 right?---Yes, that's correct.

19 But is it right to say that the principal health and safety
20 issue for the firefighters was the carbon monoxide 10.56AM
21 exposure question?---I'd say yes, but I need to qualify
22 that in the sense that, there were other significant
23 potential hazards within that mine, and I mean Suez are
24 the best to comment about their property, but in an
25 environment where putting large amounts of water into 10.56AM
26 structures you've got the potential for minor or major
27 collapse, and they were the significant issues being
28 dealt with.

29 So, yes, the CO, the carbon monoxide issue was
30 front and centre and very prevalent, but we shouldn't 10.56AM
31 underestimate the other types of health and safety

1 issues that need to be dealt, hence why the system of
2 work was so critical.

3 So better stability is obviously a significant issue?---Yes.
4 You've included it in your statement and I won't take you to
5 it in detail, but a number of instances where 10.57AM
6 geotechnical advice was sought about those
7 matters?---Yes, and in particular as Incident
8 Controller Haynes and Barry had indicated, the constant
9 connection to the mine's management people,
10 particularly those that work there every day to 10.57AM
11 understand the types of risks that would be faced. So,
12 that's really important that it's just not technical
13 experts from outside, it's that partnership between
14 fire and the owner operator.

15 One of the issues that arose early on in the fire fight was 10.57AM
16 the question of the particular risk presented to any
17 pregnant firefighters and any female firefighters who
18 might be pregnant unknowns to them, and that's a matter
19 you deal with in attachment 2 of your second statement,
20 if I can just take you to that. This is, as I 10.58AM
21 understand it, an email that you sent out. Can you
22 just tell us who the distribution list there is, it
23 seems to be senior management of fire agencies?---Yes,
24 the distribution was from the State Controller which is
25 the role I perform, and it's to the agency heads, so 10.58AM
26 the Chief Officers of the agencies, including SES, and
27 it extends to the Regional Commanders, and you'll have
28 there a series of them, across all regions of the
29 State. The key reason for that was to ensure that, as
30 resources were moving from across the State, that they 10.58AM
31 were all aware of the potential risks that our

1 firefighters would be facing, and in particular about
2 pre-deployment and also female firefighters, that only
3 themselves would know the potential of being pregnant.
4 That's an additional challenge, and if you go to the cc line
5 in the email, so if we just go back to the top for the 10.59AM
6 a moment, I see that you have copied in SSCC Vic,
7 Interstate International Liaison Unit, and I take it
8 that's because this information was important in the
9 light of possible deployment of interstate and perhaps
10 international resources?---Correct, and they're 10.59AM
11 obviously functions within the State Control Centre,
12 being the OH&S Executive Advisor which is a position
13 overlooks all OH&S issues for the State and reports to
14 me; Resources Unit, which means any interstate or
15 Victorian resources; and also the fact we had an 10.59AM
16 interstate international team operating but we already
17 had interstate firefighters in Victoria. They all
18 consistently understand the OH&S potentials of what
19 we're up against.

20 It's fair to say that the use of interstate and perhaps 11.00AM
21 particularly overseas resources in a fire fight adds to
22 the complexity of the challenge that we talked about at
23 the commencement of your evidence today?---Yes, most
24 certainly.

25 You're dealing with different employers operating under 11.00AM
26 different laws interstate and particularly
27 internationally?---Correct.

28 And then having to deal with the same health and safety risk
29 here in Morwell for those people?---Most certainly.

30 And although it's not offered up in evidence, there are 11.00AM
31 other emails that would be consistent to show the

1 urgency of what the OH&S issues and particularly CO
2 were there, so this was the one that was offered as
3 being the first advice that was particular about, and
4 in particular the female firefighters, but there are
5 others that continued on to ensure that this issue was 11.00AM
6 front and centre of the discussion and was included at
7 every level of resourcing.

8 If we can just scroll down that email there's two things I
9 want to ask you about; they're the general health
10 issues, if you can just stop there. You've noted that 11.01AM
11 individuals who have a history of cardiovascular or
12 respiratory conditions should not be deployed to this
13 incident. They are a particularly vulnerable group of
14 people so far as carbon monoxide exposure is concerned.
15 Is that right?---Correct. 11.01AM

16 Then you have made the reference there to female
17 firefighters. In each case your advice there is
18 couched in terms that the two categories of people,
19 those with general health problems and then female
20 firefighters falling within the category of those that 11.01AM
21 are pregnant or any chance that they may be pregnant,
22 you've couched your advice in terms that they should
23 not attend, rather than that they cannot be deployed.
24 Do you appreciate the distinction I'm making?---Yes, I
25 do. 11.01AM

26 Can you just expand on that for us please?---One of the
27 issues, it was actually a fairly detailed discussion to
28 get to this point with our advisors, was in particular
29 knowing whether a female firefighter was pregnant. We
30 have no mechanism as the employer or employers of those 11.02AM
31 to know that. There was also an issue about, and we

1 did have a female firefighting challenge our - to say I
2 have the right to attend, it's my decision, not your
3 decision to tell me whether I'm going to participate in
4 that incident. So we took the words "should not" and
5 not mandated in the sense that they will not. That was 11.02AM
6 a decision that was debated and, for the record, I was
7 the one that finalised the words from the advisors that
8 it would be "should not" and not "will not".

9 Can I take you to attachment 12 to your statement because it
10 seems also to deal with this issue, and that's at 11.02AM
11 paragraph 25 of the statement, FSC.0011.001.0089. This
12 is one of a number of documents that you have attached
13 which are extracts from different Incident Shift Plans
14 that were used during the course of the fire. Do I
15 understand correctly?---Yes. 11.03AM

16 You seem to, as I understand it, you've selected from each
17 of the weeks of the fire fight an Incident Shift Plan
18 from that week, and particularly the safety
19 instructions that were included?---Yes.

20 If you could go to the second page of that exhibit, that's 11.03AM
21 headed "Safety"; it's dated 9 February 2014. This is
22 tab 12. It's the second piece of paper behind
23 tab 12?---Yes.

24 We can see from the top of the page this is an extract from
25 a shift plan dated 19 February 2014, is that 11.04AM
26 right?---Yes, that's correct.

27 In the middle you've got a number of messages to do with
28 carbon monoxide and I want to ask you specifically
29 about (6) and (7). You see that (6) says, "Any members
30 with respiratory disorders, asthma, cardiac condition, 11.04AM
31 diabetes, high blood pressure or if pregnant, are not

1 to be tasked to the Latrobe Valley coal mine
2 fires"?---Yes.

3 I take it that's advice to the Incident Controller, is that
4 right, or how do we characterise this document?---This
5 is developed by the Incident Management Team and 11.05AM
6 approved by the then Incident Controller, and for this
7 one it was 19 February and approved by the Incident
8 Controller, which is Barry Foss. They have obviously
9 used the words "are not to be tasked", which is
10 inconsistent with what I had issued on the 12th. 11.05AM

11 That's what I wanted to ask you about. It certainly seems
12 to be. In fairness to you, if you look at paragraph 7
13 it deals specifically with female firefighters and is
14 couched in the recommendation terms, "They should not
15 attend"?---So, if you go to point 7, I think that's 11.05AM
16 where you're taking me to, are you, down there it says
17 in the very bottom part, "Should not attend this
18 incident due to the increased potential exposure power
19 to carbon monoxide. Female firefighters should
20 seriously consider this advice." But above that it 11.06AM
21 talked about, "If pregnant not to be tasked."

22 We had an issue with a female firefighter who
23 attended and believed that we had no right to indicate
24 that she could not attend that incident and we had no
25 control over her condition of whether she was pregnant 11.06AM
26 or whether she determined to even tell the employer she
27 was pregnant or even knew she was pregnant.

28 The workaround for that was, as described there,
29 the words they used was "not to be tasked" if they had
30 indicated, but if they wanted to attend and do other 11.06AM
31 roles, different roles, particularly in an Incident

1 Management Team, that would be the issue.

2 It was a tense issue that was debated in a number
3 of places about, what is the right of the employer to
4 either seek disclosure of a female firefighters that's
5 pregnant and also then how in which we task them. So 11.06AM
6 over that week from the 12th to 19th it was heavily
7 debated about what was the appropriate mechanisms, and
8 publishing what I published on the 12th generated a
9 fair amount of discussion from some quarters in the
10 industry. 11.07AM

11 I understand that and I don't want to be hypercritical,
12 Mr Lapsley, but, once again, that illustrates, does it
13 not, the importance of having those sorts of issues
14 resolved in advance of the fire rather than having to
15 do them in the context of the fire fight?---That's 11.07AM
16 correct.

17 Because it's fair to say, and we know this from the
18 submission that's been filed with the Inquiry by the
19 United Firefighters Union, there was a fair bit of heat
20 in this issue industrially as well, was there 11.07AM
21 not?---There was certainly heat, not only industrially
22 but from others. So when we talk about the United
23 Firefighters Union, we also should consider that the
24 Victorian Volunteer Fire Brigades Victoria, who have a
25 welfare responsibility for volunteers in the State, 11.07AM
26 also had opinions and were also at a number of meetings
27 in conjunction with the UFU, actually were on site on a
28 number of times, I believe, or certainly one that I was
29 aware of and I think there was other times where the
30 CEO of Volunteer Fire Brigades Victoria and the 11.08AM
31 Secretary of the United Firefighters Union attended the

1 site to get an understanding of what the incident was
2 presenting and also to understand the welfare of their
3 members.

4 And of course, the Inquiry has heard this week, and I think
5 you've been present in the hearing room, from two 11.08AM
6 volunteer firefighters, Mr Lalor and Mr Steley, and
7 they both gave graphic evidence of the conditions that
8 they faced and the particular challenges that they
9 faced in relation to safety generally but carbon
10 monoxide exposure as well, and we know from evidence 11.08AM
11 provided to the Inquiry by the Victorian WorkCover
12 Authority that there were a number of volunteer
13 firefighters in respect of whom the CFA notified
14 WorkCover that they had received treatment for carbon
15 monoxide poisoning?---Correct. I think the point that 11.09AM
16 you started with is the 2006 experience of learning
17 about carbon monoxide. As you're right, I was there
18 and we saw it evolve. The development of the health
19 assessment teams, the understanding of procedures and
20 to ensure that they are enshrined in the system of work 11.09AM
21 is one of the recommendations that I put forward that
22 needs to be adopted as a result of this incident.

23 MEMBER CATFORD: I wonder if I could ask a question of
24 Mr Lapsley. In terms of pregnant women I think you've
25 explained the situation, but in terms of pre-existing 11.09AM
26 medical conditions, was the same protocol basically in
27 your mind or were you actually taking a much firmer
28 line about, for instance, pre-existing cardiac
29 conditions?---John, the principle's there without a
30 doubt. The issue that presents to us is that, and I'll 11.10AM
31 take CFA, this is not a criticism of CFA. CFA does not

1 have a comprehensive medical history of all their
2 volunteers, and that's not there and that's something
3 that could be debated in another place about what is
4 the appropriate disclosure of your personal records in
5 regards to volunteering to an organisation. So, even 11.10AM
6 if we wanted to be able to monitor that, we find it
7 interesting in the sense that, if we mandate something,
8 how do we give compliance to it, and that's a challenge
9 in the organisations that we lead.

10 It will be no different in the SES/CFAs, is how do 11.10AM
11 we have comprehensive understanding of pre-existing -
12 what is the organisation's right to demand and record
13 and be able to recall that level of information. So we
14 haven't got it, and we're very careful in the way in
15 which we mandate those issues when we don't have a 11.11AM
16 necessary compliance overview of it.

17 Could I just confirm then, do you make any enquiries of
18 pre-existing medical conditions amongst your
19 volunteers?---No.

20 Do you think there's any duty of care? I mean, exposure 11.11AM
21 could result in sudden death if you have a pre-existing
22 medical condition like that?---Again, it's been debated
23 what is right and wrong about disclosure. We have
24 taken the approach for many years now that we provide
25 the information and people need to self-manage 11.11AM
26 themselves and be able to indicate, I have a got a
27 pre-existing, and understand what this means, so that's
28 hence why we put an emphasise to put it out there and
29 say these are what we believe are the issues and we
30 take that from advice from experts, we publish it, and 11.11AM
31 in the volunteer system we rely on those individuals

1 assessing their pre-existing and being able to
2 disclose.

3 As we know, we've got a broad church when it comes
4 to volunteers, 60,000, 35,000 in CFA alone operational,
5 range from the ages of 17 to 77 or older. So, that's 11.12AM
6 there, and I think that's something that the agencies
7 have attempted to deal with but have not got a solution
8 that would be disclosure of all medical records across
9 what is a large workforce.

10 So just to confirm, there's no protocol for asking, inviting 11.12AM
11 volunteers to declare if they've got a medical
12 condition, you leave it up to them to spontaneously
13 consider self-disclosure?---And it extends to, if they
14 are to disclose at a local level, the Captain may be
15 aware that Craig carries something or has had a 11.12AM
16 pre-existing, but as far as currency of the status of
17 the fitness and the health of that person, no.

18 Just finally, that's the protocol for volunteers. What
19 about employed staff?---Employed staff is the same as
20 any employed staff across - it's the provisions of OH&S 11.13AM
21 and the provision of the employment.

22 So for employed staff you would enquire about existing
23 medical conditions?---Yes, and both CFA and MFB have
24 their own brigade doctors that confidentially manages
25 those issues and it's back to the normal employment 11.13AM
26 arrangements of what is the laws of the State.

27 MR ROZEN: Just to follow-up in relation to volunteers, if
28 we can make it a little bit more specific, we've heard
29 from Mr Steley and Mr Lalor. As I understand what
30 you're saying, the position that's taken is that 11.13AM
31 information is provided and it's left for the

1 volunteers to make their own judgment about whether or
2 not they're in a high risk group for exposure to a
3 particular hazard?---Correct.

4 That rather assumes that they're in a position to make an
5 informed decision, doesn't it, Mr Lapsley?---It does. 11.14AM

6 We heard from those two gentlemen; it didn't seem they had
7 been provided with any particular information about the
8 hazards that they were about to confront, so how do
9 they make an informed decision?---I think that goes
10 back to that early start of what happens in that 11.14AM
11 initial deployment to an environment that there isn't
12 an 80 person Incident Management Team managing, and the
13 dynamics or the business of that environment in that
14 first 12 hours. That's a challenge, whether that be
15 them fighting a grass and scrub fire, whether they're 11.14AM
16 attending a house fire or whether they are attending a
17 brown coal fire in the Latrobe Valley. That's a
18 challenge about understanding, hence why we talk about
19 the dynamic risk assessment and understanding the
20 training and protocols to make those early calls. 11.14AM

21 Obviously the earlier we get that information in
22 place, or is it available prior to, to understand the
23 risk and hazards and the treatments prior to is
24 important.

25 Can I make a suggestion and seek your comment on it. The 11.15AM
26 Inquiry's been provided with a CFA video dealing with
27 fighting brown coal fires?---Yes.

28 It doesn't appear specifically to address these safety
29 issues, but if it was improved to address such safety
30 issues, then that could form part of the training and 11.15AM
31 information provided to career staff and volunteers,

1 couldn't it, in advance of attending such an
2 incident?---Yes, and I think what you're saying, it's
3 very operational in the sense it's dealing with the
4 methods.

5 The putting out of the fire?---Yes, the management of the 11.15AM
6 fire, not necessarily the consequence of attending it
7 to you as a person, you as a crew leader looking after
8 a crew of people. And you're right, the enhancement of
9 that is one method in a training/information/education
10 sense that is worthy to pursue. 11.15AM

11 Just before leaving that point, there has been a suggestion,
12 I can't now recall where it came from, but that you
13 could at the deployment stage in the staging area you
14 could have a video like that running whilst people were
15 waiting to be deployed and that would assist as well, 11.16AM
16 would it not?---Most certainly. Just-in-time education
17 tools and the use of technologies is a method of doing
18 that.

19 And nothing focuses the mind quite so much as you're about
20 do it, so it's a good time to watch the 11.16AM
21 video?---Absolutely.

22 In your statement, your second statement, could I ask you to
23 look at paragraph 15 and perhaps a little context here.
24 This is dealing with the situation on 12 February, so
25 this is day 3 of the fire fight, there are procedures 11.16AM
26 that have been put in place, albeit not much in the way
27 of documentation as I understand your statement, that
28 really pick up on what's in that draft SOP and try and
29 sort of regularise arrangements, but at the same time
30 you've got a number of fire firefighters presenting to 11.17AM
31 hospital, you refer to that in paragraph 14?---Correct.

1 "Following a report several firefighters had self-presented
2 out of hours to the Sale Hospital. The Incident
3 Controller ceased firefighting in the mine pending a
4 review of Safe Work arrangements." It's fair to say,
5 isn't it, it was from that moment on that your
6 attention, your personal attention, was very much
7 devoted to getting this right?---That's correct, yes.

11.17AM

8 Because obviously, you don't want firefighters either being
9 taken to hospital or self-presenting, and that is an
10 indication that it's not working?---It prompted it to
11 the extent of what happened on the night of 11 February
12 that I attended Morwell at 6 o'clock the next morning,
13 and accompanied with me was a Senior Officer from
14 Ambulance Victoria. The reason I asked for that to
15 occur in the very late hours with little notice was to
16 ensure that I had people around me that could say we
17 are doing it the best we can and, if we're not, how do
18 we improve it.

11.17AM

11.18AM

19 Hence, what I've listed in paragraph 15 is those
20 people were brought together and the Deputy Chief
21 Officer out of the South Australian Metropolitan Fire
22 Service who has a very strong industrial background, a
23 very strong OH&S background, and is a senior officer of
24 the Metropolitan Fire Service was asked to come across
25 immediately to assist those experts, but ensure we had
26 an independent operational person with them. That
27 happened, and the Deputy Chief Officer Nick Smith
28 landed and was in Morwell at the mine fire that
29 afternoon, I spoke to him myself.

11.18AM

11.18AM

30 So, yes, you're right. I think the alarming thing
31 to us was the out-of-hours presentations, and it's also

11.18AM

1 important to see that they weren't hospitalised, they
2 were there for assessment and released. So I think
3 that is important, that was a good outcome. We
4 certainly didn't see the worst-case scenario that we
5 had firefighters being hospitalised due to exposure to 11.19AM
6 what we believed then was carbon monoxide and later on
7 proved to be the case.

