



COMMISSION OF INQUIRY

INTO THE COLLAPSE OF A MINING PIT AT ROCK CREEK, PURUNI,
REGION NO. 7 RESULTING IN THE DEATH OF KEON WILSON

Rear Admiral (rtd) Gary A R Best

Commissioner

11/8/2016



TABLE OF CONTENTS

REPORT	COMMISSION OF INQUIRY INTO THE DEATH OF KEON WILSON ON OR ABOUT OCTOBER 08, 2016 IN THE ROCK CREEK, PURUNI, CUYUNI MAZARUNI (REGION 7)
ANNEX A	MAP SHOWING THE ACCIDENT SITE AT ROCKCREEK, PURUNI
ANNEX B	SELECTED PICTURES OF THE ACCIDENT SITE AT ROCK CREEK, PURUNI
ANNEX C	TECHNICAL DESCRIPTION RE: THE COLLAPSE OF THE EVERTON DALY MINING PIT
ANNEX D	TRANSCRIPT OF THE TESTIMONY OF NEWELL DENNISON, COMMISSIONER (AG), GGMC
ANNEX E	MATRIX OF VISIT BY COMMISSION TEAM TO ROCK CREEK, PURUNI, OCTOBER 28, 2016
ANNEX F	MATRIX OF OPERATION AND EQUIPMENT FOR THE EVERTON DALY MINING OPERATION

**PRELIMINARY REPORT: COMMISSION OF INQUIRY INTO THE DEATH OF KEON
WILSON ON OR ABOUT OCTOBER 08, 2016 IN THE ROCK CREEK, PURUNI,
CUYUNI MAZARUNI (REGION 7)**

GENERAL

On the 18th October, 2016 an Instrument under the hand of HE Brigadier David Arthur Granger, President of the Cooperative Republic of Guyana, titled Commission of Inquiry, was issued to Rear Admiral Gary A R Best, to enquire, examine, investigate and report into all conditions and circumstances that led to the collapse of the mining pit located in or near Rock Creek, Puruni in the Cuyuni-Mazaruni Region (No 7) resulting in the death of Keon Wilson on or about October, 08, 2016.

SITTINGS VISITS AND WORK OF THE COMMISSION

The Commission was constituted on 18th October 2016 and held its first sitting on 21st October 2016 at the Training Division of the Department of the Public Service (TDPS). The Commission thereafter sat, took evidence and visited on the following days and at the following locations:

- a. 24th October, 2016 @ TDPS for taking of evidence
- b. 25th October, 2016 @ TDPS for taking of evidence
- c. 26th October, 2016 @ Office of the Commissioner (OOC)
- d. 27th October, 2016, departed for Bartica
- e. 28th October, 2016, visited accident site at Rock Creek, Puruni
- f. 28th October, 2016, visited Puruni Mining Station
- g. 29th October, 2016, met for COI planning
- h. 30th October, 2016, met for COI planning
- i. 31st October, 2016 @ Bartica Magistrate Court for taking of evidence
- j. 01st November, 2016 @ Bartica Magistrate Court for taking of evidence
- k. 02nd Nov, 2016 @ Board Room of RDC, Region 7 for taking of evidence
- l. 03rd Nov, 2016, departed for Georgetown
- m. 04th November, 2016 @ TDPS for laying over of documents from GGC's counsel
- n. 05th November @ OOC for COI planning and preparation of preliminary report
- o. 07th November, @ OOC for COI planning and preparation of preliminary report

PRELIMINARY FINDINGS

1. Mr George Alfonso owns the mining claim in question under mining permit No A-10a/MP/000/001. There is no evidence at GGMC or else where that supports any permission by Mr George Alfonso to Mr Everton Daly to conduct any mining operations on the said claim. Consequently, the COI concluded that Mr Daly was conducting an **illegal mining operation**.
2. Mr Daly, could not produce any SD# to mines officers, Messrs Stephen Burnett and Lennox Wilson, purporting to be a registration of his dredge. Therefore the COI concluded that Mr Everton Day operated an **unregistered dredge**.
3. Mr Keon Wilson, deceased, was a miner at the Everton Daly mining operation. He was reportedly employed as the general manager of Mr Everton Daly's mining operation. **Mr Keon Wilson, was, reportedly, jetting a mine face, which collapsed and killed him on 08th October 2016.** At the time of the fatal accident two more workers were reportedly present, who ran to save their own lives.
4. Water jetting by the miners created super saturation zones and fissures which could not hold the weight of the previous tailings above the saturated zone which resulted in **vertical and horizontal shifts and a collapse of the mine face** which stood approximately thirty-five feet high.
5. No discernable man made benches were evident in the collapse, and initial reports indicate that the deceased was standing and jetting from a hardened surface with no protection from the mine face.
6. GGMC mines officers Messrs Stephen Burnett and Lennox Wilson visited Mr Everton Daly's mining camp on 10th September 2016 and **failed to conduct a complete inspection**, including Occupation, Health and Safety (OHS).
7. GGMC mines officers Messrs Stephen Burnett and Lennox Wilson visited Mr Everton Daly's mining camp on 10th September 2016 and **failed to visit and inspect the area** Mr Daly intended to conduct mining operations, and instead, urged Mr Daly to register his unregistered dredge at the Puruni Mining Station with urgent dispatch, contrary to GGMC regulations which **require seizure of equipment**.
8. GGMC mines officers Messrs Stephen Burnett and Lennox Wilson visited Mr Everton Daly's mining camp on 10th September 2016, learnt that Mr Daly's operation was illegal, and **failed to issue a removal order** contrary to GGMC regulations and instead urged Mr Daly **to register his unregistered dredge** at the Puruni Mining Station with urgent dispatch.

