

September 11, 2002 (Rewritten September 12th)

MSHA: Langton, Thompson, Knepp, Ponceroff, McGilton, Wyatt, and Yudasz.

OVCC: Murray, Lawless, Ferrili, Homko, Taylor, Heidelbaugh, Mine Foreman.

Langton: Opened meeting – He wouldn't make any judgmental statements about meeting. Lauriski wants to see communications open. He knows Murray was hesitant about coming to the meeting. He will act as facilitator for the meeting and try to see that emotions do not take over.

Lawless: They don't have a problem, MSHA is the problem. This won't be a touchy/feely meeting. MSHA is acting punitive. MSHA is out to get Powhatan No. 6. "It's wrong, it's illegal".

OVCC is attempting to fix problem.

"District Manager is acting arbitrarily, he's the problem." He makes no effort to communicate. OVCC is being destroyed deliberately – it's wrong and inconsistent with Lauriski's desires.

Recent change in policy is rulemaking. Changed "reasonable time" to "minimal time", totally out of kilter with their authority.

Ferrilli: Didn't want to come to meeting was forced to be here by Murray. It's a waste of time. MSHA is probably writing orders at the mine while we sit here.

Murray: (Loud, Forceful) "I've talked to my lawyers." "You (pointing to Thompson & Ponceroff) blew your sovereign immunity. MSHA jeopardized this immunity with "puppet" Wyatt. Longwall is down because of non-S&S violations. He's giving Lauriski one more chance before he files (in civil court). That's why he's here. He's lost millions over the longwall down, Lawless is right, this is no touchy/feely meeting. "You (Thompson & Ponceroff) picked this g—d--- fight." "I will have your jobs." "They (Thompson, & Ponceroff) went way beyond sovereign immunity." "I'll set the tone for this meeting."

[Nobody from MSHA has spoken yet except Langton's opening statement.]

Ferrilli: There was simply a rock wedged in a roller, about 25 tons got spilled. The same people (rank-and-file) who cleaned the spill called in a code-a-phone. They alleged bad top and 70 bad rollers.

Homko

(Safety Dir.): Same day Lawless came down to Morgantown (September 4th or 5th) he was told the conditions were cleaned up. Wyatt issued two (d) orders. Wyatt was sent out by Thompson as a "hitman". There was some float dust, there was some obstructions, didn't warrant (d) order. Should have issued citation on spillage. Slight float dust – he told mine foreman that they would probably be getting a couple citations. Wyatt issued two (d) orders! It was blatantly obvious the orders were ordered by Thompson.

Murray: Your MSHA directed our workforce (to clean-up). You bypassed the St. Clairsville Office. You issued (b) order on track entry yesterday. Costs \$15K per hour, over non-S&S (my note – it was S&S). All this because of this "puppet", WYATT. He's "unstable". We're talking 10s of millions of dollars because of this "puppet".

Ferrilli: (meekly) – The "A West" fall was under citation for bad roof!

Lawless: (aggressively) – "So What!! Sometimes you get one right." You're inspectors won't discuss abatement time, they do everywhere but in District 3. Complained months ago about enforcement practices at Powhatan No. 6 to Lauriski with Thompson there – Lauriski will be embarrassed. [That wasn't the topic of meeting.] "You (Langton) or the I.G. should talk to the inspectors – they are scarred to death.

[There has been virtually no discussion made by MSHA to this point. I interrupted a couple times to correct statements attributed to me that were incorrect.]

Lawless: (Loud, Belligerent) (Pointing at Ponceroff) "You have fully capable inspectors at St. Clairsville. You don't need to send Morgantown inspectors."

Murray: (Loud) "You" (pointing @ Ponceroff) "are acting maliciously, capriciously, unprofessionally."

"You" (pointing @ Thompson) "have to be behind it. I talked to Lauriski personally."

"This is orchestrated harassment with the blessing of the District Manager."

Ferrilli: We reluctantly agreed to the Cooperative Safety Analysis [news to me!], but relented. MSHA didn't concentrate on accidents, but slipped into a phase where they got beat up.

[We concentrated about 6 months on non-enforcement activity at the mine following the November permanently disabling injury.]

Lawless: He walked the same belts – “Yeah, there were violations, but not orders.”

Murray: If you see violation write it as non-S&S as you used to.

[Per Murray and Lawless – anything that is not an imminent danger is non-S&S. (Lawless afraid to correct him.)]