8 At paragraph 15 you make reference to engaging the services
9 of an independent Occupational Hygienist, Mr Golec of a
10 company AMCOSH Pty Ltd. I'm sorry, you say the 11.19AM
11 Incident Controller received advice from Mr Golec.
12 What was the process by which Mr Golec was engaged?
13 Was that by you or by the MFB or who?---There's a, I'll
14 say a long-term, but there's a relationship
15 between AMCOSH and the Metropolitan Fire Brigade, and 11.19AM
16 then the current Acting Chief Officer Peter Rou(?) had
17 the responsibility to engage and to ensure that they
18 were in place to provide advice to us.

19 The Inquiry's been provided with a copy of a report from
20 Mr Golec dated 13 February 2014. Perhaps that could be 11.20AM
21 brought up, it's in the UFU submission page number
22 0001.001.0135. I don't know if you have it in front of
23 you. I think it's being handed?---I've got it here,
24 yes.

25 The version that's been provided to us has been redacted by 11.20AM
26 the Union to exclude names of individuals, I don't
27 think anything particularly turns on that, we don't
28 need to disclose any of those names. If you just have
29 a look at that for a moment, Mr Lapsley, is that the
30 report that you're referring to in paragraph 15 of your 11.21AM
31 statement?---Yes.

1 You don't sound entirelyly certain?---No, no, I'm just trying
2 to go back to what I say in paragraph 15.
3 It's just that the date you mention there is 12 February and
4 I wonder if there's another report or?---I think, if I
5 read it right, it's dated the 13th but in the first 11.21AM
6 line it says, "I attended Hazelwood Mine yesterday
7 evening", which would have been the 12th. So my
8 understanding, they were on site on the 12th and this
9 is reflecting that but documenting that on the 13th.

10 Mr Golec, he's an experienced and respected Occupational 11.21AM
11 Hygienist, would you agree with that
12 proposition?---Yes, I do, without any detailed
13 knowledge of the man, but I understand from the acting
14 Chief of MFB that's the case.

15 Amongst other appointments he has, he's on the Standards 11.22AM
16 Australia Committee on Workplace Atmospheres, at least
17 according to his website anyway, Mr Lapsley?---Yes.
18 This report, as you've indicated, is based on a visit that
19 he made to Morwell at the request of the MFB. I draw
20 your attention to the bottom of the first page, if I 11.22AM
21 could. He sets out in that table the protocol that was
22 in operation as he understood it. The protocol was
23 built around the blood testing of firefighters to
24 determine whether or not their carboxyhemoglobin
25 levels, if I've got that right?---Or the CO content of 11.22AM
26 the blood, yes.

27 COHb, carboxyhemoglobin, was either above or below
28 5 per cent essentially?---Correct.

29 The protocol was directed to determining whether or not the
30 firefighters were being exposed, if I can summarise, to 11.23AM
31 safe or unsafe levels of carbon monoxide in the

1 atmosphere?---Yes, however it is important to
2 understand, and I'm sure we do, the difficulty when
3 they talk percentages is about content of CO in the
4 blood, and when we talk about atmospheric monitoring
5 it's about parts per million. I think later on we'll
6 see that there is some level of correlation, however
7 they are two different tests and need to be understood
8 to be that.

11.23AM

9 I think at one point in time throughout the fire
10 fight there was a misunderstanding from some the
11 difference of what we're talking, percentages and ppms,
12 and it's actually outlaid in the first page of my
13 witness statement the difference of what is a blood
14 test versus the atmospheric monitoring.

11.23AM

15 At the bottom of that first page, the paragraph that's just
16 at the foot of the screen, Mr Golec said, "I observed
17 the testing process and noted there are a number of
18 members who were being administered oxygen at the time,
19 I observed 9 members at one time on oxygen therapy.
20 During subsequent discussions I was advised that some
21 of the members were arriving on site redeployed from
22 other sites and had elevated COHb levels on arrival and
23 that some as high as 8 to 10 per cent, a level that
24 would require them to be referred to paramedics."

11.24AM

11.24AM

25 He goes on in the next page. He says, "I
26 understand that members smoked following their tests
27 before entering the fire ground which would contribute
28 to an elevation of their COHb."

11.24AM

29 Then he refers to the standard in Australia
30 published by Safe Work Australia about safe levels of
31 exposure to carbon monoxide, and he says, quoting from

11.24AM

1 that document, "A level of 2.5-3 per cent COHb is the
2 lowest level at which clearly adverse health effects
3 have been well documented. These health effects are
4 adverse cardiovascular effects on persons with
5 pre-existing clinically overt coronary artery disease, 11.25AM
6 giving rise to symptoms of angina pectoris, and there
7 are studies showing adverse effects in middle aged
8 clinically healthy men at 5 per cent and one study
9 showing non-specific effects suggestive of cardiac
10 ischaemia in healthy young men at a level of 11.25AM
11 2-4 per cent."

12 He's drawing attention in his letter, is he not,
13 to dangers that might be present at levels lower than
14 5 per cent; is that right?---Yes.

15 Without taking you through the rest of the letter, you 11.25AM
16 understood, did you not, that his advice was that he
17 considered the 5 per cent level, that there was no
18 clear rationale or justification for it; that's what he
19 said in the main paragraph on page 2, did he
20 not?---Yes. 11.26AM

21 In light of all of that, if we can go to page 3, he refers
22 to a meeting that occurred on the 12th, involving
23 himself, the Deputy Incident Controller, Operations
24 Officers. He says the MFB Scientific Officer but that
25 may have been Mr Sargeant, I think, of the CFA?---No, 11.26AM
26 MFB.

27 He's right, is he?---He's right.

28 And paramedic representatives, and that the participants
29 agreed with the protocol that is then set out in dot
30 points. I particularly want your attention to be 11.26AM
31 focused on the second dot point, "Any entry into the

1 mine would require compulsory self-contained breathing
2 apparatus use." Do you see that?---I do.

3 How did the agencies respond to that recommendation? Was
4 that implemented and, if not, why not?---It wasn't
5 implemented, however there was a set of protocols put 11.27AM
6 around it about ppm. So it goes on, and I think I
7 explain it in my witness statement at item 17, where it
8 talks around the fact that if CO measured above 50 ppm,
9 firefighters were to wear breathing apparatus.

10 Obviously that would be for a 20-30 minute period 11.27AM
11 depending the individual, and it's also to do with the
12 duration of the breathing apparatus. So it had little
13 bearing about the 20 or 30 minutes about the exposure
14 to CO; it was about the practicality of wearing
15 breathing apparatus. Then CO measures above 75 ppm 11.27AM
16 that they need to don breathing apparatus, that is
17 actually put it on their back, wear it and leave the
18 area.

19 Now that there, and I would have to go and look at
20 my notes here, was a discussion on it that was carried 11.28AM
21 out between the MFB Scientific Officer that's noted in
22 that meeting there and others to ensure that they had a
23 practical working arrangement in the mine. It was
24 found to be totally impractical to actually wear
25 breathing apparatus all of the time. 11.28AM

26 It was also seen by firefighters that it was
27 totally inappropriate, which is interesting about them
28 doing their own dynamic risk assessment. So, hence why
29 it was published and we took advice, and certainly the
30 CFA scientific officer who's well qualified was able to 11.28AM
31 provide that advice to say that this is the working

1 arrangement that should be adopted, and that was
2 adopted.

3 Is the position this, Mr Lapsley, that Mr Golec's advice was
4 part of the overall advice that was
5 provided - - -?---Yes. 11.29AM

6 - - - to the employers and to yourself and it informed the
7 ultimate response that was initiated?---Correct, and it
8 was done through consultation, discussion and AMCOSH
9 representatives, including Golec, were involved in
10 those discussions to land at an appropriate working 11.29AM
11 position for the firefighters in the mine.

12 You haven't included this letter from the report from
13 Mr Golec in your statement. I think for completeness I
14 should tender the letter from AMCOSH dated 13 February
15 2014. It can perhaps be added to this exhibit if 11.29AM
16 that's suitable to the Board.

17

18 #EXHIBIT 28 - (Addition) Letter from AMCOSH dated
19 13 February 2014.

20 THE WITNESS: May I, in regards to AMCOSH, and you may take 11.30AM
21 us there, there is a second letter dated 20 March and
22 that is part of the journey as AMCOSH's involvement.
23 So, 13 February, and it's headed, "The report on the
24 review of the medical monitoring program at the
25 Hazelwood Mine" dated the 20th, although it's dated the 11.30AM
26 20th and I've got a copy, but it may be in the UFU's
27 presentation - - -

28 It's actually not but I think we do have it, if you just
29 bear with us for the moment?---As you find that, it is
30 important, although dated the 20th, a number of those 11.30AM
31 issues that's listed in this letter were being managed

1 during the late part of February and into March, but
2 the document brings them all together into a two or
3 three paged document on the 20th.

4 We'll refer briefly to the letter of the 20th as you've
5 raised. We've got to do it the old fashioned way 11.30AM
6 because it's not on the system; it was only provided to
7 use this morning, which we're grateful for. Do you
8 have in front of you a letter from AMCOSH dated
9 20 March 2014 entitled, "Report on a review of the
10 medical monitoring program at the Hazelwood Mine 11.31AM
11 incident"?---I do.

12 Is that the letter that you've just been referring
13 to?---Yes, it is.

14 This was obviously a report from Mr Golec provided
15 subsequent to the one that we've just been talking 11.31AM
16 about. Was he asked specifically to review the
17 protocols that were put in place subsequent to his
18 earlier letter, his application?---Yes, he was, and he
19 was also asked to ensure that he engaged with the
20 Deputy Incident Controller Technical, was the position, 11.31AM
21 to ensure that the technical management of the fire,
22 the incident itself, was being enhanced, improved, but
23 was not waiting for the final documentation, that these
24 things were dynamic enough to be rectified as we moved.

25 I assume, Mr Lapsley, you draw our attention to page 2 of 11.32AM
26 that letter towards the bottom where Mr Golec expresses
27 his opinion that, "The medical monitoring program
28 currently in place is robust and professionally
29 conducted"?---Yes, and he does mention there that
30 9 March was the time that he met with a number of 11.32AM
31 people to assess that, on page 1 at the top.

1 Yes, I'll tender that letter, if I could, as part of the
2 same exhibit.

3

4 #EXHIBIT 28 - (Addition) Letter from AMCOSH dated 20 March
5 2014.

11.32AM

6 MEMBER CATFORD: I'll just ask a question of Mr Lapsley. So
7 you took into account the advice you were receiving
8 from Mr Golec and the participants at that meeting, but
9 decided that you would adopt a different protocol of
10 50 ppm for SCBA use; is that correct?---Correct, yes.

11.32AM

11 I'm slightly confused then because I think yesterday we
12 heard from Costa Katsikis who presented in his evidence
13 a protocol for carbon monoxide protection which is in
14 attachment 2 of his submission, I don't know if it
15 would be helpful to find that.

11.33AM

16 MR ROZEN: Exhibit 21. We'll just bring that up.

17 MEMBER CATFORD: There is a set of trigger points at the
18 very end of his statement. The point I'm just trying
19 to understand, what the thresholds were, in fact. If
20 you go to page 12 of 13. Just run down that page. We
21 have some thresholds here which indicate that in fact
22 it's over 30 ppm that SCBA would be used. So that
23 seems to be different to what you've just said, so I'd
24 just like some understanding here. As I understand it,
25 you're using P2 respirators under 30, but over 30 it's
26 SCBA?---What you've got here is a - now, if I'm reading
27 it right - is an extract - or, no, it's actually the
28 plan.

11.33AM

11.34AM

29 MR ROZEN: It is labelled "draft" in fairness to you,
30 Mr Lapsley?---It is labelled "draft" and although it's
31 the same, the same table, the plan that was signed off

11.34AM

1 by myself, CFA Chief, MFB Chief, Victoria SS Chief, the
2 Incident Controller and the CFA Medical Officer does
3 include that table. Subsequent to that, this advice
4 was taken and was modified to show that it was 50 ppm,
5 and 50 ppm was the advice that was given then as the
6 management of it. 11.35AM

7 So, that is correct, that is a plan that was in
8 16 February; 15 and 16 February it was signed off and
9 I've got the signed version of that exact plan that was
10 handed up yesterday, which is the signed version. The 11.35AM
11 reason it wouldn't have been signed in the evidence
12 yesterday, it would have been draft when Costa was the
13 Deputy Incident Controller. He would have finished his
14 shift on the 16th or 17th and this was signed during
15 that period, so it was an issue during that period. 11.35AM

16 Subsequent to that, advice was taken by,
17 obviously AMCOSH, the technical people, and it was put
18 into the practical thing that the 50 ppm was where the
19 trigger would be. So it was subsequently modified and
20 the practicality of what that meant. 11.36AM

21 Not being a science or having a doctor 's degree,
22 there is an another table that shows you can draw the
23 conclusions about ppm over - so levels of ppm over
24 periods of time to what that would equate to in
25 percentage of carbon monoxide in the blood. Now, I 11.36AM
26 haven't got it in front of me, but it starts to show
27 the reason of being in that 50 ppm over an exposed
28 period and what it means to be the likely CO content in
29 blood, and that further enhanced and understands the
30 evidence of why they've gone and advised us to be 11.36AM
31 moving to 50 ppm for the donning of breathing apparatus

1 or operating with breathing apparatus and then also the
2 75 ppm well. So it did evolve, it did evolve.

3 Do you accept, Mr Lapsley, and I think you may have already
4 acknowledged this, that there's potential for confusion
5 amongst those who are supervising firefighters and the 11.37AM
6 firefighters themselves in circumstances where there's
7 apparently conflicting advice and changing plans, which
8 seem a bit on the run from our perspective; do you
9 accept that?---I accept that and it's consistent with
10 what you indicated before about the lack of a solid 11.37AM
11 plan.

12 Just before leaving plans, and this does seem to be an
13 important document attached to your statement, could
14 you look at attachment 3 to your supplementary
15 statement please?---Yes. 11.37AM

16 If we look at the second page of this, this is apparently
17 signed off by - well, it's signed off by yourself and,
18 sorry, have you signed this? Yes, you have?---Yes I
19 have, yes.

20 And other relevant people. This is the formal plan which 11.38AM
21 came into effect on 16 February; is that
22 right?---That's correct.

23 The table that you were just asked by Professor Catford
24 about appears at page 17 of that document?---Correct.

25 That seems to have the same, the third category there, ppm 11.38AM
26 of 30-50 as per site SCBA?---Correct.

27 Was this the final stipulated protocol?---If I may, if I
28 take you to, and without leading you, if I take you to
29 point 21 of my witness statement and the attachment to
30 that, which is I believe behind tab 5 maybe of my 11.39AM
31 witness statement.

1 Tab 4, I think?---Tab 4. I'll read part of an email to you.
2 This is from the scientific officer, MFB Scientific
3 Officer Craig Tonks. Under a series of dots points,
4 the next paragraph, it finishes off by saying,
5 "Therefore the use of 50 ppm for one hour is considered 11.39AM
6 conservative." It then talks in the next
7 paragraph that, "The 75 ppm was a professional judgment
8 resulting from discussion between Deputy Chief Officer
9 Nick Smith and myself, being Craig Tonks." To goes on
10 in the second bottom paragraph in the middle of that, 11.39AM
11 "Furthermore, any two readings of 50 ppm or greater
12 within an hour need to be reported immediately, and any
13 single peak of 75 ppm or greater immediately."

14 This is dated the 14th - no, it's not the 14th,
15 it's 26 March. That was a clarification of what had 11.40AM
16 been done between a number of officers to give the
17 practical clarification of what was then in the plan of
18 the 16th and later on needed to be clarified.

19 That email of 26 March was requested not to be
20 actioned then, but for the Scientific Officer to be 11.40AM
21 able to communicate to us the methods of what they did
22 in moving that plan to a subsequent issue of using
23 50 ppm and 75 ppm.

24 Two more matters that I want to ask you about. The first,
25 if I can direct your attention to paragraph 33 of your 11.41AM
26 second statement, please, dealing with the question of
27 Safety Advisors and Safety Officers. You there refer
28 to the Standard Operating Procedure concerning Safety
29 Officers and that, you will recall, was the subject of
30 evidence at the Royal Commission in relation to Black 11.41AM
31 Saturday and a recommendation?---Came out of

1 that?---Correct.

2 I think I'm not being unfair to summarise the evidence that
3 the Royal Commission heard was that that SOP was not
4 universally implemented on Black Saturday and the
5 evidence seemed to suggest a lack of qualified Safety 11.41AM
6 Officers that were available?---Correct. That's my
7 understanding.

8 You say in your statement, and it's certainly reflected in
9 the Incident Action Plans from 11 February onwards,
10 that there were Safety Officers, often more than one, 11.42AM
11 in the Incident Management Teams for the fire fight,
12 but we have heard evidence from Mr Jeremiah that on
13 the 9th and 10th in the Traralgon ICC, which was a
14 Level 3 ICC, that he didn't have Safety Officers
15 available to him at that time. Is there an ongoing 11.42AM
16 issue about availability of Safety Officers?---Well,
17 yes, there is and that's the same having appropriate
18 qualified people across the agencies to fulfil roles.

19 In saying so, I think it is important to note a
20 couple of other things with this. One is, in my 11.42AM
21 witness statement it's clear and needs to be said that
22 this is signed by DEPI, or actually the signature is
23 actually DSC which is now DEPI, CFA and myself as a
24 joint standing operating procedure, but not MFB.

25 MFB adopt a Safety Officer approach but I adopted 11.43AM
26 different to what is described here and that is
27 something that is being dealt with now in a joint
28 arrangement and has been being dealt with over the last
29 probably 12 months, and it comes with the difference of
30 rank qualification versus competency based 11.43AM
31 qualification, and I won't go - I don't need to go into

1 that at all, but there is a different philosophy within
2 the organisation about how qualification is dealt with,
3 so that's hence why I'm very clear that it's being more
4 bushfire orientated as an SOP, but it was an SOP that
5 was adopted and applied for the Hazelwood Mine, and 11.43AM
6 comment based on Incident Controller Jeremiah for the
7 9th and 10th, that is not a necessarily desirable
8 position for us to be in, but that was the practicality
9 of the period, that there was a not a qualified Safety
10 Officer available for that Incident Controller centre 11.43AM
11 at Traralgon for that 48 hour period.