9. **Failure on the part of the Messrs Stephen Burnett and Lennox Wilson to** revisit the Everton Daly mining camp, especially since it was an illegal operation.
10. **Failure of Mines Officer** at Puruni Mining Station, Messrs Stephen Burnett, the Senior Mining Engineer, Mr D Chandan, the Chief Mines Officer, any of the Senior Mining Engineers (Mr Michael Howard, Mr Fitz Glasgow, Krishna Ramdas, Mr Carlos Todd) or the Commissioner (ag) to **secure the fatal accident site** or issue instructions for the site to be secured.
11. **Failure on the part of Senior Mining Engineer, Mr D Chandan** for not taking statements from all witnesses available, as opposed to taking only two statements, the minimum required for a GCMC fatal accident investigation.
12. Mr Everton Daly's mining operation was being illegally conducted on a previously **mined-out pit** with significant evidence of tailings from previous mining operations.
13. GCMC mines officers Messrs Stephen Burnett and Lennox Wilson visited Mr Everton Daly's mining camp and **failed to visit and inspect the area** Mr Daly intended to conduct mining operations.
14. GCMC's regulations do not provide for a schedule of visits by mines officers.
15. The height of the wall face was approximately thirty-five (35) feet.
16. Location where deceased was reportedly standing and jetting does not appear to be one and half times the height of the face.
17. Mines officers Messrs Mr Stephen Burnett and Mr Lennox Wilson failed to record notes into the issued GCMC **field notebook**.
18. GCMC mines officers use an **electronic diary system**, which records information in a word format that can be manipulated rather than a PDF format, which prevents manipulation and protects data.
19. The Guyanese **'going in ledger'** at Itabali crossing does not capture essential information on miners crossed, such as national ID#.
20. The Guyanese **'going in ledger'** at Itabali crossing does not capture information that links ownership of equipment entering the mining district.

SUMMARY AND PRELIMINARY RECOMMENDATIONS

1. **Permit holders must also police their claims** and prevent illegal mining or suffer as in default in accord with sec 65 of Cap 65:01.
2. GGMC must **cease regularizing illegal dredge operations**.
3. GGMC must conduct a sweep operation and seize all unregistered dredges.
4. GGMC must conduct a **sweep operation** and remove all illegal dredge operations.
5. Mines officers must **conduct complete inspections** when visiting mining camps even if the camp is illegal and visit the **area** intended for mining operations.
6. Mines officers must issue **removal orders** whenever illegal dredge operations are encountered and supervise the removal of illegal dredge operations.
7. Mines officers must issue and **execute seize orders** whenever unregistered dredges are encountered.
8. **Illegal dredging must be stopped immediately** because it is a clear and present danger to life and the environment, since the illegal operator will be in breach of the regulations.
9. Mines officers should be **granted statutory powers**, similar to police officers, to enable them to effectively execute their duties.
10. **The mining of mined-out lands should be strictly forbidden**. GGMC's focus must be to return the environment to its previous state via **replanting and reforestation** of mined out areas.
11. The **restoration of mined-out lands** should be the first priority of a claim holder and not its abandonment and or available reuse by other miners.
12. Environmental, OHS and mining compliance must match the capacity and capability of the miner.
13. Pit mining operations must have a qualified and GGMC approved engineer attached to that particular mining operation to deal with engineering safety re construction and managing of mining pits.

14. Miners should be trained by the GfMC mining school and certified by a certifying body (GfMC) to conduct various types of mining operations:

- a. A jetman should be trained and licensed
- b. A pitman should be trained and licensed
- c. A marac man should be trained and licensed
- d. Cooks should be trained and licensed
- e. A selected mine worker should be trained as a first aid specialist

Dredge owners should be licensed:

- a. 4" dredge operators should be trained and licensed
- b. 6" dredge operators should be trained and licensed
- c. 8" dredge operators should be trained and licensed
- d. Larger dredge operators should be trained and licensed

The GfMC must enforce all of its regulations.

CAUSES, CONDITIONS AND SURROUNDING CIRCUMSTANCES THAT LED TO THE COLLAPSE OF THE MINING PIT ON OCTOBER 08, 2016 AT ROCK CREEK PURUNI, MINING DISTRICT No 3

The Everton Daly mining area is an L shape-mining pit. This mining pit comprised sand, clay and laterite material. The tailings from the previous mined-out operation also comprised sand, clay and laterite material. Jetting occurred to create slurry. As a result of the jetting activities and particles not being uniform, forced diffusion occurred into the spaces between and behind the particles which created super saturated zones and fissures. The super saturated zones could not hold the weight of the existing tailings above the saturated zone and resulted in vertical and horizontal shifts of the tailing above the saturated zone. In other words the mining pit experienced what is commonly called a 'sand slide'.