Thompson is “arbitrary, capricious, inept.” “I’ve told Lauriski this Thompson heard me complain of this months before with Lauriski.”

Several times I’ve had to go to a miner’s widow and ask, “Where do you want the body taken?”

“As this goes on these managers of mine will be there.” “They won’t (pointing @ me and Ponceroff). “McKinney has done nothing.” “Lauriski has done nothing.” He will give them a change before I go to the White House and court. “Mitch McConnell calls me one of the five finest men in America and the last I checked he was sleeping with your boss.”

“They are gone” (pointing to Thompson and Ponceroff). “Their clock is ticking” (September 11, 2002, 9:40 a.m.).

“I don’t want to hurt Lauriski, now it’s up to you” (Langton), “And I don’t think you’re the man for the job.”

“We are being shut down because of non-S&S. Thompson is encouraging Ponceroff.”

Wyatt: Tried to explain that repetition is one of the factors determining 104(d).

Lawless: (Yelling / Screaming) “This is bullshit, g---d--- bullshit” (Screaming at Wyatt because he was discussing history.)

Murray: I have a good relationship with Cecil (Roberts) – no problem with UMWA.

McGilton: Discussed conversation about reasonable time – nothing has changed. Getting outstanding citations under control.

Murray: “Someone is going to get killed in a number of days.”

[I handed a note to Langton that said, “This trial has to end!!! Taking testimony, discovery].

Murray: Is very upset that I have been taking notes.

Langton: Can we somehow compromise and get together.

Murray: MSHA has to remove some people, “the bridges are burned.”
“Washington has to make call.”

Lawless: District 3 is the problem, everything is according to an agenda [UMWA??].
District 3 is “arrogant”, “all is futile.”
“As Murray says, “there has to be change.”

Murray: They have violated their sovereign immunity. “No, we are not going to work with these people.”

Murray Los

Meeting en

Timothy J. Thompson
District Manager
September 12, 2002

September 11, 2002

William Knepp's Notes:

MSHA: Langton, Thompson, Knepp, Ponceroff, McGilton, Wyatt, and Yudasz.
OVCC: Murray, Lawless, Ferrilli, Homko, Taylor, Heidelbaugh, Mine Foreman.

Meeting 9/11/2002

Langton: Initiates meeting. Talks about achieving a viable option.

Lawless: Punitive arbitrary attitude; don't want a touchy/feely meeting. Illegal, wrong actions by MSHA; Arbitrary District Management. No effort to communicate and has been destroyed deliberately. Totally inconsistent with D. Lauriski's approach. Nothing to do with safety rule making; changing in enforcement policy; reasonable time

Murray: Going after Ponceroff & Thompson – puppet Wyatt. “seldom lose” – very high tone. Jeopardize safety of men. “You picked the fight, I will have your job.”

John Ferrilli: Code-A-Phone – A belt spilled – lot of coal – clearance and float coal dust, d(2) order. Homko didn't agree with float dust. Asked Wyatt if he put 10 people on belt could he run LW and screen. Ponceroff wouldn't lift order; “called Wyatt out on his evaluation.”

John Ferrilli: Strongly criticized our Safety Compliance Analysis; “Talked about starting their own accident reduction program”??

Murray: Claims inspectors terrified of Ponc & TT – Joe Yudasz denies. Keep mine operating or not. “Idiot in the name of Taylor” – Puppet Wyatt” “No No will not work with Ponc & TT.” “Abusive, loud, belligerent, threatening, intimidating.”

Murray: To Langton – “You may not be the man to work it out. It's over and there is no solution.” Problem is not OVC it's MSHA's attitude. “Bridges are burned!” * 6 ½ hrs for Wyatt to get there when inspectors where at the mine. “Those man will be here; Thompson & Pon are gone” White House / courts!
? Reasonable time definition – what about manpower – what about section crews – what was Wyatt sent to mine.

*He had corner / go above D.L. / so real in
intimidating & loud. Been threatened to force
not to that degree*

Ferrelli: Asked Ponc and Tim to come and look at condition – said “no.” Next (morning) day – Jack McPeak called Ponc – was told he would get someone out. No one showed up until 6:00 p.m. Wyatt went to LW – looked at face and then modified order to let them run once he saw the roof conditions.

Murray: Cost 15,000 1 hour when LW is down – will be down for 10 days.

Lawless: You (MSHA) cannot use your authority to regulate or manage the mine. No exchange of ideas on what is reasonable time between inspection and management.