12 Mr Jeremiah's evidence was that he had this choice, he had
13 an operations officer who was Level 3 qualified and he
14 happened to be qualified as a Safety Officer. You
15 could only have him doing one or the other and not 11.44AM
16 surprisingly chose to have him in charge of operations.
17 That is far from ideal?---Correct. It's also the fact
18 that everyone's responsibility is safety, but we have
19 made an emphasis and that's why the SOP is there, to
20 ensure that Safety Officers are in place to ensure that 11.44AM
21 safety issues are dealt with appropriately.

22 Is there more that you can do in your role, or your soon to
23 be enhanced role, in relation to this issue?---Yes,
24 there is, and that's why I say it needs to be a
25 recognised system of work; that it's not adding the 11.44AM
26 teams together and hoping that we get to where we need
27 to be, we need a more structured approach. I think the
28 good intent of the agencies is there, the goodwill's
29 there, but sometimes the resource numbers aren't
30 necessarily so it's about a capability and capacity 11.45AM
31 model that we haven't got in place and we need to have

1 in place.

2 Before I leave the evidence that Mr Jeremiah gave, there is
3 one other matter that I should raise with you and that
4 is that Mr Jeremiah gave evidence that on 9 February he
5 had a core IMT available to him at the Traralgon ICC, 11.45AM
6 although he didn't have a, I think it was an air
7 operations person, but they were available to him from
8 the Regional Control Centre, but he told us that there
9 wasn't a base IMT in place in Yarram, Noojee and a
10 couple of other locations, and there should have been 11.45AM
11 under the readiness SOP. Are you able to - are you
12 aware of that evidence firstly?---Yes, I am aware and I
13 also understand and was not only aware of the evidence,
14 I was aware of the issue on the 7th, 8th and 9th
15 of February. One point, without trying to take 11.45AM
16 extensive time to explain it: Two parts to this, one
17 is JSOP 203 is a readiness mechanism and it assumes
18 that there's no fires operating in the State so it
19 would stand up Incident Control Centres with
20 appropriate sizes of teams in places to give us 11.46AM
21 coverage of the State.

22 Because there was fires in East Gippsland and
23 Bairnsdale ICC or Bost ICC were operating, and right
24 down they had incident management structures all in
25 place down there, there was a decision made by the 11.46AM
26 Regional Controller or the Regional Control Team, and
27 it come up to State level that we understood that, that
28 there were some inability to have some of those
29 Incident Control Centres stand up and there were
30 workarounds to do that. So it was acknowledged and we 11.46AM
31 asked them to do that so there's a learning out of 09

1 that sometimes it wasn't communicated to State. They
2 have to communicate, the State Controller and the
3 Deputy State Controller talk to them, and we knew that
4 Yarram was not there, that was not a surprise in
5 evidence the other day. That was part of the plan and 11.47AM
6 the work around that Traralgon would cover it.

7 In my statement the other day there was also a
8 discussion whether Hernes Oak Fire should go to
9 Heyfield, so there are some of those that have the
10 discussion about, could it go to a different ICC and we 11.47AM
11 elected to keep it in the Traralgon ICC because of its
12 impact on the valley, and I think that was the right
13 call. To put it to Heyfield would have disconnected
14 the Hernes Oak Fire from the valley. So those are
15 dynamic issues. We have to deal with that, and when 11.47AM
16 you've got the State at a heightened level from one
17 side to the other and fires already running, it's not a
18 pure put in the readiness tab and that's it, it's
19 actually working between what is operating fires,
20 structures have been there for some time and the 11.47AM
21 provision.

22 What wasn't, I think, put in the evidence and I
23 didn't take you there in mine was the dynamics that we
24 do or the management that we put over the top of that
25 and it's something that is very closely managed at 11.47AM
26 State level.

27 Mr Lapsley, the final matter I want to raise with you is in
28 paragraph 56 of your statement where you say the
29 Services are currently investigating a suitable
30 methodology to evaluate the longer term health risks to 11.48AM
31 firefighters from exposure to carbon monoxide. The

1 context here from Mr Golec's report and a number of
2 other sources is that it seems that there's a degree of
3 uncertainty in the science, in the medical science,
4 about the long-term effects of carbon monoxide
5 exposure. Can you tell us what's being done in 11.48AM
6 relation to the evaluation of long-term health risks to
7 firefighters?---There is the intention to have a
8 program - a program that will operate over MFB, CFA and
9 all of the services that attended the incident at
10 Hazelwood, and I don't know need to go there, but most 11.48AM
11 States and Air Services were in attendance so we need a
12 program that can reach across States and services.
13 That medical program is currently in development with
14 the brigade medical officers, both from CFA and MFB,
15 and there will be discussions post next week with the 11.49AM
16 Chief Health Officer to get a learning of what would be
17 the long-term community health study/survey that the
18 Chief Health Officer is championing or leading.

19 We want to make sure that we understand that,
20 although the community has one set of issues, there's 11.49AM
21 an employer responsibility but we need to understand
22 the consistency of the time of the program, would it be
23 12 months, would it be 10 years or 20 years, and that
24 will occur in the next short period of time after the
25 Chief Health Officer has presented in this Inquiry. So 11.49AM
26 that's a process, but there is a commitment that the
27 MFB Chief Officer has the responsibility to lead on our
28 behalf for Victorians and will be discussed across the
29 nation with the services that have provided
30 firefighters in Victoria. 11.50AM

31 Presumably any such study would also take into account the

1 effect on volunteer firefighters as well as
2 career?---Yes, all firefighters, whether they're paid
3 or not paid, and will take on all the issues of whether
4 female, male, age, profiles, all of those. It's a
5 fairly comprehensive program and will look at how it 11.50AM
6 also connects with their GPS, so a person may elect to
7 work it through the brigade medical officer or utilise
8 their own GP, so the complexity of it - the principle's
9 easy, that we're committed, the complexity is what is
10 being worked through now. 11.50AM

11 Thank you, Mr Lapsley. They're the questions I have of
12 Mr Lapsley. Do the Board have any other matters?

13 MEMBER CATFORD: Mr Lapsley, I'm just trying to bring some
14 of your comments together, particularly over future
15 protocols for carbon monoxide. I think in your 11.50AM
16 evidence you've basically drawn to our attention that
17 there are three drivers here, one is pre-existing
18 personal health conditions, for instance pregnancy or
19 heart disease; a second dimension is the level of
20 carbon monoxide in the blood when you attend a fire, 11.51AM
21 and of course those things are independent; and the
22 third thing of course is the actual ambient
23 concentration of carbon monoxide in the air. These, to
24 me, seem synergistic and the protocols are very sort of
25 uni-dimensional. Do you think in the hindsight now 11.51AM
26 that there's a case to actually review from
27 basics basically the protocols for carbon monoxide
28 management?---Yes, and the reason I say that, it's a
29 little bit broader than that in the sense of, I don't
30 think a lot of people actually understand carbon 11.51AM
31 monoxide at all, and the exposure of what it means and

1 by standing next to a set of traffic lights, what does
2 15 ppm mean, for what time, and I think the Chief
3 Officer may describe it differently, but I think we're
4 all in the same boat of how people, how we communicate
5 and how they receive the communications understand what 11.52AM
6 sometimes can be complex. I try to make it simple, and
7 in my presentation it is about blood and we're
8 assessing that through finger analysis, to then what is
9 the atmosphere and then what's the work of system to
10 ensure that you minimise not only exposure to CO, 11.52AM
11 understand it there and understand how you work within
12 those environments.

13 So I think you're right and it's, as we've then
14 heard, there's opportunities to do it in an educational
15 sense, there's opportunities to do it in a just-in-time 11.52AM
16 educational sense which I think might be the important
17 thing to get across that, we might not understand it,
18 but when we need to understand it, we've got the access
19 to the simplest piece that describes it in the simplest
20 but gives a comprehensive understanding of what we're 11.52AM
21 about. So, yes, you're right.

22 And everyone as working off the same set of criteria and
23 understanding?---That's right. I think there was some
24 confusion about what we were saying for firefighters
25 and what we were saying within the community, and I 11.53AM
26 think that still exists in some instances today, and
27 even yesterday I had a community member talk to me
28 about evidence that was put in here yesterday and what
29 does it mean 9 ppm for 8 hours over 12 months. We've
30 got formulas that just confuse people, we need to be 11.53AM
31 able to simplify it but build it into the business of

1 what we do. Don't need to be scared of it, we need to
2 be aware of it and be able to manage it.

3 MEMBER PETERING: Mr Lapsley, just to also expand on that,
4 where you look at other international models, and I
5 understand and I have to express this is not an area of 11.53AM
6 expertise, but the American or Californian model there
7 is a sort of, this means don't go outside or this means
8 close the schools or this means - so I'd encourage you,
9 I guess, to have a clear interpretive position for the
10 community?---Yes, that's correct. 11.53AM

11 <CROSS-EXAMINED BY MR RIORDAN:

12 Mr Lapsley, you may recall at the start of your evidence
13 today you were asked a question by the Chairman about
14 this issue of whether or not the initiating causes of
15 the fires in the mine may have arisen from the mine 11.54AM
16 rather than from the bushfires. Could I just ask you
17 before again seeking your opinion on that question to
18 factor in some other assumptions. You may recall when
19 you gave evidence last you looked at some Phoenix
20 modelling which were in a sense subsequent models based 11.54AM
21 on the actual weather conditions?---Yes, but that was
22 presented after my evidence. So I presented in the
23 morning, that was presented in the afternoon, however I
24 was aware - - -

25 You were aware?--- - - - of the Phoenix modelling and the 11.54AM
26 conversion and convection columns of what was
27 presented.

28 Yes, I think your evidence about the Phoenix modelling was
29 that you would have expected there to be embers coming
30 from both the Hernes Oak Fire and the Driffield 11.55AM
31 Fire?---Correct.

1 Can I add to that that the evidence is, is that there was in
2 fact ember attacks from both of those fires coming into
3 the mine from witnesses on the ground confirming what
4 you expected on the basis of the modelling? So, if you
5 could take that as an assumption as well?---Yes. 11.55AM

6 Could you also assume that during the ember attacks there
7 are in fact four fires at least that break out in the
8 mine, this is the period of the ember attacks from
9 1.30 p.m. for some hours after that. During those
10 ember attacks four fires break out and they break out 11.56AM
11 in the northern batters, the southern batters, the
12 eastern batters - sorry, the southern batters, the
13 floor of the mine and in fact in the western area, the
14 operating area of the mine some kilometres apart. If I
15 can ask you to factor that in as well?---I can, I - - - 11.56AM

16 I haven't finished with the assumptions unless you want to
17 pick up on that one?---I just need one qualification in
18 your assumptions: I was not aware, until I heard
19 evidence from someone from Suez the other day that
20 there was a fire in the working part of the mine; that 11.56AM
21 was new information to me whilst I was in this hearing.

22 For these purposes you can assume that was in fact dealt
23 with by the mine staff and put out?---Yes.

24 But nonetheless for the purposes of dealing with this
25 question of whether the fire started in the mine or 11.57AM
26 were initiated otherwise, you were otherwise familiar
27 with that information as to the number of fires that
28 started?---Yes, I am. In the generic sense, yes, I am.

29 Could I ask you to accept that the evidence to this stage is
30 that, except for the operating area, there's no 11.57AM
31 suggestion on the evidence that there was any vehicle

1 or other equipment in the area, and certainly not
2 operating in the area, at the times when any of these
3 fires started. I'll ask you to assume that as
4 well?---Yes.

5 Can I also ask you to assume that there is no evidence of 11.57AM
6 any fires starting in any way, other than from ember
7 attacks; in other words, there's no evidence of
8 somebody saying they are in a vehicle or near a vehicle
9 at the time or seeing a vehicle, or that there was a
10 hot spot or any other matter, there's no evidence of 11.58AM
11 that. Can I ask you to assume that as well?---Yes.

12 Is it fair to say that, under those circumstances, the
13 conclusion you would draw would be that the embers
14 started these fires?---That is correct, and that's
15 consistent with my evidence of Monday, that I believe 11.58AM
16 the most probable cause of fire in and around the mine
17 is from either direct fire moving through the landscape
18 or embers.

19 I was going to take you to that. In fact, in your answer to
20 question 3, which was, "Describe how each fire spread 11.58AM
21 and took hold in the mine on 9 February 2014", you
22 don't raise the possibility that it might have been
23 started in the mine; you presumed for those purposes
24 that it had been as a result of the Hernes Oak Fire and
25 the Driffield Fire?---I believe that's the most 11.59AM
26 probable scenario.

27 The additional information to the extent I've given you in
28 the assumptions only tends to further confirm that,
29 does it not?---Yes.

30 The only other matter I wanted to ask you about was, in 11.59AM
31 terms of the information flow, in particular to the

1 ICC, possibly if the witness could be shown the REMT
2 meeting that took place at 2.30 on Sunday the 9th.
3 It's document FSC.0009.003.0001 and it's referred to I
4 think in paragraph 58 of the first statement. Whilst
5 that's coming up, can I just read to you what you said 12.00PM
6 in paragraph 62 of your statement, your first
7 statement, Mr Lapsley, and that is that, "As noted
8 above, there were various reports of fires spotting
9 across in the afternoon and evening. These reports
10 came from GDF Suez fire crews at the mine and from 12.00PM
11 persons situated in Energy Brix. I understand a number
12 of reports were made to the 000 emergency number on
13 9 February 2014 from members of the public reporting
14 fires and smoke in the area, including in and around
15 the mine." 12.01PM

16 That statement remains correct, does it not?---I
17 believe so, yes.

18 Could I ask you to just have a look at this, you probably
19 are familiar with it, it was the attachment to your
20 statement. If I could ask you in particular to go to 12.01PM
21 the second page of it and the section on the Traralgon
22 ICC. Do you see the section there on the Hernes
23 Oak-McDonalds Track Fire?---Yes.

24 You will notice the third bullet point there is, "Possible
25 fire in the coal mine and the Traralgon ICC is working 12.01PM
26 on this." Correct?---Yes.

27 I take it that you're not personally aware of what the line
28 of communication was to the ICC which gave them that
29 information?---No, I'm not. However, I would have
30 expected that it would be local information either from 12.02PM
31 people in the mine, people fighting the fires around

1 the mine, either by radio or mobile phone.

2 There's been evidence that in fact the ICC was contacted and
3 told of fire in the mine, but we don't know from how
4 many sources. That would be consistent with the fact
5 that the ICC would have so reported that at 2.30, I 12.02PM
6 presume?---And the other I think probable way of it is
7 phone calls to the Morwell Fire Station and then CFA
8 command structure bring it into the Incident Control
9 Centre.

10 It was the ICC that was in the best position and the 12.02PM
11 appropriate position to be making determinations on
12 this very difficult day which you gave evidence about
13 last time, about the application of resources?---Yes.
14 That's their job, yes.

15 You made reference to the State Emergency Management Team at 12.03PM
16 6 p.m. noting fire in the mine. Do you recall
17 that?---Yes, and I chaired that meeting.

18 The fact that that was reported in the 6 p.m. meeting, can I
19 suggest, was not due to any failure of the ICC to
20 report it on an earlier time, but that you had a 12.03PM
21 meeting in the morning before the fire and that was the
22 first meeting that you'd had after the fire?---Yes, and
23 I did make comment before that it wasn't the first time
24 at 1800 we were aware of that; obviously we were aware
25 of the fires from the point of ignition and the 12.03PM
26 progression of them, yes.

27 You would have been aware of the fact that the fire was in
28 the mine presumably at an earlier time like the ICC
29 was?---We certainly were aware before that at 1800
30 hours that there was fires in and around the mine. 12.03PM
31 It occurs then because that's the first meeting after you've

1 become aware of the fire, is that correct?---Yes, and
2 the reasons in the witness statement is that it's a
3 point in time, with evidence, showing that these were
4 documented times for Regional Emergency Management Team
5 meeting and the State Emergency Management Team 12.04PM
6 meeting.

7 Presumably the ICC log would be able to reveal how it was
8 that they became informed and how many sources that
9 they became informed of the fire?---You would expect
10 that is one place; depends on where the phone call went 12.04PM
11 to and who it went to, to which log, because it
12 mightn't be a consistent log.

13 And how many?---Yes, or how many calls and who it was and
14 whether it was radio or phone. That is one place that
15 it could be recorded. 12.04PM

16 We did ask for such documents when Mr Jeremiah was giving
17 evidence. Are you able to assist in that regard in
18 determining where such records might be?---That could
19 be something we look at but we would be accessing back
20 to those logs so we would be accessing Incident Control 12.05PM
21 logs and when I say Incident Control, that is planning
22 ops, logistics, whoever might be in the system of
23 receiving telephone or radio calls.

24 If you could make some enquiries about whether we could
25 determine how that information came into the ICC it 12.05PM
26 would be appreciated. Can I put this to you as a
27 proposition: You will recall last time you gave
28 evidence about the difficulties that arose in providing
29 resources to the mine earlier in the afternoon,
30 principally because the CFA concentrated on the basis 12.05PM
31 of primacy of life on the Morwell township and other

1 issues associated where life was threatened.

2 Correct?---Correct, but may I offer something more to
3 that because I think it is important?

4 Certainly?---When we say primacy of life, we've got in place
5 six State control priorities and they're published by 12.06PM
6 me. Primacy of life is the first, it then lists down
7 about issuing information to communities, protection of
8 critical infrastructure, protecting residential
9 property, economics and the environment or conservation
10 values. Now, they aren't where you exhaust primacy of 12.06PM
11 life and then move to the next one and then exhaust
12 community information and then move to the next. I
13 think I was concerned when I heard that discussion that
14 it was only primacy of life. Primacy of life would sit
15 at the top, but if you're a helicopter pilot you're 12.06PM
16 putting water over assets that ultimately would be
17 protecting life. So, by putting water over the
18 electrical assets or a substation or a back fence, the
19 pilot mightn't see that he's actually contributing
20 first and foremost to primacy of life but the overall 12.06PM
21 construction would be.

22 I think it's also important to put in, and I think
23 it's very important for this to be understood, that the
24 team approach of where you would expect the private
25 assets of the mine to be in the mine, in and around the 12.07PM
26 mine and not off the mine property chasing fires
27 30 kilometres away, and the assets of DEPI, CFA and MFB
28 that were in the valley on the day were there doing
29 that broader issue in the landscape around where the
30 fires were running. 12.07PM

31 I don't know whether the Incident Controller was

1 able to articulate that well, but my discussion with
2 the Incident Controllers is that those control
3 priorities are considered in the plan, and certainly
4 primacy of life has to be at the front, has to be, but
5 it doesn't do it in isolation to the others that are 12.07PM
6 important and I think that's an important thing.