CAUSES, CONDITIONS AND SURROUNDING CIRCUMSTANCES THAT LED TO THE DEATH OF KEON WILSON ON OCTOBER 08, 2016 AT ROCK CREEK PURUNI, MINING DISTRICT No 3

Unregistered dredges and illegal operations and operators have no incentive to conduct mining operations in accordance with the mining regulations. The natural result is the cutting of corners by illegals and the breach of all rules and regulations. For many such miners, it is all about 'mining and scooting'. Therefore cutting of corners and operating under the radar by miners in an unstable environment create

opportunities for accidents, fatal ones inclusive. In fact, illegal mining operations pose a clear and present danger to the lives of miners and the environment. The ex-statutory GGMC practice of allowing illegal mining operations to regularize themselves also enables this clear and present danger to life and the environment. Together these condoned and illegal actions created **the causes** that led to the death of Keon Wilson.

The failure, on the part of Messrs Stephen Burnett and Lennox Wilson, to inspect the area where Mr Everton Daly intended to conduct mining operations allowed for the setting up of mining camp and mining pit operation that was so dangerous that the pit caved in resulting in loss of life. The failure of Messrs Burnett to return to the illegal Everton Daly mining site also contributed to a dangerous mining camp and mining pit operations. Further, the failure of Messrs Burnett and Wilson, to issue **removal and seize orders** to Mr Daly for breaching the laws and regulations of the GGMC together created **the conditions** that led to the death of Keon Wilson.

The lax manner in recording critical information by Messrs Burnett and Wilson, the practice of not having a steady visit to 'low concentration' mining areas, the wide discretion on the part of mines officer in circumventing GGMC regulations, the encouragement of top GGMC management to circumvent its own laws and regulations, the absence of any responsibility on the part of the Mr George Alfonso, claim holder for 1158 acres, to ensure no illegal mining occurs on his claim, together created the **surrounding circumstances** that led to the death of Keon Wilson.

COMPLIANCE WITH SAFETY OPERATING PROCEDURES

The mining pit at Mr Everton Daly mining operation **failed to meet safety guidelines** of GGMC, particularly evidenced by the absence of **constructed benches** relative to the high mining pit walls, which approximated to thirty-five (35) feet. **Draft Mining Safety Regulations 2009**, require that a mine be inspected by a GGMC inspector and for the employer to show a report from a competent engineer that his mining pit has met the required standards provided for in the regulations. There is no evidence that either of the two requirements was met. Further, the Draft Mining Safety Regulations provides for benches at suitable intervals, including their height; emergency run off lanes; impact barriers; berms and protective equipment, among others.

BREACHES OF LAWS, REGULATIONS, RULES AND PRACTICES THAT DIRECTLY LED TO, OR CONTRIBUTED TO, THE DEATH OF KEON WILSON ON OCTOBER 08, 2016

The following breaches of laws regulations, rules and practices were observed, which may have directly led to or contributed to the death of Keon Wilson. A definite finding on the import of these breaches shall be in the final report. Preliminarily, however, the COI has found the following breaches:

- a. Regulation 206 (N) of Cap 65:01, of the Mining Act, for mines officers not ordering forfeiture of unregistered dredge and a monetary fine.
- b. Regulation 154 of Cap 65:01, of the Mining Act, for mines officers not ordering persons to be removed from a claim.
- c. Section 40 of Draft Mining Safety Regulations 2009 for not securing the stability of open pit face.
- d. Clause 8 of mining permit No A-10a/MP/000/001, (protection of the environment) owned by Mr George Alfonso, for allowing Mr Daly to be illegal on the claim and mining the claim in a dangerous manner to life and the environment.
- e. Section 64 (2) Cap 65:01 of the Mining Act, for not carrying out mining operations in good faith by holder of mining permit.
- f. Section 75 Cap 65:01 of the Mining Act, for not providing for safety in mines.
- g. Mining Permit No 56/2007 - A-10a/MP/000, renewed even though illegal mining was present.
- h. Clause 3, Standing Operational Procedures (SOP) (Mines Division) for not inspecting mining privileges as required my mines officers.
- i. Clause 4 (d) of SOP (Mines Division) for operating a dredge to operate on claim not stated on a Mining Privilege.
- j. Clause 7 of SOP re OHS resulting in breach in that vertical pit wall appears to be in excess on 20 x feet.
- k. Section 40 Draft Mining Safety Regulations, which prescribes designs for open pit workings.
- l. Regulation 98 which requires issuing of Cease Work Orders.
- m. Section 126 (a-c) of Cap 65:01 of the Mining Act, for not executing the duties as mines officers including powers to inspect, enter, analyze and examine any and all material relating to mining. A mining officer is required to inspect any area which in his opinion has been, or is being, or is to be, used in connection with prospecting or mining operations

- n. Clause 18 (a) of SOP (Mines Division) for not **initiating criminal proceedings** against any person, who explores, prospects or searches the ground without a license.
- o. Regulation 143 of Cap 65:01 of the Mining Act for **sub-letting a claim without permission.**
- p. Regulation 206 (1), for operating a dredge without a **fixed identification mark**
- q. Regulation 147 for operating on a **claim not endorsed** by claim holder for tributor to work.

REGULATORY REGIME GOVERNING MINING AT ROCK CREEK PURUNI

There is compliment of two mines officers, supported by two mines rangers are located at the Puruni Mining Station. To be reported on fully in final report

MONITORING REGIME GOVERNING MINING AT ROCK CREEK PURUNI

To be reported on fully in the final report.