Murray: I got the balls - I got the badge –go to hell. There is no respect for Thompson and Ponceroff at No. 6 and there never will be, therefore, there will never be safety at this mine. This is deliberate.

Jerry Taylor: St. Clairsville Inspectors are scared to death they will not comment when asked about changes. Ron Taylor refused to get involved in order – said he was told not to get involved. (Ron was directed by Louie Jones). The soul purpose of Wyatt’s call was to ask if belt could run because of bad roof on longwall face.

Murray: To Ponc - You jeopardized the safety of my miners arbitrarily – I ??????. Can never be any respect. Got a whole office of inspectors at St. Clairsville but you have to send an inspector from Morgantown.

Forrelli: Ask me in mid-2001 for help on accidents – Ask for Tipton but was sent to Shoemaker. In Jan 2002 – A Safety Audit was conducted Phase I – report was compliance based report and had nothing to do with accidents. After report, -wanted to drop audit, Ponc met with No. 6 and talked them into continuing – Did not concentrate on accidents.

Lawless: Most reasonable inspectors would not have issued an order on the float dust ????

Murray: “obvious to the most causal observer.”

Murray: 11 miles of belt that will be replaced over the next 4 years. When I go to bed at night, I worry about my people. I have 10 bolts in my neck from 2 mining accidents. Until I go out of business at OV my people will be there but these 2 (Tim & Ponc) won’t be there. I’m giving McKinney and Lauriski the chance to do something before I go into the courts and the White House. As it stands right now – they (Ponc, Time) are my enemy.

MSHA
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695-
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ONE

September 11, 2002
William McGilton's Notes:

Meeting in Morgantown District Office 9/11/02 with Ohio Valley Coal.

- | | |
|-----------------|----------------|
| Bob Murray | John Langton |
| John Ferrell | Tim Thompson |
| Roy Heidelbaugh | Bill Ponceroff |
| Jerry Taylor | Bill Knepp |
| Mike Lawless | Ron Wyatt |
| Dick Homko | Joe Yudasz |
| Jack McFlea | |

Issues at No. 6 – Closure orders – Abatement Times. Belt shut down while screening.

Mike Lawless: There is an attitude toward No. 6 mine that affects the ability of this mine to stay in business and affects mine safety arbitrary, punitive. Relationships has been intentionally destroyed. Management of this district have taken upon themselves to run the mine. In contrast to Dave Lauriski's own planning. We have engaged in rule making. Changed the definition of reasonable time to minimal time. No consideration for manpower' safety of miners – inconsistent with the Act.

Murray: Wanted meeting even though was told by his people that it was a waste of time. I am going after Thompson and Ponceroff and their puppet "Wyatt" for shutting down the longwall. I have lost millions – I have been doing this for 46 years and I seldom lose when I go after someone. There is no touch feelings – I am going after their jobs. I want an MSHA management my people can respect.

John Ferrell: Started with a Code-A-Phone.

Ron Wyatt: Entered the mine on afternoon shift. Issued (2) orders. One on clearance and one on float dust. Nothing in book – Union fireboss – no float dust. Longwall was screening. Ron Wyatt call Tim – was told to use his own discretion. Wyatt call Ponc – Told management he could not justify the orders. Also, only he could terminate the order – left the mine and gave them (2) phone numbers – home and work.

Dick Homko: Spend 1,000 of shift will inspection and in no way was there ever any float dust for an order. One, the locations cited on walkways – some were only one shovel full. Asked Wyatt to let them continue running belt because they were screening LW and had "touchie top." After Wyatt talked to Ponc, said "no."

Mike Lawless: Statement – obvious to causal observer – Not true. MSHA thinks they get brownie points with the UMWA by closing the mine.

Forrelli: We have been ambushed – especially on reasonable time.

Homko: Yudasz shut down belt after ??? only 5 Xcuts (cross cuts). Shut down track when 25 of 41 locations were supported.

McPeak: Ron Taylor – Stated that if this roof on the ? west track is not done – he will shut it down. (Before he went in).

Murray: No – we are not going to work with these people (Ponc-Tim). Never saw such a stinking situation. I'm not impressed with what I'm hearing. You are probably not the right person to be hearing this. I'm better off to close the mine and lay off 500 men – other than get somebody hurt. We don't have to do anything MSHA does. I used to like it when there was an inspector in my mine.