7 And also, the joined up partnership in the valley
8 where all of the mines have assets; APM has assets,
9 firefighting assets that are dedicated to firefighting,
10 they're fire trucks and they have people trained on 12.08PM
11 them, would see a joined up approach, and I think that
12 needs to be understood and acknowledged that, gee, if
13 Suez resources are doing something; they're not
14 30 kilometres away at a plantation fire for Hancocks
15 and Hancocks haven't got their private assets sitting 12.08PM
16 in Suez property as well. And the CFA or Fire Service
17 resources, because remember MFB was here, DEPI was here
18 and CFA so it wasn't just CFA, it was a joined up
19 connected process to achieve that. Without dwelling on
20 it, I think it is important that we don't get lost that 12.08PM
21 primacy of life is the only priority. It is certainly
22 a very, very important priority but we need to build it
23 into what the priorities actually are.

24 Thank you for that. It was by the application of those
25 principles, if I can put them that way, which led to 12.08PM
26 the fact that the assistance that was provided to the
27 mine was provided later in the day than would have been
28 if the other priorities hadn't been in place?---Yes,
29 but again, in the principle of what it is, I am still
30 not clear in my mind, because I haven't gone to logs 12.09PM
31 and it's not my role to be the tactical person in the

1 Latrobe Valley, that's other peoples' responsibilities,
2 but I did hear in this hearing that there were many
3 fire trucks, many, many fire trucks mobile in and
4 through the Latrobe Valley on the day and they were
5 being re-prioritised to where they need to be. Some of 12.09PM
6 those assets were actually protecting critical assets
7 along the way, so I think that's important. What I'm
8 not clear in my mind because I haven't gone there and
9 it's not my tactical thing is, when did the first fire
10 truck of CFA drive through the gates of the mine? I'm 12.09PM
11 not clear on that, but I think the overall plan would
12 rely on those assets that GDF own and operate would be
13 the primary ones in the mine, and to what I can
14 understand was successful in putting a number of fires
15 out. 12.10PM

16 Thank you. And accepting that proposition, but you wouldn't
17 suggest for a moment, would you, that it was by reason
18 of any lack of information with the ICC that the CFA
19 didn't give earlier assistance, for example, or greater
20 assistance?--No, I have no evidence of that and I'd 12.10PM
21 actually reject that as being a proposition anyway. I
22 think the joined up process that operates down here is
23 a joined up process that wouldn't isolate one property
24 from another.

25 Thank you very much. 12.10PM

26 <CROSS-EXAMINED BY MR WILSON:

27 Mr Lapsley, it's been said that you were either responsible
28 for or somehow involved in the largest health
29 assessment connected with a fire fight in the world.
30 Is that true?---It is. My understanding from our 12.10PM
31 health and safety people, from both MFB, CFA, that they

1 have not been able to see the replication or previous
2 extent of the type of health assessment process that
3 was put in place to manage, and evolved, but to manage
4 this event.

5 How many people were assessed?---There's 7,000 individual 12.11PM
6 records or thereabouts, and you can extend that where
7 numbers of firefighters returned two or three times and
8 was into well above 15,000 people, individuals, people
9 that operated in those rostered systems. So 7,000
10 individuals is the record that was assessed through the 12.11PM
11 Health Assessment Centre.

12 You've also told us that there were 23 WorkCover claims that
13 have emerged. If you do the arithmetic, the figuring
14 produced is less than 0.003 per cent. If you take
15 those numbers, what does that say to you?---I'd say a 12.11PM
16 very successful operation.

17 Thank you, Mr Lapsley.

18 MR ROZEN: No re-examination. Could Mr Lapsley be
19 temporarily excused until the next occasion we'd like
20 to hear from him. 12.12PM

21 CHAIRMAN: Thank you again, Commissioner Lapsley.

22 <(THE WITNESS WITHDREW)

23 MR ROZEN: Ms Richards will call the next witness.

24 MS RICHARDS: Before I do call Mr Harkins, who's the next
25 witness, there's a representative of the United 12.12PM
26 Firefighters Union who arrived after Mr Lapsley had
27 commenced giving his evidence, and I've just been told
28 in the last 15 minutes that he wishes to make an
29 application for leave to appear so I'll leave that for
30 him to do. 12.12PM

31 MR DAVIS: To the Board, I apologise for arriving late.

1 Martin Davis, Industrial Officer for the United Fire
2 Firefighters Union seeking leave to appear on firefighters'
3 safety.

4 CHAIRMAN: Could you just briefly outline what you say is
5 the basis of what you plan to do? 12.12PM

6 MR DAVIS: My instructions were, with the United
7 Firefighters Union submission, if that could be read
8 into the transcript, that was one of my instructions.

9 CHAIRMAN: We don't read into the transcript, but I will
10 check with Counsel Assisting as to whether there's some 12.13PM
11 other process that may be appropriate. What do you say
12 as to that?

13 MR ROZEN: We'd be quite content to tender it and then it is
14 probably not strictly necessary, but it would be more
15 formally before the Inquiry. 12.13PM

16 CHAIRMAN: We can treat that as exhibit 28, so it's now an
17 exhibit.

18

19 #EXHIBIT 28 - Firefighters Union submission.
20 12.13PM

21 MR DAVIS: Okay, thank you. Thank you very much.

22 CHAIRMAN: Is there any other role that you'd want to play?

23 MR DAVIS: At this stage we'll be taking into consideration
24 the evidence that's coming before the Board and we may
25 make further submissions to you, that was my other 12.13PM
26 further instructions.

27 CHAIRMAN: Thank you. I'll formally say you've been given
28 leave to appear in that limited context.

29 MR DAVIS: Thank you.

30 MS RICHARDS: One other matter before I call Mr Harkins 12.14PM
31 who's been waiting very patiently. I'm advised by

1 Dr Wilson that the State has no objection to us
2 tendering the police statement made by Mr Roach. That
3 was produced this morning. I ask that that be
4 incorporated into exhibit 25.

5 12.14PM

6 #EXHIBIT 25 - (Addition) Police statement made by Mr Roach.

7

8 MS RICHARDS: We will have copies provided to people in due
9 course. With that, I recall Mr Harkins.

10 <STEVEN WILLIAM HARKINS, recalled: 12.14PM

11 MS RICHARDS: Good morning, Mr Harkins?---Good morning.

12 Welcome back?---It's nice to be here.

13 I'm glad you feel that way. We can dispense with the

14 preliminaries because we did all those things on

15 Tuesday. You've provided a second statement to the 12.15PM

16 Inquiry. You have a copy of that there, I take it?---I
17 do.

18 It is a statement of 78 paragraphs and with nine

19 attachments?---That's correct.

20 It deals with a number of different matters, doesn't 12.15PM

21 it?---It does.

22 It's something of a miscellany. It has a range of very

23 helpful background information about the mine's

24 ownership and the licence and various previous fires.

25 You then deal with Occupational Health and Safety which 12.16PM

26 is the matter that we're dealing with today, and there

27 is then a section that deals with communications and

28 community engagement?---That's correct.

29 What I would like to do is to ask you to adopt the statement

30 in its entirety today but I'll only deal with the 12.16PM

31 health and safety issues and most specifically the

1 safety of your personnel who were involved in fighting
2 the fire from 9 February.

3 Are there any corrections you would like to make
4 to the statement at this stage?---No.

5 Is it true and correct?---Yes, it is.

12.16PM

6 I tender that, if I could.

7

8 #EXHIBIT 29 - Second statement of Steven Harkins.

9

10 MS RICHARDS: You deal with Occupational Health and Safety
11 starting at page 7, paragraph 32 of your statement.

12.16PM

12 You note at paragraph 38 that, in addition to the over
13 200 employees and contractors who contract to GDF Suez,
14 there were over 7,000 visiting firefighters during the
15 course of the fire fight?---Yes, I was advised of the
16 7,000 I think via the CFA news releases.

12.17PM

17 And that was the figure that Mr Lapsley just gave?---Yes.

18 That was a very significant thing for your employer, isn't
19 it, to have so many new people on the site?---It
20 introduces many, many more challenges to manage, yes.

12.17PM

21 And not least, Hazelwood, I'll refer to the company as
22 Hazelwood, owes duties of course to its own employees
23 and contractors, but it also owes duties under the
24 Occupational Health and Safety Act to anybody who's on
25 site?---It does.

12.18PM

26 I understand that, practically speaking, throughout the
27 course of the fire fight the Fire Services managed the
28 health and safety of their firefighters?---Not just
29 limited to their firefighters, because our employees,
30 our mine employees were subject to the same testing
31 conditions and so forth. We did have other health and

12.18PM

1 safety procedures in place, but in terms of
2 specifically the CO monitoring and those processes,
3 they were definitely governed, would be probably the
4 correct word, or applied by the CFA to all people in
5 and around the mine facility. 12.18PM

6 I'd like to take you back in time a little bit just to get a
7 picture of what policies and procedures Hazelwood had
8 in place to deal with carbon monoxide exposure during a
9 fire fight as at 9 February before the fire broke out.
10 In Mr Lapsley's evidence this morning, he was taken to 12.19PM
11 the CFA's review of the 2006 fire. Hazelwood conducted
12 its own review of the 2006 fire, did it not?---That's
13 correct, I believe it was conducted by GHD.

14 GHD?---That's correct.

15 I can take you to the document if you want, but there was a 12.19PM
16 recommendation in it, Recommendation 17, that a
17 procedure for dealing with carbon monoxide during
18 firefighting be developed, including the use of
19 monitors?---Correct.

20 You recall that recommendation?---I do recall that. 12.19PM
21 Am I safe in assuming that Hazelwood accepted that
22 recommendation?---We did.

23 And implemented that recommendation?---Well, we implemented
24 processes to address that recommendation, yes.

25 Now I'd like to go to what was in your internal policies and 12.19PM
26 procedures as at 9 February that implemented that
27 recommendation. The first place I assume we should go
28 is to the mine fire instructions?---That would be
29 correct.

30 Could we bring those up on the screen please. You and I 12.20PM
31 looked at these on Tuesday. The procedure or the part

1 of it that deals with carbon monoxide is page 18, so
2 the very last page of the document. It's headed,
3 "Procedures on plant during fire." But I take it that
4 these are the procedures that apply to deal with carbon
5 monoxide exposure no matter where a fire is being 12.20PM
6 fought - - -?---That would be a safe assumption, yes.
7 - - - in the enterprise. If we could scroll through the
8 document. There's a table that identifies parts
9 per million, carbon monoxide. So this is the content
10 in the air rather than what's absorbed into the 12.21PM
11 body?---Yes.

12 And there is a threshold of 30 ppm which is the maximum
13 exposure recommended over an 8 hour period, and then at
14 200 there's a note that, after two to three hours
15 people can expect to suffer mild headache, fatigue, 12.21PM
16 nausea and dizziness.

17 Just reading through that document, and do take
18 you're time to do it, I don't see anything in there
19 about procedures for monitoring carbon monoxide levels
20 in the air?---Procedures that are actually monitoring? 12.21PM
21 Yes?---The airborne?

22 Yes?---We rely on - the confusion is, our procedures are
23 that the personal monitors that our people carry, and
24 we call them canaries, if I can refer to them as that,
25 that's probably what we use. 12.22PM

26 Because of the canary in the coal mine?---Canary and it's a
27 yellow piece of equipment. So, upon dispatch to a fire
28 of any significance and so forth our people grab -
29 effectively they're trained to grab the airborne
30 personal monitors and that's how we actually execute 12.22PM
31 that monitoring.

1 But that doesn't appear in this - - -?---No, it does not.
2 - - - these mine fire instructions, does it?---No.
3 Nor is there any procedure in here for monitoring carbon
4 monoxide levels in blood?---No, that's correct.
5 And there's no reference in here to the levels at which 12.22PM
6 either a respirator or a breathing apparatus are to be
7 used?---No, that's correct.
8 It's actually quite difficult to understand from this
9 page the amount of time that an employee should be in
10 an area with a particular level of carbon 12.23PM
11 monoxide?---That's correct.
12 Is there anywhere else in your policies and procedures that
13 deals with carbon monoxide management, if I can call it
14 that?---In the policies and procedures this would be,
15 to my knowledge, the only area that we could cover it 12.23PM
16 off, but in the annual training, fire training
17 presentations, they do go to a little bit more detail
18 but I can't recall that it - we certainly didn't have
19 any blood monitoring in there, but there may be some
20 more description around the durations and so forth. I 12.23PM
21 haven't seen that for some time.
22 We should look for those in the training slides that
23 Mr Dugan provided to us?---That would be correct.
24 That would be the only documentation of the annual fire
25 training?---To my knowledge this page on the fire 12.24PM
26 instructions and the annual training is the only area
27 in which the issue is dealt with.
28 Since the 2006 fire there have been two more significant
29 fires, excluding this year's, in 2008 and 2012. There
30 were reviews done and there were, as part of the report 12.24PM
31 of the review there was a check on the implementation

1 of the 2006 recommendations. Do you agree with that.
2 I recall I believe the report on the two thousand - I
3 don't have it with me, the 2008 report did validate the
4 recommendations - were complete from the 2006, but I'm
5 going on memory. 12.24PM

6 Could we have a look at the 2008 report which is an
7 attachment to Mr Dugan's statement. It's attachment
8 No.6 to Mr Dugan's statement. After page 18 there's an
9 appendix A, Review of Recommendations of the October
10 2006 Fire"?---Yes. 12.26PM

11 When we get to page No.17, which is five pages into that
12 appendix, there's a note in the far right-hand column
13 which I take it is the assessment of the implementation
14 of the recommendations, "Recommendation has been
15 completed as part of mine fire instructions." And 12.26PM
16 that's what we were just looking at, is that right?---I
17 believe so.

18 Then there is an observation, "This is still an ongoing
19 issue although a number of actions have been completed.
20 Recommendation 12 covers CO monitoring." I don't think 12.26PM
21 you're looking in the same place that I am, it's
22 Recommendation 17?---Yes, I've read Recommendation 17.
23 I was reading forward to the reference to
24 Recommendation 12, although I think that was actually
25 Recommendation 12 of 2006, was it? 12.27PM

26 It was Recommendation 17 of the 2006 report?---Okay.
27 As I read it, the assessment is that there has been some
28 implementation but more could be done?---Yes, and that
29 would be fair.

30 To be fair, the page in the mine fire instructions is 12.27PM
31 extremely general, is it not?---Absolutely.

1 It doesn't provide any assistance as to what precautions
2 should be taken or how or what the procedure is?---That
3 would be correct.

4 So there's definitely room for improvement there, is there
5 not?---There is room for improvement. We've learnt a 12.27PM
6 lot during this February fire. The personalised
7 monitoring blood testing was new to us. What the
8 inclusion into the mine fire instruction actually - the
9 genesis of that I understood was a presentation, a
10 local CFA presentation following the 2006 fires, 12.28PM
11 whether it's a direct translation or not I'm not aware,
12 but I think, given the events of February and March,
13 there's plenty of room for improvement and alignment
14 with anything that the CFA prescribes, I suppose, for
15 the management of firefighters. 12.28PM

16 To cut a long story short, as a result of the experience
17 in February and March this year you now have a best
18 practice procedure that you can borrow from?---We will
19 certainly include that in our review.

20 Moving back to what you did once the fire was burning. You 12.28PM
21 tell us in paragraph 37 of your statement that there
22 were a number of safety blimp issues in relation to
23 health and safety matters connected with the fire
24 fight. Just to be clear, what is a safety
25 blimp?---Internally, if there is a safety issue or an 12.29PM
26 alert or any information that we want to draw all
27 employees' attention to, the Health and Safety Manager
28 will issue a safety blimp.

29 So it's not an actual blimp, I believe, that actually floats
30 above the mine?---Not at all, but the reason we do this 12.29PM
31 is because there are a number, as you would imagine

1 with an organisation with 500 direct employees and 300
2 contractors, we have a number of internal
3 notifications, newsletters, news briefs, the safety
4 blimp is designated as a safety blimp so if you don't
5 want to read all the other internal information, you 12.29PM
6 certainly need to have a read of the safety blimp.
7 How are these distributed to staff?---They're distributed
8 via emails with instructions to supervisors that they
9 are to print them and to cover them off at tool box
10 talks, and if it's a 2x12 or a 1x7 shift team at the 12.30PM
11 muster point in the morning, they'll cover the relevant
12 safety blimps.
13 So the first of these highlights carbon monoxide as an
14 issue, it's dated Wednesday, 12 February?---Correct.
15 This is annexure 1 to Mr Harkins' second statement. It 12.30PM
16 tells people that they need to be careful about carbon
17 monoxide?---Yes.
18 It advises them that there is mandatory testing on arrival
19 and departure?---Correct.
20 It doesn't give any advice about precautions to be taken, 12.30PM
21 does it?---Not in this blimp, no.
22 So the purpose of this is really to tell people that they
23 would have to submit to mandatory testing on arrival
24 and departure?---That's correct.
25 But there's no advice in here about how to minimise their 12.31PM
26 exposure once they're in the mine involved in fighting
27 the fire?---You are correct.
28 The next time we see reference to a carbon monoxide testing
29 process in a safety blimp is on 12 March. Is that
30 correct?---No, there's one on Tuesday the 18th. 12.31PM
31 Which as I read that it dealt with smoke?---Yes, you're

1 correct. Thank you.

2 Again, people are urged to take care and take precautions,
3 manage their exposure to the smokey
4 environment?---Correct.

5 But there's no particular advice as to what those 12.31PM
6 precautions should be?---You are correct.

7 Then we have the safety blimps from 12 and 13 March which
8 clarify non-negotiable rules about carbon monoxide
9 testing, so that's the testing of COHb levels in blood
10 on arrival and leaving?---Correct. 12.32PM

11 This is the first reference in the safety blimp that I could
12 find to a requirement for crew leaders to carry carbon
13 monoxide detectors?---In the safety blimps?

14 Yes?---That would be correct. That was certainly not the
15 case throughout the fire through all of the briefings. 12.32PM
16 I think Mr Dugan would have mentioned that there was a
17 6, 12, 6, briefings that all crew leaders were fully
18 aware and reminded at the briefing that the
19 personalised canaries were to be carried by the teams.