REPORTING REGIME GOVERNING MINING AT ROCK CREEK PURUNI

To be reported on fully in the final report.

ADEQUACY AND EFFECTIVENESS OF REGULATORY AGENCY IN PROVIDING OVERSIGHT AND IMPLEMENTATION OF SAFETY PROCEDURES

To be reported on in final report. At a glance, many human resource challenges abound.

REVIEW OF RESPONSIBILITIES AND MECHANISMS TO REALIZE SAFETY OPERATING PROCEDURES

To be reported on in final report.

BLAMEWORTHINESS OF INDIVIDUALS

To be reported on in final report

RECOMMENDATIONS

Effectiveness and Adequacy of Current Emergency Arrangement for Mining Related Accidents

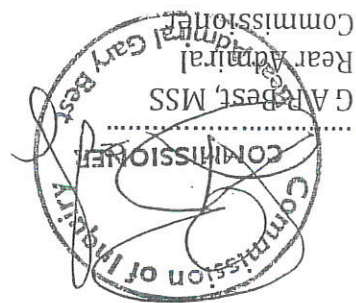
To be reported on in final report

Interaction Between Departments, Agencies and Service Providers to Better Protect Miners

To be reported on in final report.

Reducing the Possibility of Recurrence of any such Incident

To be reported on in final report.



Annexes:

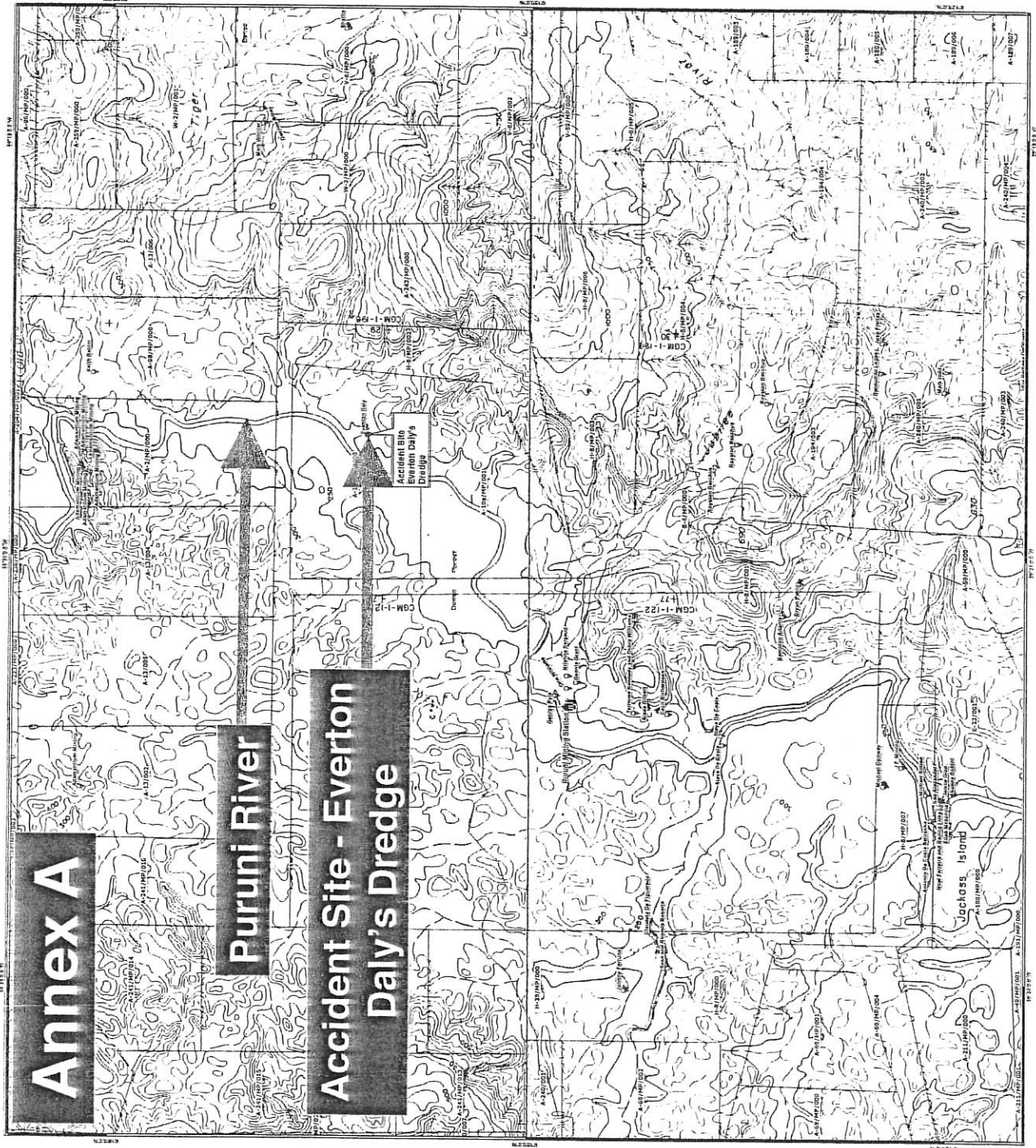
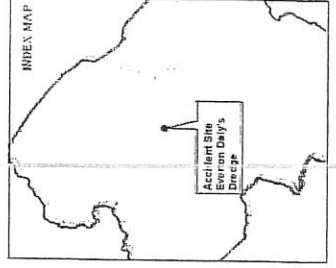
- A. Map showing the accident site at Rock Creek, Puruni
- B. Selected pictures of the accident site at Rock Creek, Puruni
- C. Technical description re the collapse of the Everton Daly mining pit
- D. Transcript of testimony of Commissioner Newel Dennison
- E. Visit by Commission's team to Rock Creek, Puruni
- F. Operations and equipment matrix for the Everton Daly mining operation

Map showing Dredge Locations & Mining Station on Accident Site



LEGEND

- Accident site
- ▽ Dredge Locations
- ▲ Mining Stations
- Existing Properties
- Road



0 1 2 3 4 km

SCALE 1:100,000

PICTURES OF THE ACCIDENT SITE AT THE
DALY MINING PIT, PURUNI REGION NO. 7
TAKEN DURING A SITE VISIT
ON OCTOBER 28, 2016

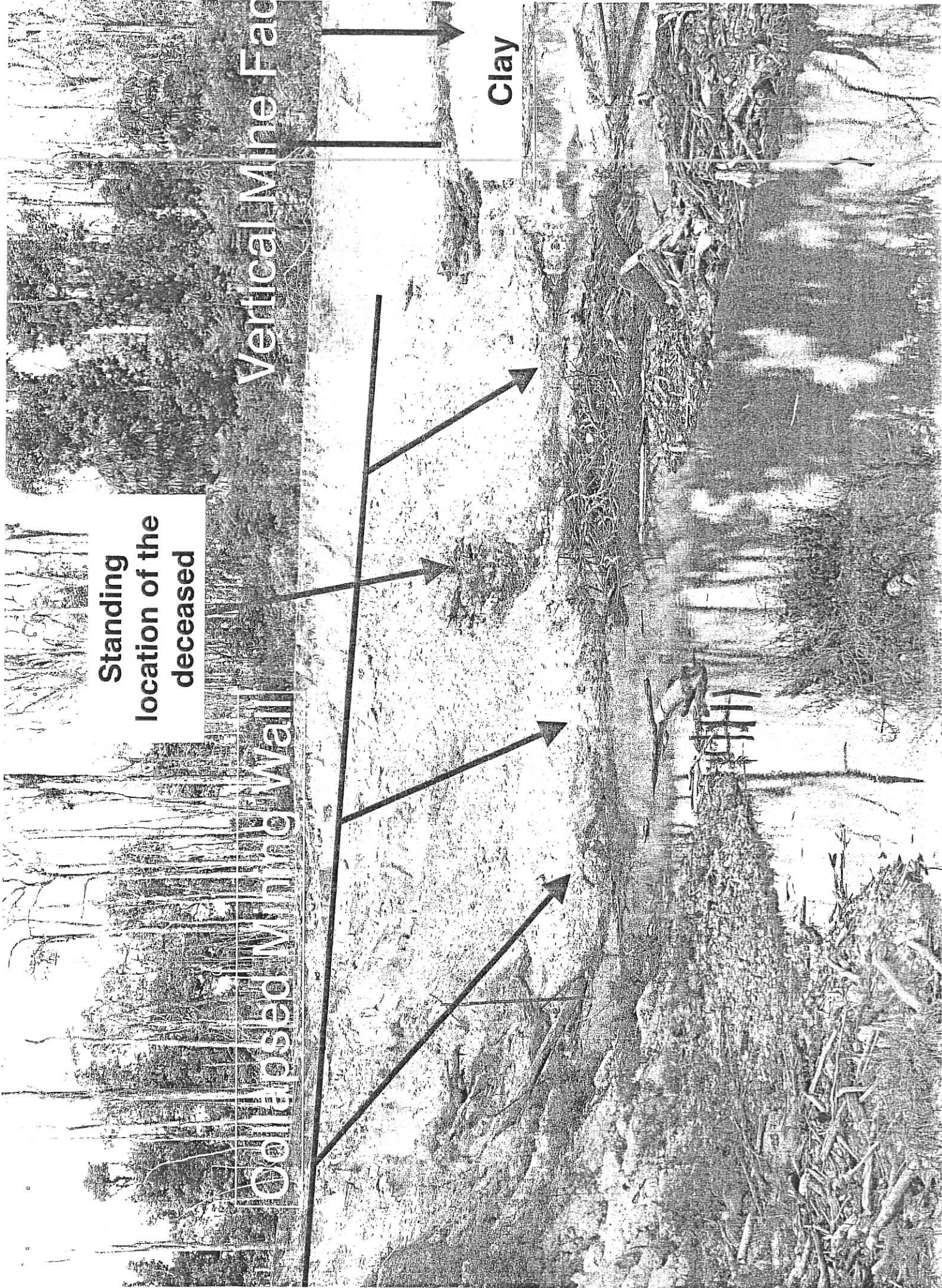
Annex B

Standing
location of the
deceased

Collapsed Mining Well

Vertical Mine Face

Clay

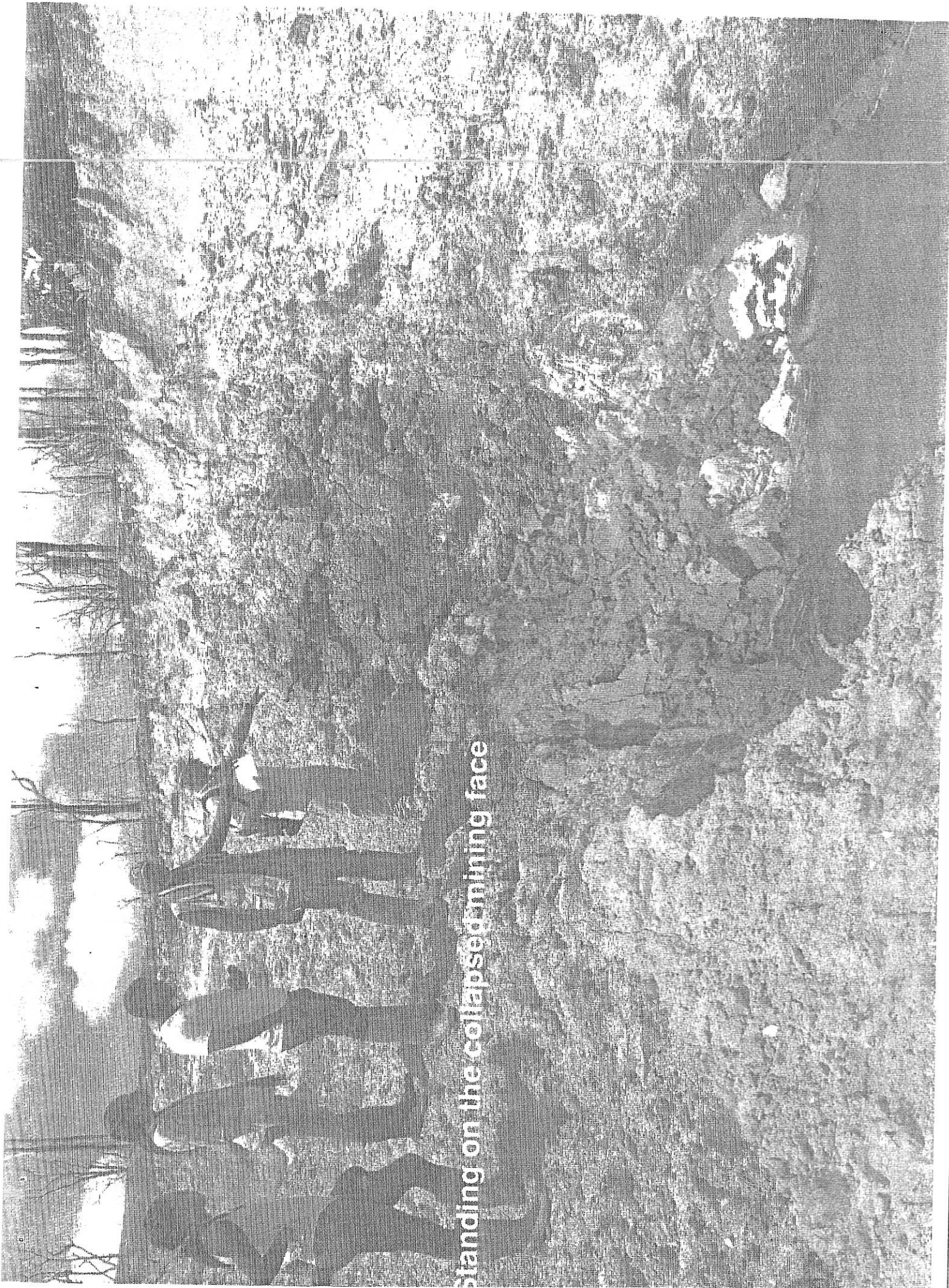


Pre- and Post-Dredge

Things of previously

of on the left of the investigation and the right of the increased