20 By that stage of course we had a fairly comprehensive 12.33PM
21 recording system of 15 minute readings per canary right
22 across the mine. So, whilst this may be in a general
23 sense to the entire business a reminder about needing
24 to monitor, certainly the people that were directly
25 involved in the firefighting activity were being 12.33PM
26 briefed three times a day.

27 Mr Dugan provided us with a more detailed and much earlier
28 document, that is annexure 18 to his statement, the
29 very last one. It's a memorandum from him headed,
30 "Health Monitoring, CO Testing Process", dated 12.34PM
31 21 February, if we could just get that up. There's a

1 statement about the non-negotiable rules of testing on
2 arrival and departure and also the use of carbon
3 monoxide detectors while working, and as you've
4 mentioned, the 15 minute reporting, and then there is -
5 and I think this is the first time in an internal 12.34PM
6 document that I've seen this - a statement of the
7 concentrations at which people may work and when they
8 need to limit the time that they spend in the mine and
9 then when they should leave an area at over 50 ppm.
10 Would you agree with me that this is the first time 12.35PM
11 there is guidance with carbon monoxide concentrations
12 appears in your internal documentation?---I don't
13 believe this would be the first time, and of course
14 there was a number of iterations for CO management. So
15 what we're talking about is on the second day when the 12.35PM
16 CFA Health Management Team were in full control
17 implementing the process of the personalised testing,
18 then we had an iteration - sorry, call the next day
19 with a memo from Rob Dugan which would have been the
20 first emergency command directive at that point in 12.36PM
21 time. I don't know whether that actually included
22 levels, it certainly would have talked about the
23 process. But I recall by 21 February that would have
24 been the version of the Health Management Plan, the
25 CFA/MFB Health Management Plan I think referred to as 12.36PM
26 point 4 that Mr Lapsley may have produced this morning?
27 At the moment I'm interested in Hazelwood's internal
28 documentation?---I'm just trying to put it into context
29 of where these came. I recall another memo of this
30 type. When we say memo, this was actually issued in 12.36PM
31 the Emergency Command Centre and then handed out to all

1 people - all our people involved in the firefighting
2 activity. I believe that there was one on the 14th,
3 maybe the 16th, but I may have those dates wrong.
4 You've not attached it to your second statement and I've not
5 been able to find it in what's been provided to us, so 12.37PM
6 could you look for it?--I will take that in action.
7 We would be grateful for an earlier version. As well as
8 urging people to take care, it tells them how they
9 should take care and what they should do?---Yes. I'm
10 happy to do that. 12.37PM
11 MEMBER CATFORD: I wonder if I could ask a question of
12 Mr Harkins. So, your personnel were wearing these
13 canaries around the mine which was recording carbon
14 monoxide and that's commendable. But how was that data
15 assimilated and what actions did you take as a 12.37PM
16 consequence of all that monitoring going on?---I can't
17 remember the actual day, I think it might have been
18 about day 3, was when we became aware that the CFA had
19 a process that the individual monitors were being
20 radioed back for collection I think every hour, so we 12.37PM
21 adopted the same procedure; it was, I think, day 3.
22 From that point every hour every Team Leader would
23 radio back the four readings. We collated that
24 information and then we produced what I would call CO
25 area mapping across the mine based on the collection of 12.38PM
26 all of the information from all of our people that were
27 carrying the items. We fed that into emergency
28 control, that was our emergency control, so that they
29 could see from each shift what was happening across the
30 mine. 12.38PM
31 It's important to note at that point, too, that it

1 wasn't just the firefighter team that were carrying
2 these canaries, we had all our normal operations to
3 continue so all our operations teams were given these
4 canaries and so they would radio back the reading each
5 hour. So we had a full picture across each shift of 12.38PM
6 the average levels in each of these sectors and we were
7 able to produce maps of those for emergency command.

8 Then the consequence of that will be then you will be
9 actually recalling workers because they would be
10 exceeding thresholds which you'd previously agreed. Is 12.39PM
11 that right?---That's right. So generally most of the
12 readings, unless you were in the hot spot areas - in
13 the first two days of course, most of the readings were
14 not approaching the 30 ppm. In fact, on the operating
15 faces it was, as you would expect, much, much lower 12.39PM
16 because of the distance away. But certainly, if there
17 was a reading of 50 ppm, that was recorded by obviously
18 the holder and then they would remove themselves from
19 that area but that information went back in so that we
20 could plot where the CO was moving across the mine and 12.39PM
21 that information went back to the emergency command.

22 So there was an active management process feeding off these
23 results?---Yes, but credit where credit's due, there is
24 no doubt that we adopted that because the CFA had that
25 in place and that looked like a jolly good idea to 12.40PM
26 implement, so we picked that up the same day that we
27 were aware of it.

28 MS RICHARDS: The Health Management and Contamination Plan
29 that Mr Rozen was just looking at with Mr Lapsley
30 provided for use of P2 respirators at between 30 and 12.40PM
31 50 ppm and for self-contained breathing apparatus at

1 over 50 ppm. Those precautions are not included in
2 this policy. Were your employees and contractors given
3 P2 respirators to use when the levels were between
4 30-50 parts per minute?---I can't answer that, I would
5 need to take advice on the specifics about what they 12.40PM
6 were issued with.

7 Am I safe in assuming that the use of self-contained
8 breathing apparatus is something that only a trained
9 firefighter would do?---Well, we have 19 people, to the
10 best of my knowledge, 19 people in the mine trained for 12.41PM
11 the self-contained breathing apparatus, that would be
12 across the full five shifts and so forth. I don't know
13 how many would be available at any one point in time
14 during the firefighting effort, but certainly if there
15 was a declaration that the self-contained breathing 12.41PM
16 apparatus was a mandatory requirement to go into that
17 part of the mine we would be able to dispatch people in
18 there.

19 Your own internal policy was (indistinct) to leave; it's not
20 that they can go in if they are wearing a 12.41PM
21 self-contained breathing apparatus?---No. I recall one
22 instance during the activities in the northern batters
23 where some of our people were trained in the use of the
24 breathing apparatus to complete a pipe reconnection.
25 The area was greater than 50 ppm and I believe that 12.41PM
26 that was done maybe the second week, late in the second
27 week. So they were trained, we used it only for those
28 occasions, but where it was 50 ppm it was, remove
29 yourself.

30 According to this document, and if there's an earlier 12.42PM
31 version of it you'll find it and provide it to us, you

1 adopted the start of shift and end of shift testing.
2 The way I understand that it worked is that, if
3 somebody presented for work and had a reading of
4 5 per cent or over, that they were asked to wait for
5 15 minutes and then they were retested?---At this 12.42PM
6 point - up until this point I believe we were still
7 administering O2 therapy for 15 minutes, but I think
8 this designates that that practice stopped under advice
9 from the CFA, the Health Management Officer on site.
10 Because of course, once they got out to work in the mine 12.42PM
11 they wouldn't be breathing pure oxygen, would
12 they?---That would be correct. So, if they presented
13 at 5 or higher, depending on what the level was; if it
14 presented at 11 or something like that it might be a
15 little bit different, they could be dispatched to 12.43PM
16 hospital straight away, but if they presented at 5 or
17 higher, up until this point I believe they had
18 15 minutes of oxygen therapy, then a retest. I believe
19 from this point, not in consultation, under direction
20 from the CFA, we stopped the O2 therapy. They still 12.43PM
21 had their rest period, but then they were retested, and
22 depending on the residual test level they were either
23 free to enter the mine or they were sent home for
24 24 hours and, if it was 8 or higher from memory, they
25 would be escorted to hospital via paramedics. 12.43PM
26 Hazelwood has logged the results of testing and that's been
27 provided to us in attachment 2 to your
28 statement?---Correct.
29 You did have several people who needed to go to hospital
30 because of elevated carbon monoxide levels, did you 12.44PM
31 not?---Yes, we did, they presented - either presented

1 with high readings, I believe in one case a gentleman
2 that had been off for a couple of days presented with a
3 reading of 8 or 9 on presentation; he was immediately
4 escorted to hospital and we had some others that during
5 the process - in the early days, when I say the early 12.44PM
6 days, as the CO monitoring processes were being
7 implemented and consistently improved, and there was a
8 number of improvements along that first week, we were
9 on a two hour cycle; all people that were in for two
10 hours and then had to come back for a retest, including 12.44PM
11 our operations staff, so there was a number of
12 opportunities during that first I believe week and a
13 half that all people in the mine were being retested
14 every two hours, so we were able to pick up people that
15 had any significant movements in CO levels. 12.45PM

16 As Mr Dugan explained, that process became more streamlined
17 as the fire fight involved?---You're absolutely right,
18 and I think that immediately in day 2 we had the CFA,
19 I'll say it's the CFA because it was a combination of
20 CFA, MFB and paramedics and so forth, but the CFA 12.45PM
21 implemented, we call it the finger test. Look, that
22 was necessary, problematic in terms of dispatching
23 people to normal operations as well as to firefighting
24 activities, there was long queues and so forth, but as
25 the process and more monitors were received and so 12.45PM
26 forth the procedure was consistently updated to allow
27 greater throughput and so we kept adopting what we were
28 told to adopt. Eventually I believe 21 February was
29 the final iteration of that evolving process.

30 Without going into the detail of this document, it does 12.46PM
31 record approximately 50 people who presented with

1 carbon monoxide levels of concern?---Correct.

2 And as you've explained, up to about 21 February they were
3 given oxygen and then retested, and then after that
4 point they were asked to breath room air for 15 minutes
5 and then retested?---That is correct. 12.46PM

6 Do you count giving someone oxygen as first aid?---That
7 would depend. There was actually quite a bit of debate
8 about what the classification for that activity was.
9 If it's preventive, we probably wouldn't class it as
10 first aid. If it was given in response to an illness, 12.46PM
11 we would, and I know that that doesn't sound all that
12 clear, about whether it's a first aid event or not.
13 But generally report only - I assume that's the area
14 that you're looking at - is used as an internal
15 classification for the purposes of describing what the 12.47PM
16 event was that led to that particular action.

17 You say in paragraph 39 of your statement that, during this
18 whole long difficult fire fight, there were only two
19 people who required medical treatment and eight first
20 aid treatment. That figure expands rather considerably 12.47PM
21 if you include 12 mine staff who were sent to hospital
22 because of elevated carbon monoxide readings?---If
23 that's what they had. So my advice is, and my
24 information is that, whilst the reading, if I can call
25 it the finger reading, was elevated, that upon 12.47PM
26 presentation to hospital it wasn't those readings. I
27 understand, and I'll stand corrected, that nobody
28 presented with a high reading and then was admitted to
29 hospital for high carbon monoxide reading. So, it's a
30 matter of classification, but you're right, if we 12.48PM
31 treated the dispatch to hospital for the purposes of

1 validation of the test and precautionary measures to
2 ensure the safety of the person as a first aid action,
3 then that could be classified as first aid.

4 The thing that prompted it was not precautionary but the
5 fact that the person had presented with elevated carbon 12.48PM
6 monoxide levels?---Correct, yes.

7 So it's matter of how you do your figures really?---Well,
8 it's a way - how you see the event.

9 Mr Dugan gave evidence the other day that as far as he was
10 aware no-one had to be treated for carbon monoxide 12.48PM
11 exposure. The information that you provide in annexure
12 2 to your statement suggests that he didn't have full
13 information about that?---By "treated", what was
14 Mr Dugan referring to?

15 I include administering oxygen as treatment?---I don't 12.49PM
16 believe, and you'd need to ask Mr Dugan, that he would
17 see that necessarily as treatment. The process of
18 administering oxygen was a process that we were
19 following by the CFA. I take your point, though, I
20 mean, if you wanted to see that as people requiring 12.49PM
21 treatment, then I'll accept that interpretation.

22 And there were 12 people who were sent to hospital
23 ?---Correct.

24 And while you've had reports that there was nothing of
25 concern, that's very much second or third-hand, is it 12.49PM
26 not?---By no means am I trying to suggest that people
27 being dispatched to hospital with high CO readings is
28 not a serious event.

29 There are just a couple of other areas that I'd like to ask
30 you about and these move away a little from carbon 12.49PM
31 monoxide monitoring and management. You've annexed to

1 your statement several entry reports?---Yes.

2 You had a series of visits from WorkSafe during the fire
3 fight and also an improvement notice. The one entry
4 report that I'd like to take you to is the one dated
5 25 March. This is in annexure 3 and it's quite 12.50PM
6 difficult to find it within the document, but it's
7 about halfway through the bundle and it's the one dated
8 25 March. On the second page of that document right at
9 the bottom at point 6 there's a record of various
10 documents that WorkSafe have requested you to provide 12.51PM
11 and that you have on this occasion provided. There is
12 one there that's of great interest to the Inquiry,
13 "Site map layout of the Fire Service system pre and
14 post fire emergency." Do I understand that correctly
15 to be a reference to a map of the Fire Service's pipe 12.51PM
16 network before 9 February and the Fire Service's pipe
17 network as it was after the works we've heard about
18 over the last couple of days?---I believe that that
19 would be the case.

20 We have requested a statement from Mr Graham about 12.51PM
21 mitigation and prevention measures that we anxiously
22 await. Could you please ensure he includes that
23 document with his statement?---I'm happy to do so.

24 Thank you. At annexure 4 you include an improvement notice
25 that was served on you by Inspector Hayes of WorkSafe 12.52PM
26 on 20 March. This is very much a matter for week 3
27 rather than for today. For today's purposes I'm just
28 interested to know whether Hazelwood has sought review
29 of this improvement notice?---Sought review or
30 addressing the? 12.52PM
31 No, whether it disputed it with WorkSafe, whether it sought

1 internal review?---No, we have not.

2 It concerns works to be done to bring the fire breaks up to

3 WorkSafe's satisfaction?---Up to the standards that are

4 mentioned in our major mine - mine - - -

5 Mine Fire Service Policy and Code of Practice?---No, the 12.52PM

6 Major Mining Hazards Risk Review No.7 which deals with

7 fire. There is a requirement in there about fire

8 breaks and so forth, and so that's what's under review,

9 but no, we're not.

10 So you're not disputing the improvement notice?---No. 12.53PM

11 The second-last thing I'd like to take you to, Mr Harkins,

12 under, "Observations" in your statement at paragraph 47

13 you note that the establishment of the Emergency

14 Command Centre and appointment of an Emergency

15 Commander at an early stage worked well. We went over 12.53PM

16 a lot of that ground the other day?---Yes, we did.

17 There's one particular aspect that I'd like to ask you about

18 connected with health and safety. The 2008 report that

19 we were just looking at a little while ago included a

20 recommendation about the creation of a Welfare Officer 12.53PM

21 position who would, among other things, deal with

22 carbon monoxide monitoring and health and safety of

23 mine personnel during a fire fight. Can you tell me

24 whether a Welfare Officer was appointed to the

25 Emergency Command Team on 9 February?---On 9 February, 12.54PM

26 I can't tell you, I don't recall. Generally what we

27 would do to satisfy that is that, there was certainly a

28 human resource representative present on the 9th and

29 full-time going forward. That person has access to our

30 health and well-being nurse which we employ internally, 12.54PM

31 and I recall, because I was there for many hours, I

1 recall our health and well-being nurse present in the
2 Emergency Command Centre, I believe on the Monday day,
3 with the CFA Health Management Team. But I couldn't
4 sit here and say that that was in place on the night of
5 9 February with any certainty. 12.54PM

6 Was she or he there as part of the Emergency Management Team
7 that you had in place?---The HR person certainly is, so
8 the HR person's responsibility is not only just to
9 ensure the necessary administrative processes but the
10 well-being of our people and would draw that attention 12.55PM
11 to our well-being nurse who was actually stationed
12 quite regularly, I can't say it was full-time, I don't
13 recall, with the health management team in the medical
14 room.

15 What I'm trying to get a sense of is whether - because you 12.55PM
16 have a very well defined emergency management structure
17 in your Emergency Response Plan with the Emergency
18 Commander, and there is a role for a welfare officer in
19 the planning section?---Yes.

20 What I'm trying to understand is whether you had somebody 12.55PM
21 appointed into that role in your Emergency Management
22 Team?---Strictly appointed to that position, no;
23 expectation in a rapidly escalating environment like
24 9 February was that our HR representative that was
25 there from very early evening would play that role or 12.55PM
26 facilitate the execution of that role. But, we didn't
27 have anybody directly appointed.

28 That was really the HR person doing their usual job, is
29 that?---No, there was nothing usual about 9 February.

30 Can you tell us whether there was a welfare officer 12.56PM
31 appointed subsequently into the Emergency Management

1 Team as things settled down?---No, I can't.
2 Just before we stop, we were hoping that we could utilise
3 your superior knowledge of the mine geography to map a
4 few things for us. We now have a version of this map
5 that has a grid on it and the Members of the Board have 12.56PM
6 been struggling to orient themselves to a number of
7 significant features of the mine, so we now have, it's
8 a bit like battleships, we have A, B, C, D along the
9 bottom and numbers down the side. So, if I go through
10 a few significant features that have been mentioned in 12.57PM
11 dispatches over the last week, can you plot them for us
12 please?---I will give it my best but it's a very grainy
13 picture.
14 The first is the Mine Control Centre?---Okay. This is not
15 going to be that clear on here, but it should be in 12.57PM
16 that that area here.
17 So that's F4. Is that the same as the mine administration
18 building?---That's correct.
19 The Mine Training Centre?---It will be in this area here.
20 So G4. So it's in the same complex of buildings, the mine 12.58PM
21 offices area?---It's physically separated.
22 But physically separated?---I'm geographically challenged,
23 but I'd guess 500-600 metres as the crow flies from the
24 Mine Control Centre.
25 The knuckle?---The knuckle will be this area down here. 12.58PM
26 So that's F4 as well?---Yes.
27 The rear slide gate?---Not as clear on this map as I would
28 like, but I'll just try and follow that through. It
29 would be - it's in this area here.
30 So H3 right on the boundary with H2?---Sorry to be taking so 12.59PM
31 long to determine that, but it's not a very good

1 picture.

2 Gate 1A, is that the same gate?---Yes, I believe that's the
3 same gate.

4 The Minors Way entrance?---The Minors Way which is the - the
5 Minors Way entrance? I'm not familiar with that 12.59PM
6 terminology.

7 Well, there's a road Minors Way?---There is.

8 If it doesn't mean anything to you - - -?---Well, there are
9 a number of gates and some of those gates are no longer
10 in use, but the Miners Way area gate would be in this 12.59PM
11 vicinity up here. Sometimes we refer to these as swing
12 gates, there's other references, but Miners Way gate is
13 not terminology I'm familiar with.

14 But you're pointing in the area of H2?---Yes.

15 The front entrance?---The front entrance is down here. So 01.00PM
16 there's the Hazelwood Power Station, there's the return
17 water pumps there, so just down in there.

18 So that's F6?---Yes.

19 The southwest lookout?---The southwest lookout is over here.

20 That's C5. Transfer point 5?---Transfer point 5 is back - 01.00PM
21 that will be here.

22 So, that is at F3, just bordering onto F4?---Yes.

23 MWN?---MWN will be over in this area here which is,
24 unfortunately, behind the words. So it's in this area
25 here. 01.00PM

26 D1. MWE?---MWE is in this complex about there.

27 That's at H3. MHO, I think you also - - -?---MHO, I'm led
28 to believe from what I've been advised that MHO is over
29 in this arena here but I can't narrow it down for you.

30 It may actually be further in this area here but 01.01PM
31 certainly in that quadrant there.

1 So that's B6. I think the HARA we can all identify. The
2 last that I wanted to ask you were the clean and dirty
3 water pump stations?---Very, very difficult in this,
4 but the dirty water pumping station will be here, so
5 that would be E2. 01.01PM

6 So, at the top of E2?---And then the clean water is down in
7 this arena here, so that's in E3 or bottom of E2 and
8 E3.

9 Thank you, Mr Harkins, that's very helpful.

10 CHAIRMAN: Before you sit down there are a couple of others 01.02PM
11 that are referred to in Mr Roach's chart but also
12 Mr Shanahan referred to, in effect, the northern gate
13 which is a, something, road gate?---Drilling Depot Road
14 which comes off the Strzelecki Highway through to, yes.
15 Yes?---It's actually, unfortunately obscured, but most of 01.02PM
16 the access would be through C1 area.

17 Mr Roach refers to the rear slide gate?---Which was the
18 gate - - -
19 That was the one referred to earlier, okay?---Yes.

20 Then Mr Roach refers to the eastern perimeter road of mine 01.02PM
21 as a point where he made a particular observation.
22 Would you know what he means by that?---Well, I can
23 only assume that he is over here on the eastern
24 perimeter road in that area there, so I'd be surprised
25 if he's right around there, so I'd suspect it's around 01.02PM
26 the top.

27 He also refers to the mine administration building?---Which
28 is what we call the Control Centre. It's the same
29 complex.

30 The other thing is, it's not quite clear from in effect the 01.03PM
31 map that was initially provided where it refers to the

1 southern batters clearly, but then there's the
2 southeast batters and the eastern batters in a way
3 that, I think in the light of the evidence I do find
4 confusing, because it seems that it's more the eastern
5 batters than the southern batters where one of the 01.03PM
6 spotting fires occurred. Now, have I got it
7 wrong?---No, you haven't got it wrong. Mr Dugan would
8 be the best person to clarify this, but
9 nonetheless - - -

10 MS RICHARDS: Perhaps I can interrupt at this stage. I've 01.03PM
11 had an indication from behind me that perhaps people
12 with superior operational knowledge - - -

13 CHAIRMAN: Is there a better map that you do have that would
14 enable those sort of things to be put together?---I'm
15 sure that we could provide it. 01.04PM

16 MR RIORDAN: There's suggestion from the team, they're
17 scoring him about 7.5 out of 10 at the moment.

18 THE WITNESS: That's better than I expected.

19 CHAIRMAN: That's what I'd like to get is an overall map.

20 MR RIORDAN: If we could do that, and if it's satisfactory 01.04PM
21 we could do that over the weekend. If we mark all of
22 the items that have been mentioned and provide it to
23 you in a proper form.

24 CHAIRMAN: Yes, so that really in relation to the gates
25 et cetera, and it may be a rather big map ultimately 01.04PM
26 but there's uncertainty. Because it's clear from
27 Shanahan and Mauger, because they pinpoint, but with
28 respect to evidence from others it's been confusing at
29 times.

30 MR RIORDAN: Yes. If we could attend to that and we'll have 01.04PM
31 on Monday a map with all of those items and, if anybody

1 And there's nothing supporting that.

2 MEMBER PETERING: Mr Harkins, I'd also like to clarify, I've

3 been conjugating things that have been happening over

4 the week. The number of people, the employees of the

5 mine that were present in the area of the mine, I'd

01.06PM

6 just like you to talk me through how many people were

7 there on the morning of Sunday. So I'll start with

8 that one, this is Sunday the 9th, how many people were

9 present at work on the mine, and we've had evidence

10 from other witnesses that people "turned up" as

01.06PM

11 well?---Yes. Well, during the day they certainly did.

12 Operationally there would be 18-20 staff. There would

13 be the 1x7s which would be about another 11. I'm

14 advised that with the mine fire preparedness plan we

15 had a further three RTL people engaged across the

01.07PM

16 northern batters with the two 30,000 litre water

17 tankers, and I can't remember whether there was any

18 Bell Banne in the morning.

19 What's that, sorry?---Whether there was any other additional

20 contractors in the morning of the 9th, but that

01.07PM

21 certainly would be the expectation on the number of

22 people in the morning.

23 So 20, plus 11, plus three?---Yes.

24 And then by 1.30?---I couldn't estimate. There was a

25 ramping up, there were other people turning up, so as

01.07PM

26 you'd be aware Romeo Prezioso was on site, Dave

27 Shanahan was on site, there were another set of people

28 arriving and then they continued to arrive throughout

29 the afternoon, although there was a hiatus for a period

30 of time when of course the roads were blocked.

01.08PM

31 And then if we take it to sort of maybe say 6 p.m.?---6 p.m.

1 would be, again by 6 p.m. we were still maintaining day
2 shift crew and nightshift crew so you had a duplication
3 of the 2x12 staff. I believe the 1x7s were still
4 present and were present until later in the evening, up
5 to a fatigue limit, and I couldn't hesitate a guess of 01.08PM
6 how many other additional had been brought in by that
7 stage, but it was a substantial and rapid increase
8 after the fire - the road blocks had been lifted.

9 And you can't hazard a guess at all, so it wasn't 10
10 people?---No, it would be far more than 10 more people, 01.09PM
11 I would have thought that by 6 p.m. we would have had
12 at least another 30 people engaged in various
13 activities, including escort, firefighting and so
14 forth.

15 Okay, thanks Mr Harkins. 01.09PM

16 CHAIRMAN: Mr Riordan, I interrupted you.

17 MR RIORDAN: Mr Chairman, all I was going to do was put in
18 these two documents which are earlier versions of
19 Annexure 18 that Ms Richards asked about.

20 CHAIRMAN: This needs to be treated as part of the same 01.09PM
21 exhibit?

22 MR RIORDAN: Yes. I might distribute those when we break
23 rather than go to the problem of handing them around.

24
25 #EXHIBIT 18 - (Addition) Earlier versions of Annexure 18. 01.09PM
26

27 MR RIORDAN: Also what I might do with the leave of the
28 lunch break that we have now, we'll try to get some
29 more precise numbers for Ms Petering. We should be
30 able to get better numbers if we have a little bit more 01.09PM
31 time to reflect on it and we can put the evidence

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through Mr Harkins. Is that satisfactory?

CHAIRMAN: Yes. I interrupted you Ms Richards. You were indicating on what was going to happen on the basis that we will resume at 2 o'clock?

MS RICHARDS: Yes. We'll have Tracie Lund who's the community witness and then Robert Kelly from WorkSafe.

01.10PM

CHAIRMAN: We'll resume at 2.

<(THE WITNESS WITHDREW).

LUNCHEON ADJOURNMENT

1 It's a statement with 37 paragraphs?---Yes.

2 Do you have any corrections you'd like to make to the

3 statement?---I don't have corrections but I have

4 additions.

5 Perhaps we could deal with that this way. Could you just 02.04PM

6 tell me now the paragraphs that you'd like to enlarge

7 on and I'll take you through it once you've adopted

8 your statement?---Okay.

9 Just tell me the paragraph numbers?---Paragraph 24. It says

10 here the other organisations - - - 02.04PM

11 I'll ask you the clarification in a little while. Just

12 identify the paragraphs for me that you'd like to add

13 something to. Paragraph 24, was there another

14 one?---Yes, and 32.

15 We'll come back to those. Is your statement true and 02.05PM

16 correct?---Yes.

17 I'll tender that if I could, Your Honour.

18

19 #EXHIBIT 30 - Statement of Tracey Lund.

20 02.05PM

21 MS RICHARDS: Ms Lund, you live in Traralgon and you work

22 here in Morwell?---Yes.

23 You work in Morwell as the coordinator of the Morwell

24 Neighbourhood House?---Yes.

25 Where is the Neighbourhood House?---The Neighbourhood House 02.05PM

26 is on the east side of town, so near Crinigan Road,

27 it's in Beattie Crescent.

28 So on the northern side of town as well?---Now I'm really

29 geographically challenged, down there. Sorry. Not up

30 here. 02.05PM

31 What is the Neighbourhood House, what's its purpose?---We

1 run a range of programs, so we do adult learning, we
2 also have community programs like a community lunch and
3 we have a lawnmower bank, so we have social engagement
4 with the community as well as (indistinct) surfers
5 service classes, and that could be anything from arts 02.06PM
6 and crafts to learning iPad.

7 A whole range of different activities?---Yes.

8 How is the Neighbourhood House managed? You're the
9 coordinator?---Yes.

10 Do you have a Management Committee?---Yes, we have a 02.06PM
11 Committee of Governors and there's about eight
12 community members that sit on that Board, and I answer
13 effectively to them, but our roles sort of overlay
14 quite a lot, so I've got the day-to-day management of
15 the house and then I refer back to the Committee. 02.06PM

16 You're employed to work there 30 hours a week?---Yes.

17 You have an administrative assistant?---Yes.

18 Who's also called Melinda?---Awesome name.

19 We have a number of Melindas in this story. You also have a
20 cleaner and a handyman who provide some 02.07PM
21 assistance?---Yes.

22 But it's not a large organisation by any means?---No, no,
23 no, small.

24 Where do you get your funding from?---Our funding comes
25 through DHS, through the Neighbourhood Houses 02.07PM
26 Coordination Program.

27 Is there any funding that comes from the council?---We get a
28 small amount of operational funding from the council
29 which was increased last year from \$2,500 to about
30 \$3,500 or \$3,800, I'm not sure of the exact figure. 02.07PM

31 But the bulk of your funding comes from the Neighbourhood

1 House Coordination Program?---Yes.

2 Which, if I understand correctly, is administered by the

3 Department of Human Services?---Yes.

4 Were you in Traralgon on 9 February?---Yes.

5 But conscious of the fires around Morwell?---I was conscious 02.08PM

6 of the conditions of the weekend I think.

7 One of your first responses was to put some information on

8 the Facebook page that you maintained for the Morwell

9 Neighbourhood House?---Yes. I was acutely aware of the

10 conditions of the weekend, I think it was hard not to 02.08PM

11 be, and given previous messaging from the CFA I decided

12 that we'd stay home that weekend and not go to the

13 beach and just watch and see what happens. So, once we

14 became aware that there were fires in the area we

15 started posting that information on our Facebook 02.08PM

16 page to alert our local residents.

17 I should have asked you, before the events of 9 February and

18 the weeks after that, was there a pre-existing

19 relationship between the Neighbourhood House and the

20 Morwell CFA?---Yes. We had done some work with the 02.08PM

21 Morwell CFA, just in terms of engaging our community.

22 So we'd had a number of things, so we had an Emergency

23 Services day in the October previous to that, we'd

24 invited Morwell CFA down to have lunch with us at our

25 community lunches, and so we did have a relationship 02.09PM

26 with them in terms of engaging the community.

27 You tell us in your statement that you decided to close the

28 Neighbourhood House on the Monday because you were

29 uncertain about the conditions and you reopened on

30 Tuesday the 11th, and we're looking at paragraph 11, 02.09PM

31 and immediately there was a demand for

1 information?---So on the Monday, while we closed the
2 house, we actually - Melinda and I did go into the
3 house and we called everybody on our database to check
4 on them, because at that stage I knew that a
5 significant event had impacted the town but I didn't 02.10PM
6 know who of our people or, you know, what part of the
7 community had been directly affected, so we started
8 ringing people on our database.

9 Just to give us an idea, how many people are on your
10 database?---There's probably about 300 on our database, 02.10PM
11 not all from Morwell, and those initial phone calls we
12 were specifically calling the people with the Morwell
13 postcode.

14 These are people who have had some contact with the
15 Neighbourhood House, either been to a program there or 02.10PM
16 come to a community lunch?---Yes.

17 How would you describe your client group?---We've got a
18 diverse range of people, but I would say a lot of our
19 people wouldn't be highly educated; some are, some
20 aren't. But there's definitely a wide variety of 02.10PM
21 people that tap into the Neighbourhood House.

22 I'd like to take you to paragraph 12 now, and you tell us
23 that you received a phone call from CFA on 15 February.
24 Who was it in the CFA who rang you?---The person that
25 phoned me initially was Sharon Linke. 02.11PM

26 What's that person's position, do you know?---Can I phone a
27 friend? I believe she was - I don't know her exact
28 position, but community engagement and she was at the
29 ICC.

30 She had a request to make of you?---Yes. 02.11PM

31 What was that?---She had spoken to me and told me that there

1 was a need to get information to the community and
2 could we help with that, so I believed that we could
3 and I believed at that stage that we could tap into a
4 range of people that they couldn't tap into at the
5 bigger meetings. 02.11PM

6 The first thing you needed to do was to check with your
7 Committee whether that was going to be
8 acceptable?---Yes.

9 So that Saturday evening, as soon as I got off the phone
10 from Sharon I rang our chairperson, Janet, and 02.12PM
11 explained the situation to her. Then immediately she
12 got on the phone to the rest of the Committee and she
13 phoned through the information to them.

14 And the Committee was supportive of the idea?---Yes, very
15 supportive. 02.12PM

16 You say at the end of paragraph 12 that there were a number
17 of volunteers who came in very quickly, and you make
18 the point that there are a lot of unsung heroes who
19 just got in and did things?---I think that's a point
20 I've been saying all the way through, that on the 02.12PM
21 ground there were a number of people in the community,
22 there were grassroots agencies, not for profits that
23 recognised there was a serious issue at hand and just
24 got on and tried to help the community or do what they
25 could to support that information flow to the community 02.12PM
26 or whatever they needed to, and there was a number of
27 them, and I certainly know within the Neighbourhood
28 House we had - all of our Committee got on board, they
29 were all there the next day, they all turned up and
30 they either took flyers or they phone tree'd or they 02.13PM
31 helped us count and fold or whatever they could do to

1 contribute to get the information out to the community.
2 All of that work was voluntary?---It was all volunteered,
3 yes.
4 There were two specific ways that the Neighbourhood House
5 worked with the CFA to get the information out into the 02.13PM
6 community and one was to be an information point. Can
7 you describe how that operated?---The initial community
8 meeting we held, the CFA organised the stakeholders to
9 come in and we basically organised the community, so it
10 was our job to get to the community and let them know 02.13PM
11 that this session was on. Can you ask me the question
12 again, I've forgotten?
13 I was actually asking you not so much about the information
14 sessions but being a general point where people could
15 go for information?---Yes, just every day. So we held 02.14PM
16 the information sessions so that they could come in on
17 that platform, the community, and ask the stakeholders
18 the questions they needed to ask or get information,
19 and the rest of the time we just fielded general public
20 enquiries. So they either called us, they came in, 02.14PM
21 they were already accessing for another service and
22 they'd ask us for information. They were also
23 accessing vacuums very early on, so there were a number
24 of things that they were tapping into.
25 The information sessions, you held the first of these I 02.14PM
26 think on Wednesday the 19th?---Yes.
27 You held one every week until the fire was declared safe; is
28 that right?---Yes.
29 Or even after that?---We ended up holding six, so we went
30 until the end of March. 02.14PM
31 The CFA organised the stakeholders, you'd been calling them,

1 the people to come along and provide
2 information?---Yes.

3 And it was your task to organise for the community to come
4 to the meeting?---To come in and keep (indistinct).

5 And to ensure that they knew that they could come?---Yes. 02.15PM

6 Tell us about the first meeting, who was there to provide
7 information?---The first meeting we had the CFA and a
8 paramedic called Dave Rice, who on the day was
9 absolutely brilliant with the community, and that's all
10 we had there. Sorry, we had Senator - the Green 02.15PM
11 Senator did turn up to the meetings as well.

12 That's Senator Di Natale, is it?---Yes.

13 About how many people attended that meeting?---I didn't keep
14 figures that day but it was between the 50-60 mark.

15 What was the mood of the meeting?---The mood when they first 02.15PM
16 arrived was, you know, it was quite - we got off to
17 quite a testy start really and the community were -
18 look, they were quite angry but angry out of fear, you
19 know, what's going on, what am I breathing in, what's
20 going to happen to me, what is really happening out 02.16PM
21 there, so I think it was fear-driven.

22 How did that mood develop during the meeting?---The anxiety
23 level was quite high during the meeting, and then there
24 were a number of attempts to, sort of, bring it down to
25 a level that - it's hard to communicate with people 02.16PM
26 when their anxiety levels are really, really high. We
27 weren't doing so well on that mark and then Dave Rice
28 took the floor and started handling a lot of those
29 health concerns. We did see that heightened anxiety
30 come down to a level that we could all communicate 02.16PM
31 with, so Dave certainly did a great job in that.

1 So there were two people there providing information,
2 someone from the CFA providing information about the
3 fire response?---There were a couple of CFA people.
4 And there was Dave Rice from Ambulance Victoria providing
5 some health information?---Yes. 02.17PM
6 There was quite a lot of work went in to actually organising
7 that meeting; you describe it in paragraph 13.
8 Volunteers had to go out and letterbox in less than
9 ideal conditions?---Yes.
10 Did that work continue week-by-week as you organised the 02.17PM
11 meetings?---Not letterboxing for those particular
12 sessions, but the work continued in different ways.
13 So, we were putting information about the sessions on
14 our Facebook, so we were using or networks with the CFA
15 to get their information sheets and have our 02.17PM
16 information sessions put on those sheets that they were
17 putting out. We were engaging the community to let
18 their friends and family know in any way possible, so
19 we were constantly encouraging them to go knock on your
20 neighbour's door and we know you've got family and 02.17PM
21 friends that aren't connected to the internet, you
22 know, go and see them, go and tell them that these are
23 on. We also door knocked and handed out face masks in
24 the east area. We're only a small Neighbourhood House
25 and there's only a few of us so there's only so much we 02.18PM
26 can do. We also had door seals available, so practical
27 help, practical hands on things that could be used by
28 the community was really our focus.
29 You have had five more of these sessions after the first one
30 on 19 February. Who came to the subsequent sessions to 02.18PM
31 provide information to the community?---After the first

1 session - sorry, at the first session the community
2 were asking a lot of questions about why, you know,
3 where were the Health Department, where's the council,
4 and so I made an effort to get that information to the
5 council of what dates we had coming up. Then 02.18PM
6 Counsellor Middlemiss attended the rest of the
7 sessions, so five out of the six, which was really,
8 really good and I know the community appreciated that
9 face-to-face conversation with him.

10 We also had the EPA came on board, and I'm not 02.19PM
11 going to remember if they came to four or five
12 sessions, I can't quite remember if they were at the
13 second one or the third one. The Health Department did
14 come to the fifth session, and other than that, yes, it
15 was pretty much the CFA at every session. 02.19PM

16 I think you had some continuity from the CFA, you had the
17 same person come to each session?---Yes, that was
18 really brilliant. The CFA had approached me and asked
19 me how can we help, how can we help you to do this, and
20 one of the main concerns I had was the high rotation of 02.19PM
21 shifts that every four days somebody new was coming in,
22 and so I requested that we have one local person if at
23 all possible for all of those sessions so that I was
24 just dealing with the one CFA person. I was more than
25 happy to follow-up if I needed to, but that information 02.20PM
26 was going between myself and the one person. The CFA
27 were able to do that for me, so we did have the one
28 local person for five out of the six sessions, just not
29 that first session.

30 How many people came to your later information 02.20PM
31 sessions?---It varied, you know. We sort of started at

1 50-60 then we'd have 20 and then another week - there
2 was one week we only had four or five. The week the
3 Health Department had come in, the numbers spiked up
4 again.

5 So this was after the advice to vulnerable people to
6 consider relocating?---Yes, it was after that. 02.20PM

7 So in the first week of March you had a spike in your
8 attendance?---Yes.

9 You comment that it was exhausting and stressful for you to
10 put all this together?---It was exhausting because it 02.21PM
11 was - you know, it wasn't - I think we weren't
12 comfortable in the space either, so we weren't - it was
13 difficult to sort of bring those resources together all
14 of the time and not knowing what reactions you were
15 going to get from the community. And every week to 02.21PM
16 have to front them and, you know, hope that they were
17 going to be in a mood to talk and listen.

18 I have to say that, while it was exhausting and
19 stressful, the community handled themselves really,
20 really well throughout that; they had really good 02.21PM
21 legitimate questions, they focused on the stakeholders
22 and the information they could get from the
23 stakeholders. After each session they patted us on the
24 back and thanked us for that forum so, even though it
25 was stressful, it was very positive for the community. 02.21PM

26 And for you?---I drink a lot of wine now - no.

27 I'm guessing that you were working more than your 30 hours a
28 week?---Look, through that I think I probably was
29 working seven days a week. So, if we weren't at the
30 centre, we were certainly on our Facebook page or our 02.22PM
31 web page, you know, banging out information as much as

1 we could.

2 You also said earlier that you were an information point and
3 that you were trying to assist people as best you could
4 with requests for assistance and referrals. It appears
5 from paragraphs 22 and 23 of your statement that that 02.22PM
6 was a more frustrating exercise?---That was probably
7 the most frustrating, because as the information was
8 being delivered - and we were watching it on the news
9 ourselves. So the day of the relocation, I think it
10 was 28 February, sorry, I was watching on the news for 02.22PM
11 the announcement of what was going to happen, and then
12 I knew we'd get questions, but we were ping-ponging
13 from site to site trying to figure out what was the
14 correct information to give them. So we'd print out
15 what we'd think was the correct information for that 02.23PM
16 day and then later that night or later that day I'd
17 find out that, no, no, it's actually a different number
18 to call or - so it was very difficult and
19 time-consuming to figure out how to get the correct
20 information so that we could have it there to give to 02.23PM
21 the community.

22 One example you give was that it was difficult to obtain any
23 or any clear information about the assistance
24 packages?---Yes. To be honest, I didn't actually
25 understand who qualified for the assistance packages 02.23PM
26 and who didn't based on the information I was reading.
27 So every person that we had spoken to, we just ended up
28 giving them the, I think it was the 1800 or 1300 number
29 at the time because we weren't clear ourselves on who
30 was going to qualify and who wasn't. I believe that 02.24PM
31 the community was very confused about this as well.

1 Then you also had some difficulty actually accepting an
2 offer of assistance from someone who was prepared to
3 donate her holiday house?---Yes. When the holiday
4 house scheme was announced, again we didn't really have
5 a lot of information, but we started to get phone calls 02.24PM
6 from people in other areas saying, "Our Neighbourhood
7 House is, you know, we always go to them so we're
8 ringing you to tell you that we've got this holiday
9 house or this house." I'd made a couple of calls about
10 where to send that information, I ended up sending it 02.24PM
11 via email to somebody at council because the first
12 information I had, I was then told wasn't correct, it
13 was actually a different department that was dealing
14 with it. My understanding was that that was being fed
15 up through the food chain to be dealt with and a couple 02.25PM
16 of weeks later the lady did ring me back quite upset
17 that nobody had actually followed up with that. So,
18 apart from - you know, I did apologise but really all
19 we could do was refer it on because it wasn't even a
20 scheme that - you know it wasn't something that we 02.25PM
21 could handle or knew much about really. I do wonder in
22 that how many holiday houses or those offers were
23 actually missed because, you know, we only get such a
24 small amount of it to us and I just wonder how many
25 were actually, the opportunity was missed. 02.25PM

26 Did you have any contact from GDF Suez, the mine operator,
27 during the fire?---No.

28 Have you had contact subsequently?---Yes.

29 What was that? That's in paragraph 28 of your statement you
30 talk about that?---So, I was contacted, I think it was 02.25PM
31 the end of March, and I'm not going to remember the

1 exact date if someone's going to ask me.

2 You say 31 March in paragraph 28?---Did I? I did go back
3 and check it, yes, so 31 March and there was a meeting
4 at the Salt Bush Cafe about coming on forward a Social
5 Capital Committee. My understanding was that they were 02.26PM
6 looking for community groups to come together to
7 facilitate - I'm going to really word this wrong I'm
8 sure. You know, so if there was community projects on
9 the ground that could use some extra funding or had
10 projects that needed funding, to identify those. 02.26PM

11 And you had no difficulty identifying some projects?---No, I
12 did identify two projects that we have, the lawnmower
13 bank and we have our community kitchen, so I did
14 identify those two projects.

15 You say in paragraph 28 that you hoped to receive assistance 02.26PM
16 with those projects. Have you had a response yet?---We
17 have and we have been successful with those.

18 I've skipped over paragraph 24 which was the paragraph that
19 you wanted to add to or explain?---I just wanted to add
20 that other agencies did come on board for those 02.27PM
21 information sessions but they - you know, their
22 engagement with the community was not done as well as
23 the lead from the CFA.

24 You have a number of improvements for the future that you
25 identify and I won't take you to all of those, but I 02.27PM
26 will ask you a little bit more about paragraph 29. You
27 say pretty directly that the delivery of information
28 was terrible. Why do you say that?---There was a
29 couple of reasons because it seemed to be very top
30 heavy, so the information was coming out out here, but 02.27PM
31 there was no connection with those agencies that were

1 on the ground that know the community and can get that
2 information to them. So I was getting all my
3 information either from the TV or ping-ponging through
4 sites, and often not very clear on where I had to go
5 myself. So for us to then be confronted with the 02.28PM
6 community asking us questions, it was very difficult.
7 They were having trouble processing this information,
8 they were having trouble understanding the messages;
9 often the messages seemed very mixed and almost
10 bizarre-like, and we were having the same issue, so it 02.28PM
11 was very difficult to get a handle on the messages and
12 what we really clearly needed to get to the community.
13 Do you include in this the community information sessions
14 that you were organising or was that an exception to
15 this observation?---In terms of the mixed messages, do 02.28PM
16 you mean?
17 Yes?---I believe in those sessions we did see some mixed
18 messaging as well around the health questions and clean
19 up questions.
20 Can you give us an example of a mixed message?---There was 02.29PM
21 one session where a community person asked about their
22 home grown veges, are their veges okay to eat, and the
23 answer was given, yes, that's okay, wash them, they'll
24 be okay. A few minutes later somebody else asked about
25 vacuuming and cleaning up and, you know, I'm going to 02.29PM
26 go and vacuum and clean up and they'd actually just
27 come in for a vacuum cleaner and I'd given them the
28 face mask and gloves and a vacuum cleaner. They took
29 the opportunity to ask the panel, why do I need all
30 those if I've already been breathing this in for this 02.29PM
31 many days anyway, and the advice from the panel was,

1 you're stirring up the dust, you really need to make
2 sure that you've covered yourself. And then somebody
3 was like, but you just said I could eat it. So I think
4 there was that mixed messaging even at that level, and
5 I know that I sat there wondering like, well, can you 02.30PM
6 or can't you? I didn't know either, so it seemed odd.
7 You make the observation that there appeared to be a lot of
8 talking and not much listening. Could you expand on
9 that?---I think what I mean by that is that, I know
10 that information was being fed up through two 02.30PM
11 Government Departments, through council, as much as
12 possible and there did seem to be a lot of hoo-haa'ing
13 up the top, but I do not feel that the community was
14 listened to well and I don't feel that the people on
15 the ground that had the information from the community 02.30PM
16 was listened to very well, and perhaps that's something
17 we can work on in the future, about marrying up the
18 differences between the grassroots and the top heavy,
19 because it could work a lot better if bottom was
20 included a little bit more I think. 02.31PM
21 You enlarge on that point at paragraph 32 which was another
22 one that you wanted to explain or add to. You suggest
23 that State Government agencies should have more people
24 on the ground to assess what the community needs. You
25 wanted to explain that a little?---Yes. I wanted to 02.31PM
26 elaborate on that because I've put in here that I'd
27 made attempts to communicate with Latrobe City and I
28 had and it had fallen on deaf ears within that first
29 week. But certainly once, I think it was on the 21st
30 I'd sent an email with the dates for the information 02.31PM
31 sessions, and immediately I had Counsellor O'Callaghan

1 and Counsellor Middlemiss contact me and they were
2 extremely supportive of me pushing forward that there
3 was a problem on the ground within the community, and
4 straight away they were listening and they were there.
5 Thank you. I have no further questions for you. Nothing 02.32PM
6 from counsel for you. Do Members of the Board have any
7 questions?
8 CHAIRMAN: No.
9 MS RICHARDS: Thank you, Ms Lund. Thank you for your time.
10 It's all over, you're free to go. 02.32PM
11 CHAIRMAN: Our thanks too. We very much appreciate your
12 coming along.
13 MR ROZEN: The next and final witness in what has been a
14 long week of evidence is Mr Robert Kelly of the
15 Victorian WorkCover Authority. I call Mr Kelly. 02.32PM
16 <ROBERT JAMES KELLY, affirmed and examined:
17 MR ROZEN: Afternoon, Mr Kelly?---Good afternoon.
18 Can you confirm, please, for the record that your full name
19 is Robert James Kelly?---Yes.
20 Your professional address is 222 Exhibition Street, 02.33PM
21 Melbourne?---Yes.
22 Mr Kelly, you are the manager of the Earth Resources Unit in
23 the Workplace Hazards and Hazardous Industries Group at
24 the Victorian WorkCover Authority based at that
25 address?---That's correct. 02.33PM
26 You abbreviate the Earth Resources Unit as the ERU and
27 you've held that position as manager since 2011?---Yes.
28 Mr Kelly, for the purposes of the Inquiry have you made a
29 witness statement dated 26 May 2014?---I have indeed,
30 yes. 02.34PM
31 The statement runs to 55 pages and has 47

1 attachments?---Yes.

2 Have you had an opportunity to read through that statement

3 before coming along to give evidence today?---Yes.

4 Is there anything in it that you'd like to change?---No.

5 Are the contents of the statement true and correct?---Yes. 02.34PM

6 I'll tender the statement.

7

8 #EXHIBIT 31 - Statement of Robert James Kelly.

9

10 MR ROZEN: Mr Kelly, in response to the letter that was 02.34PM

11 received by the WorkCover Authority from the Inquiry's

12 solicitors you've dealt with a range of topics in this

13 statement?---Yes.

14 I hope you understand that, for the purposes of today's

15 hearing, I will confine my questioning to that part of 02.35PM

16 the statement that starts at paragraph 39 dealing with

17 the safety of firefighters?---Yes.

18 I understand that you're prepared to return - it was

19 suggested you were happy to return, but I think I'll

20 leave it at prepared to return in the third week of the 02.35PM

21 Inquiry to deal with some of the matters that you deal

22 with earlier on in your statement?---Yes.

23 Just before I go to paragraph 39 I probably should place on

24 record a little bit more about your background. You

25 have a number of qualifications, including a Bachelor 02.35PM

26 of Engineering (Civil) in which you majored in

27 Infrastructure Management?---Yes.

28 You also have the other qualifications that appear on the

29 first page of your statement, I perhaps don't need to

30 go through each of those but they're set out there. 02.35PM

31 You've worked for the VWA since June 2002?---Yes.

1 Have you been in the Major Hazards Unit - sorry, you started
2 in the Major Hazards Unit. Is that different to the
3 Workplace Hazards and Hazardous Industries
4 Group?---That's a unit within the Workplace Hazards and
5 Hazardous Industries Group. 02.36PM

6 You've held various positions, Senior Inspector, Group
7 Leader, Manager, Senior Mining Analyst?---Yes.

8 And you're presently, as you've already told us, the Manager
9 of the unit. The unit includes the staff that you have
10 set out in paragraph 1 of your statement; that is on 02.36PM
11 the second page, and it includes inspectors, technical
12 inspectors, engineers, yourself as Manager and a Group
13 Leader who's also an appointed inspector?---Yes.

14 I anticipate we might ask you a little bit more about that
15 when you return, and that's probably sufficient 02.36PM
16 background. If we could turn then to that part of the
17 statement that starts at paragraph 39. It's there that
18 you deal with the involvement that the WorkCover
19 Authority staff had at the Hazelwood Mine from I think
20 11 February was the first involvement?---Yes. 02.37PM

21 And you then chronologically deal with each of the
22 involvements that WorkCover had at that?---Yes.

23 You'll be pleased to know I won't take you to each and every
24 one of those, we can all read with what you deal with
25 in the statement. I just want to ask you a little bit 02.37PM
26 about the role that WorkCover inspectors played in
27 relation to checking on the way in which the risk of
28 exposure to carbon monoxide was handled. Firstly, and
29 this is paragraph 40 of your statement, is carbon
30 monoxide a hazardous substance under the Occupational 02.37PM
31 Health and Safety Regs 2007?---I can't answer that.

1 You don't know?---I don't know. No, I'd have to talk to
2 hygienists.

3 The reason I ask that is because, trying to get a sense of
4 what standard was being used by the inspectors to
5 assess compliance; in other words, what were they 02.38PM
6 judging compliance against? Are you able to assist us
7 there?---The visit of that particular, of the 14th is
8 when we brought a hygienist along, so his area of
9 expertise would be dealing would be dealing with
10 matters such as this, so the inspectors in my unit 02.38PM
11 themselves wouldn't have the expertise to deal with it,
12 hence we brought down a hygienist.

13 That I think on that occasion was a Mr Grayson is that
14 right?---Mr Grayson, yes.

15 So would we need to ask him what standard was being used to 02.38PM
16 judge the activities of regulating carbon monoxide?---I
17 can go away and get that information if needs be on my
18 return. The main point would be - is the enquiry they
19 made at the time based on the information before them.

20 It's just that we've heard evidence of a Safe Work Australia 02.39PM
21 exposure standard of 30 ppm, and the question is
22 whether that's considered to be the applicable exposure
23 standard in Victoria. Now I suspect you don't know
24 that, but perhaps if that's something which you could
25 enquire about and advise us on your return?---Yes. 02.39PM

26 Putting Mr Grayson to one side, the other inspectors that
27 were involved in the compliance activities that you
28 describe from 14 February onwards, are they all
29 inspectors that work in your unit?---Yes.

30 At paragraph 41 of your statement you say on 12 February 02.39PM
31 2014 VWA personnel planned a site visit to Yallourn and

1 Hazelwood Coal Mines which were both experiencing mine
2 fires. We know that the WorkCover Authority itself was
3 notified of the fire in the Hazelwood Mine on the
4 afternoon of 9 February. So you were formally notified
5 as required by s.38 of the Occupational Health and 02.40PM
6 Safety Act. What was it on the third day of that fire
7 that led to the planning of a visit to Yallourn and
8 Hazelwood? What triggered that?---The visit on the
9 11th is pretty much what triggered it from the point
10 of - we proactively said, let's go down and understand 02.40PM
11 what's happening on the site, hence the engineer went
12 in, had a look, over-viewed, based on that came back to
13 the office.

14 That's Mr Ferrazza?---Ferrazza, and again we made a decision
15 that, given Yallourn was having a fire and Hazelwood, 02.40PM
16 that we would attend the site, again more from an
17 overview point of view. There was some information
18 or - well, information coming out Yallourn about CO2,
19 so the decision was made then to head on down to both
20 sites to make further enquiries again without having 02.41PM
21 any form of notification until the afternoon of the
22 13th.

23 When you say information was coming out of Yallourn, can you
24 be more precise? Was there a complaint?---No, it was
25 more about communication between our inspector and the 02.41PM
26 site.

27 Presumably the Traralgon based inspector or inspectors, is
28 it just Mr Hayes or are there other ERU inspectors
29 based down here in the valley?---Inspector Hayes is the
30 only one in the valley. 02.41PM

31 Presumably would have pretty open lines of communication

1 with the open cut mines?---Yes.

2 They would be amongst his key areas of work, I would

3 imagine?---Yes.

4 So it was through those channels that he heard there were

5 issues with carbon monoxide?---Yes. 02.41PM

6 To your knowledge did the VWA have any role in relation to

7 monitoring carbon monoxide exposure at previous fires

8 in open cut mines in the valley?---I'm aware, I believe

9 in 2008, there was a reference to carbon monoxide

10 notification of injury or exposure by two firefighters 02.42PM

11 there, but beyond that, no.

12 That was the 2008 Hazelwood Fire?---Hazelwood Fire.

13 I think I asked you about the planned visit, what was the

14 basis of the planning; it came out of the information

15 gleaned on 11 February. Just in relation to that visit 02.42PM

16 on 11 February, you've included a note about that in

17 your statement behind tab 31. I just want to ask you

18 one question about that, if I could. You've just told

19 us this was a visit two days after the fire started by

20 an engineer, Mr Ferrazza and this was a proactive 02.42PM

21 visit, is that what you said, he wasn't invited?---Yes.

22 It seems that he was principally concerned with the way in

23 which GDF Suez, the mine operator, was handling carbon

24 monoxide exposure. Do I understand that correctly as

25 opposed to any concerns about, for example, the CFA's 02.43PM

26 responsibility to its employees?---From recollection,

27 while it may seem that in there, he was looking at an

28 overall sense.

29 In fairness, he does refer to the CFA towards the bottom of

30 that page. The question I have, do you see there is a 02.43PM

31 heading, "Initial observations", just a bit higher up

1 on the page. The fourth dot point, "The site is
2 following an escalation procedure for exposure levels
3 to CO which at 4 per cent results in personnel not
4 allowed back into the mine." Do you know where that
5 figure of 4 per cent came from?---No. 02.43PM

6 Because the other evidence, I think all of the other
7 evidence that we have before us would suggest that a
8 5 per cent figure was the one that was being applied,
9 but you don't know where that figure of 4 per cent came
10 from?---I'd have to talk to Tony. 02.44PM

11 I don't think it's important enough to send you off on that,
12 I just did wonder. If we go then to the visit on the
13 14th. That was the visit where Mr Grayson, the
14 hygienist, was asked to come and assist. You've
15 referred at paragraph 42 to "a visit to monitor the 02.44PM
16 steps that the relevant duty holders [plural] were
17 taking to protect the health and safety of the mine
18 employees and firefighters." I take it that the
19 relevant duty holders are there, firstly, the mine
20 operator, GDF Suez?---Yes. 02.44PM

21 You'd agree with me that under the Occupational Health and
22 Safety Act, it has a duty firstly to its own
23 employees?---Yes.

24 But also to others that are on the site that may be affected
25 by its undertaking; is that right?---Conduct of their 02.44PM
26 undertaking.

27 Conduct of their undertaking and that could include
28 Emergency Services personnel, for example. Similarly,
29 the Emergency Services themselves have duties to their
30 employees and also others such as volunteers who may be 02.45PM
31 assisting in the fire fight?---Yes.

1 So I take it, the monitoring was of that range of duty
2 holders and that range of duties?---(No audible
3 response).

4 We've heard some evidence earlier today, I don't know if you
5 were in the hearing room this morning when Mr Lapsley 02.45PM
6 was giving his evidence?---(Witness Nods).

7 You will recall Mr Lapsley was asked some questions about a
8 draft Standard Operating Procedure for dealing with
9 this issue for the CFA?---Yes.

10 There doesn't seem to be any reference to that being 02.45PM
11 mentioned to the inspectors that were conducting this
12 monitoring?---My understanding is the inspectors
13 actually physically went through the process
14 themselves, asked questions and, as mentioned in here,
15 looked at samples and results and made a determination 02.46PM
16 from that point of view.

17 I think I understand how you've answered my question, but is
18 the answer that they were not made aware of that draft
19 Standard Operating Procedure?---Yes.

20 Had they been made aware of it, it would be something that 02.46PM
21 we would see referred to in the entry report
22 presumably?---Yes.

23 It seems that no documentation was provided to the
24 inspectors on 14 February that set out the way in which
25 the risk of exposure to carbon monoxide was being 02.46PM
26 managed. Is that the case, that they weren't given any
27 documentation?---If you would, I'd like to look at the
28 entry reports just to check exactly what was given?

29 Certainly. If you would look behind tab 34. If it helps,
30 in the middle of the second page under the heading, 02.47PM
31 "Incident assessment", that seems to set out what was

1 done by way of evaluating the system?---Yes,
2 specifically to documents, point 5. No, they didn't.
3 On the basis of what they saw and heard and were told and so
4 on, they formed the assessment, as you say, in
5 paragraph 43 that the system of work reduced so far as 02.47PM
6 was reasonably practicable the risk to firefighters of
7 CO exposure?---Yes.

8 The obvious question that occurs to me for what it's worth,
9 and I think I've already raised this with you is,
10 against what standard was that judgment made and I 02.48PM
11 understand that's something that you're going to pursue
12 for us. At paragraph 44 of your statement you talk
13 about a further visit on 18 February in which there is
14 a discussion with the duty holder about what provisions
15 were in place to maintain power station operations in 02.48PM
16 the event that there was a regional or area evacuation.
17 What precipitated that enquiry? Was there some thought
18 that there would be an evacuation in Morwell?---The
19 particular inspector who attended to that particular
20 visit was Joe Groves, Joe is out of the Traralgon 02.48PM
21 office but works in the construction unit. We
22 delineate the difference between the Earth Resources
23 Unit attending the mine and the construction unit or
24 the regional unit attending the power station. So, Joe
25 has gone in to look into the matters up there because 02.48PM
26 we had been dealing specifically with the mine. Within
27 WorkSafe itself the idea of evacuation wasn't something
28 that was on our mine, I think that's just a term that
29 Joe has used in the context of, you have a circumstance
30 occurring in your mine; if that leads to something, 02.49PM
31 what processes do you have in place to protect the

1 workers.

2 If you go to tab 35 of your statement, that seems to be the

3 entry report for the visit?---Yes.

4 Is that right?---Yes.

5 My copy's a little bit hard to read, it's got an entry of 02.49PM

6 20 February, a date of 20 February, am I reading that

7 correctly on the entry report?---Yes.

8 That's a visit by the inspectors, Inspector Hayes, is it

9 not?---Joe Groves with Inspector Hayes.

10 I see. They were there together?---Yes. 02.49PM

11 The inspectors, I take it, were satisfied with the response

12 they received about what contingency plans were in

13 place in the event that there was an evacuation?---Yes.

14 As we can see. There's a reference to CO exposure in that

15 entry report on the second page, about halfway 02.50PM

16 down?---Yes.

17 Correct me if I'm wrong, "CFA data is slowly being

18 correlated. The procedure has been reviewed and has

19 evolved over the last week. CFA and OH&S Manager is

20 aware of our ongoing enquiries and has given a 02.50PM

21 commitment that this will be available on site Friday

22 21st of February." Can you help us with that? What's

23 that a reference to? What will be available on

24 site?---The health and decontamination procedure.

25 So that's the document that's referred to on the following 02.51PM

26 page, paragraph 46? Have I got that right?---Yes.

27 You refer to notifications that came in to WorkSafe during

28 this week; - that is, between the initial visit on

29 14 February at which the inspectors were satisfied that

30 what was being done was in compliance with the 02.51PM

31 legislation so far as CO exposure, and then a return

1 visit a week later on 21 February. A number of
2 notifications had come in about CO exposure and
3 firefighters being hospitalised, had they not?---Yes.
4 You've attached those behind tabs 36 and 37. I don't think
5 we need to bring those up because there's a number of 02.52PM
6 names there that people probably wouldn't appreciate
7 them being on the screen. But, suffice it to say,
8 that's a significant number of reports, isn't it, 15
9 people were reported in two separate notifications by
10 the CFA as having received carbon monoxide exposure of 02.52PM
11 sufficient level to have attended at the Sale and
12 Latrobe Regional Hospitals?---Yes.
13 On any view, that's a significant health and safety issue
14 associated with the conduct of the fire fight. The
15 second of those notifications was received on 02.52PM
16 18 February and, according to paragraph 46, there was
17 no attendance at the scene to follow those matters up
18 until the 21st, three working days later. Are you able
19 to explain the reason for the delay in following up
20 those reports?---So, specifically which report? 02.52PM
21 If you look at paragraph 46, you say, "VWA Inspectors
22 attended Hazelwood on 21 February 2014 in response to
23 incident notifications received by VWA on 18 February
24 2014." So it's that three days?---If you look at the
25 notifications that we received on the 18th, they refer 02.53PM
26 to incidents that occurred on 10 February, and
27 12 February. In between those days we had already
28 attended on the 14th and deemed that the process that
29 they had in place on the 14th was then providing a
30 satisfactory level of safety management for the 02.53PM
31 exposure of CO. So, given the fact that both of those

1 incidents happened prior to our visit, we were
2 satisfied that there wasn't an immediate need to
3 return.

4 You would have had some cause for concern, surely, in
5 receiving the notifications that all was not as it 02.54PM
6 could have been?---True, but, as I said, the fact that
7 we were there on the 14th to look at their processes,
8 and these incidents were prior to that, led us to make
9 the decision of, there's no need to get back in
10 straight away. 02.54PM

11 No doubt Mr Grayson would have been fully aware of the
12 serious nature of carbon monoxide exposure as a health
13 risk?---I would expect that, yes.

14 No one would have been in any doubt about that, I take
15 it?---Yes. 02.54PM

16 In the event, you did return on 21 February - not you but
17 WorkCover inspectors did, and it was then that they
18 were provided with the health management and
19 decontamination plan dated 14 February?---Yes.

20 We don't need to go to that, we looked at that with 02.54PM
21 Mr Lapsley this morning, but you say it appeared more
22 robust - that is, the monitoring process appeared more
23 robust than at the time of the visit on 14 February.

24 In what way was the plan more robust?---The actual fact
25 that they had a health management and decontamination 02.55PM
26 plan.

27 So the fact that it had been documented was itself an
28 indication of a higher level of robustness, if I can
29 say that?---And the process within it.

30 Did it suggest, and maybe this is an unfair question to you 02.55PM
31 and, Mr Kelly, tell me if it is, but did it suggest

1 that perhaps the assessment that everything that was
2 reasonably practicable was being done at the time of
3 the previous visit may not have been right?---I think
4 when you look at it you have to say that at the time of
5 the inspectors looking at the process they had before 02.55PM
6 them, so it's present there and then, they were
7 satisfied that the level of protection was adequate.
8 As with anything with performance based legislation, it
9 provides a base level; you can potentially do a lot
10 more, and the question of so far as is reasonably 02.56PM
11 practicable starts to come into it, but based on
12 discussions with the team, they were satisfied at the
13 time that the processes on that day was adequate. It
14 was further enhanced.

15 You'd agree with me, Mr Kelly, that there are benefits for 02.56PM
16 the documentation of any system of work, and those
17 benefits are particularly the case where you have
18 firstly a large number of people who are going to be
19 working pursuant to that system of work, and
20 particularly where some are paid employees, others are 02.56PM
21 volunteers and yet others are working for different
22 agencies such as the MFB in this case. Why didn't the
23 inspectors on the first occasion they attended on
24 14 February insist on seeing some documented form of
25 management plan for CO?---I can't answer that. 02.57PM

26 However, what I can say is, they put themselves through
27 the process themselves, and with the senior hygienist
28 came to the conclusion that the process that was in
29 place was adequate.

30 In fairness to them and to you, the matters that they 02.57PM
31 assessed are set out in their entry report and it would

1 appear they spent something over three hours in doing
2 that. In addition to matters of carbon monoxide
3 exposure, WorkCover inspectors also attended at the
4 site of the mine during the course of the fire to
5 investigate other health and safety issues, 02.57PM
6 specifically the slope stability or the stability of
7 the batters, as you've set out in paragraph 49. That
8 was more firmly in the expertise of your unit, I take
9 it, and so you were able to draw on the mining
10 engineering skills and experience that you had within 02.58PM
11 your unit?---Yes.

12 You've set out in your statement what was done in that
13 regard, I don't need to take you to that in any detail.
14 Can I take you to paragraph 52 please, an attendance on
15 25 March. You there relate a visit to the mine by a 02.58PM
16 number of people from your unit, including yourself, I
17 take it, is that right, manager of the ERU?---Yes.

18 You said that you attended there to visit with senior mine
19 management; that was after the mine had been handed
20 back to the mine operator; is that right?---I believe 02.59PM
21 it was the same day.

22 Same day, and that was not a coincidence, that's why you
23 were there, I take it?---Yes.

24 What was the purpose of that visit?---We had been to one of
25 the other sites prior to that that had also experienced 02.59PM
26 mine fires, and our concern was that at a time of
27 transition you may find circumstances where the
28 condition of the mine isn't what it was prior to the
29 fire, therefore you can have employees going into areas
30 while it's their work area normally, it's been affected 02.59PM
31 by fire, so either the road could be in conditions

1 because you've had dozers on them, slopes could be in
2 areas that once deemed appropriate may not be, so we
3 wanted to make sure at the time of transition across
4 and before they were putting operational personnel back
5 into the fire affected areas, that we were confident 03.00PM
6 they had those - they were thinking of them, either
7 dealing with it or had plans to deal with them, to
8 re-enters those areas.

9 If we go to the entry report of that day which is behind
10 tab 45, we can see that there's a number of familiar 03.00PM
11 names were present at that meeting?---Yes.

12 A number of senior management staff of the mine, together
13 with the four of you from your unit?---Yes.

14 The mine operator was also legally represented at that
15 meeting; is that right?---Yes. 03.00PM

16 I'm interested in one aspect of what you were looking at on
17 that day. You were there to consider whether or not
18 there was a need to review and, if necessary, revise
19 the mine safety management system. I know I'm crossing
20 over into a matter that we'll be pursuing with you when 03.01PM
21 you return, but can you explain what that's about? Why
22 were you concerned to look at that?---An incident had
23 occurred at the site and we wanted to ensure that, as
24 per the regulation requirements, that your safety
25 assessment is reviewed, and one of the trigger 03.01PM
26 mechanisms is where you have incident on the site. We
27 believe that this incident was significant enough that
28 it would warrant them looking at the safety management
29 system.

30 If this incident didn't warrant a review of the safety 03.01PM
31 management, it's hard to know what sort of incident

1 would require such a review. So, it's a regulatory
2 obligation, is it, for there to be a review of a safety
3 management system in circumstances where an incident of
4 sufficient size prompts that, is that right?---Yes.
5 What were you told?---That that was progressing. They would 03.02PM
6 be doing that.
7 That they would be doing that?---Yes.
8 Is that where it was left or did you require something more
9 formal than that, an indication of when that review
10 would be completed and so on?---The inspector had 03.02PM
11 attended subsequent to these visits to follow-up. A
12 visit of 28 March is one that led to an improvement
13 notice being issued, and we have subsequently been on
14 the site as well.
15 I won't travel into the area of those activities because we 03.02PM
16 will pursue those in the context in the third week of
17 that Inquiry. They're the questions that I've got for
18 Mr Kelly. It would be appropriate to invite the Board
19 to ask any questions.
20 MEMBER CATFORD: Mr Kelly, I think you've agreed to provide 03.02PM
21 us with some compliance standards for carbon monoxide.
22 I'd be interested in both the ambient concentration of
23 carbon monoxide as well as carboxyhemoglobin, but
24 there's also some other air quality standards of
25 relevance here I think; a particular matter PM2.5, 03.03PM
26 PM10, ozone. I'm also interested in volatile organic
27 chemicals and polycyclic aromatic hydrocarbons. I'm
28 not suggesting that there are compliance standards for
29 all of these, but I'd be grateful if, in submitting
30 your carbon monoxide standards, you could also include 03.03PM
31 those wider air quality standards. Thank you very

1 much.

2 MR ROZEN: Perhaps for your benefit, Mr Kelly, we will
3 reduce that request to a letter so that it's not a
4 memory test?---Thank you.

5 No other questions from Members of the Board? 03.03PM

6 <CROSS-EXAMINED BY MR RIORDAN:

7 To pick up one matter. You were taken to the notification
8 reports, annexure 36 to your statement. You may recall
9 them, it shows that a number of people were taken to
10 hospital as a result of carbon monoxide exposure. Do 03.04PM
11 you recall that?---Yes.

12 My question is that the procedure which was adopted was if
13 the finger monitor test showed that there was more than
14 8 per cent carbon monoxide in the blood, then the
15 worker was taken to hospital regardless of whether he 03.04PM
16 or she was suffering any symptoms at that time. Is
17 that your understanding?---Not to that detail.

18 There's evidence that when the persons who were taken to
19 hospital under that arrangement were tested, none of
20 them required treatment at hospital, and in nearly all 03.04PM
21 instances the readings taken at hospital showed that
22 they had less than a 5 per cent carbon monoxide in the
23 blood. Were you aware of that?---No.

24 Would you agree that, if those facts were established, one
25 would have to question the accuracy of this particular 03.05PM
26 form of reading by the finger monitor?---I can't go
27 into the accuracy of the ring monitor, I'd have to get
28 specialist advice as to what all that means
29 specifically.

30 Thank you very much. 03.05PM

31 MR BURNS: No questions, Mr Chairman.

1 MR ROZEN: I have no re-examination of Mr Kelly. If he
2 could please be temporarily excused.

3 CHAIRMAN: Yes, thank you, Mr Kelly. Yes, you're
4 temporarily excused.

5 MR ROZEN: That concludes the evidence that we have to call 03.05PM
6 today and Ms Richards will just indicate what the
7 evidence will be on Monday when we return.

8 <(THE WITNESS WITHDREW)

9 MS RICHARDS: Contrary to indications earlier this week, we
10 have actually managed to complete our program for the 03.06PM
11 week, and that, with a couple of loose ends, including
12 the statement of Mr Warrington that we have requested,
13 is the evidence in relation to the origin of and the
14 response to the fires.

15 Next week, as I mentioned in opening on Monday, 03.06PM
16 we'll be moving into the area of environment and
17 health. The first witness on Monday will be John
18 Merrett, who until very conveniently was the Chief
19 Executive Officer of the Environment Protection
20 Authority and of course was leading that organisation 03.06PM
21 during February and March this year. The community
22 witness on Monday will be Simon Ellis who's been
23 involved in Voices of the Valley, and on Monday
24 afternoon we'll hear from Nick Pole from the Department
25 of Education and Early Childhood Development about how 03.07PM
26 it dealt with its facilities in Morwell during the
27 fire. Unless there are any other matters, that
28 concludes our business for this afternoon.

29 CHAIRMAN: No other matters? Yes, we will resume at
30 10 o'clock on Monday. 03.07PM

31 ADJOURNED UNTIL MONDAY, 2 JUNE 2014