Standing on the corpse-bearing face

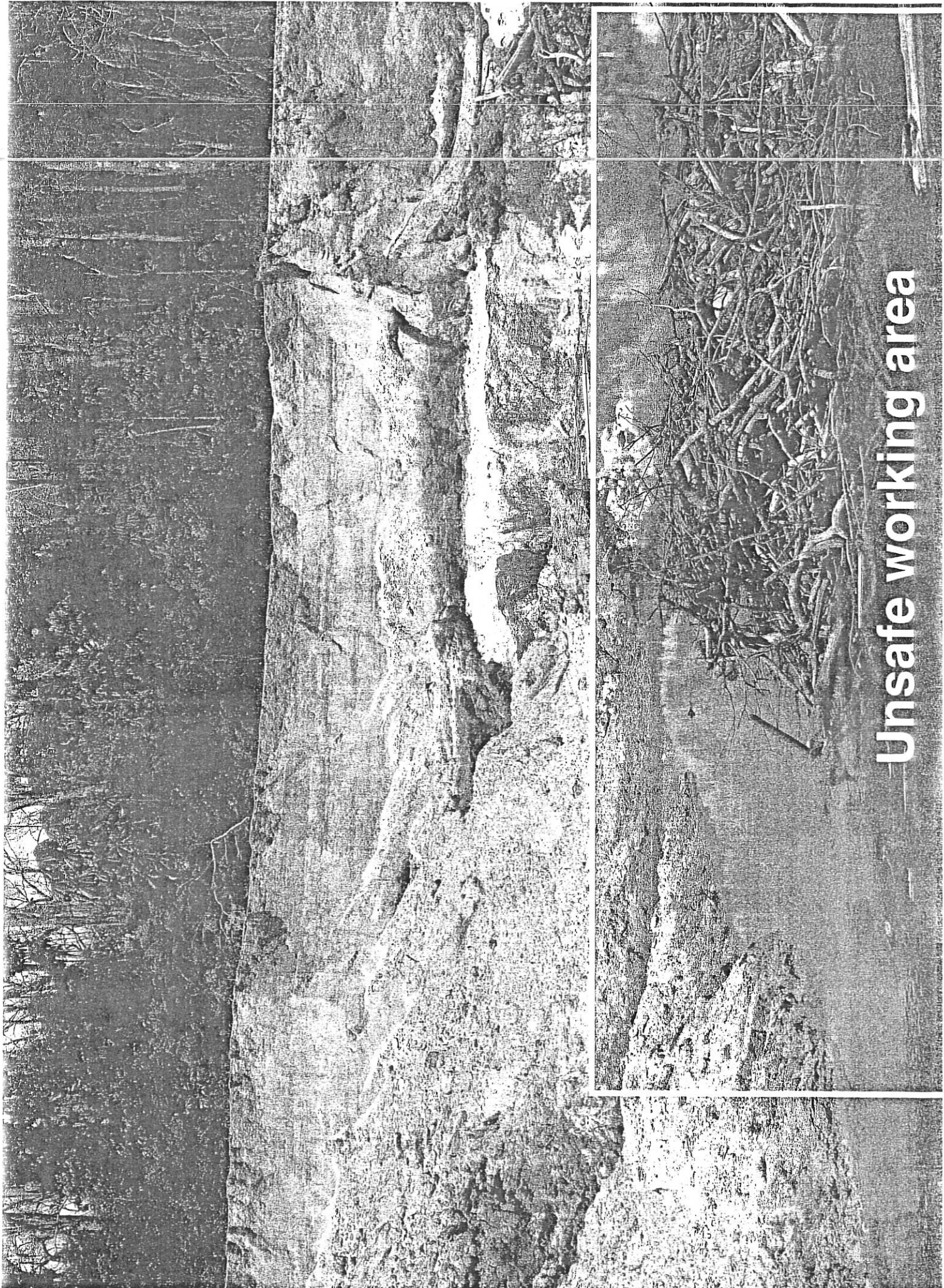




Covered location where the deceased,
KW was standing

General area where KW

Standing on collapsed mining face

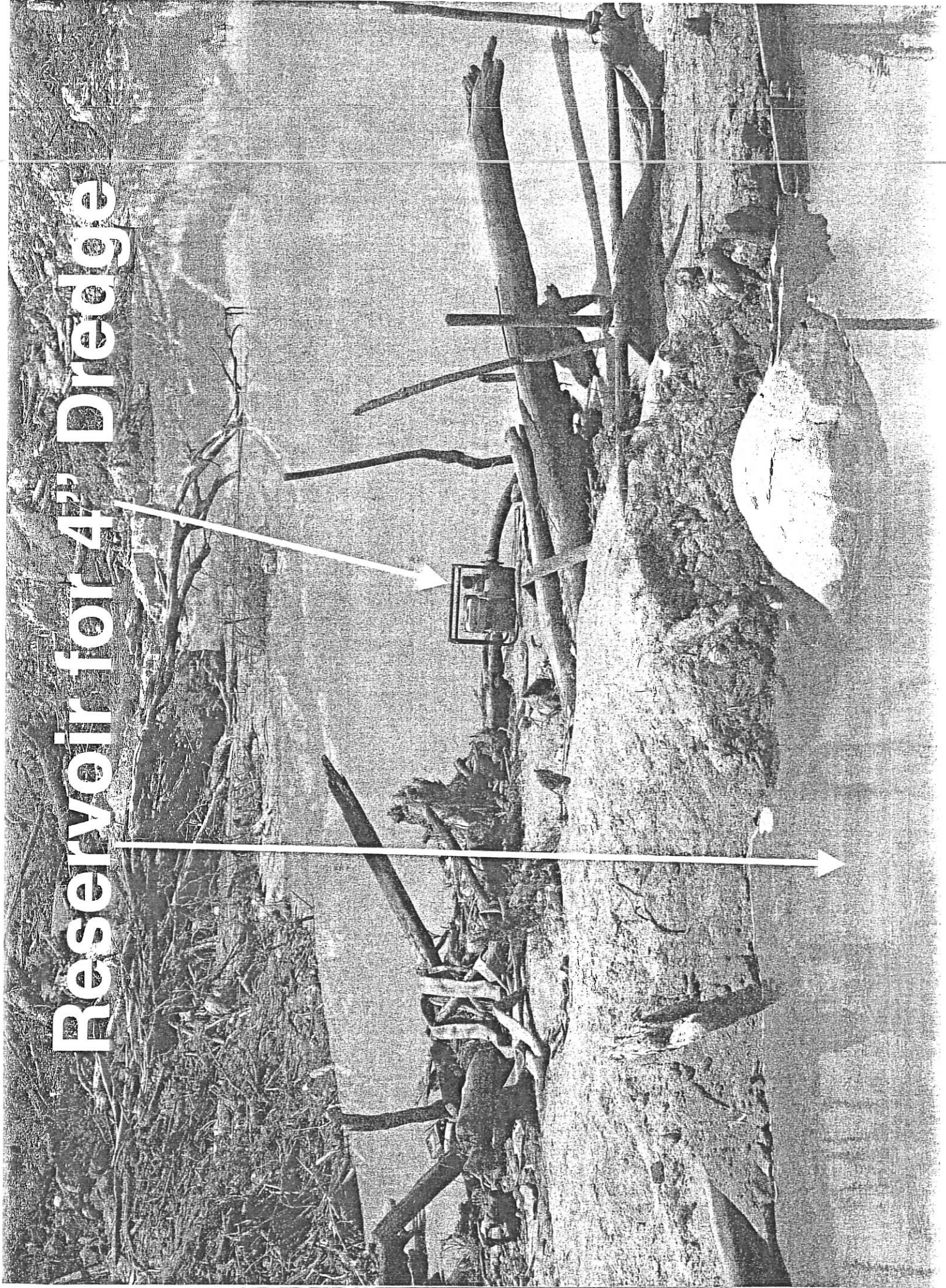


Unsafe working area

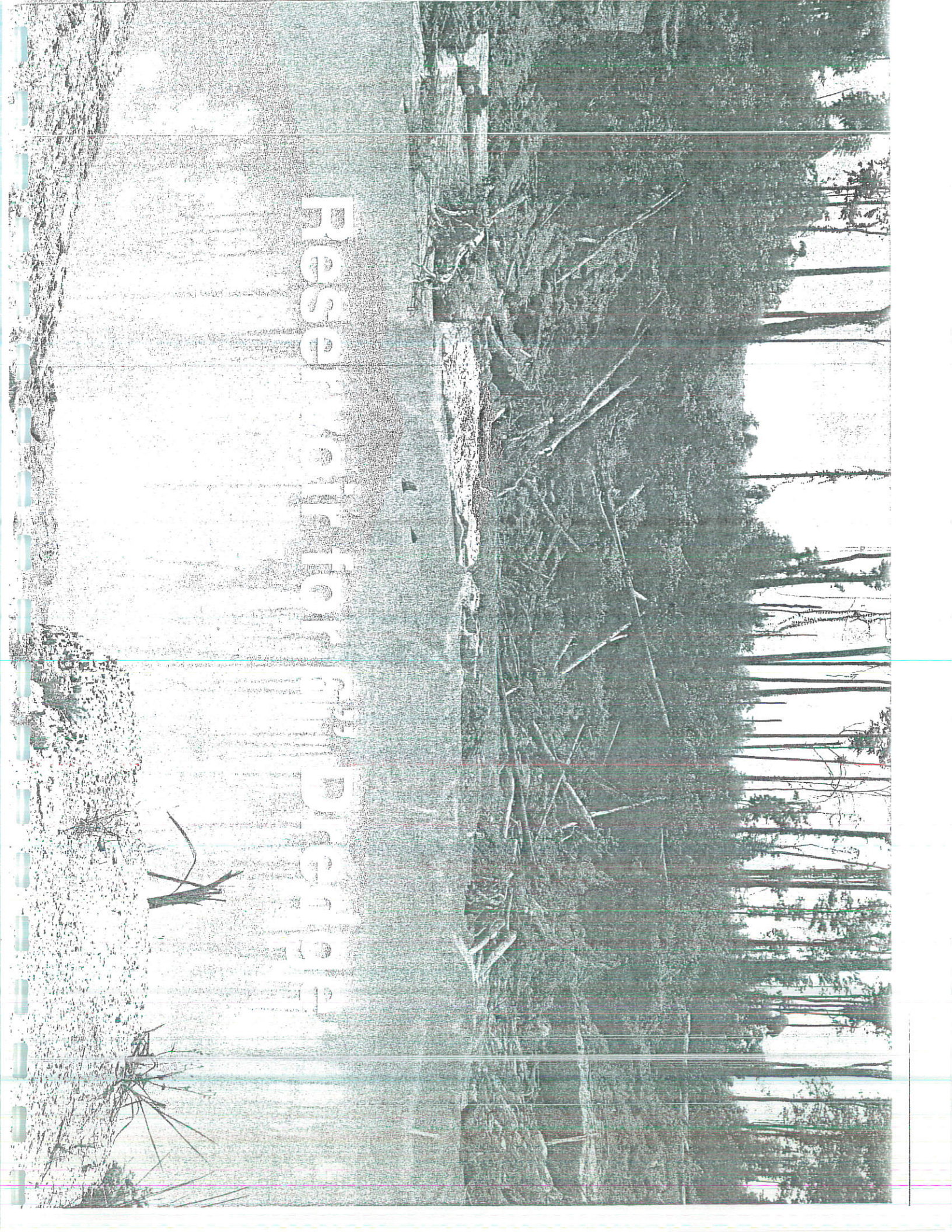
A black and white photograph of a forest floor. A large, weathered log lies horizontally across the foreground. In the background, a person stands near a line of trees. The text "Previously Mined Area" is overlaid on the image.

Previously Mined Area

Reservoir for 4" Dredge



Reservoir & Dam



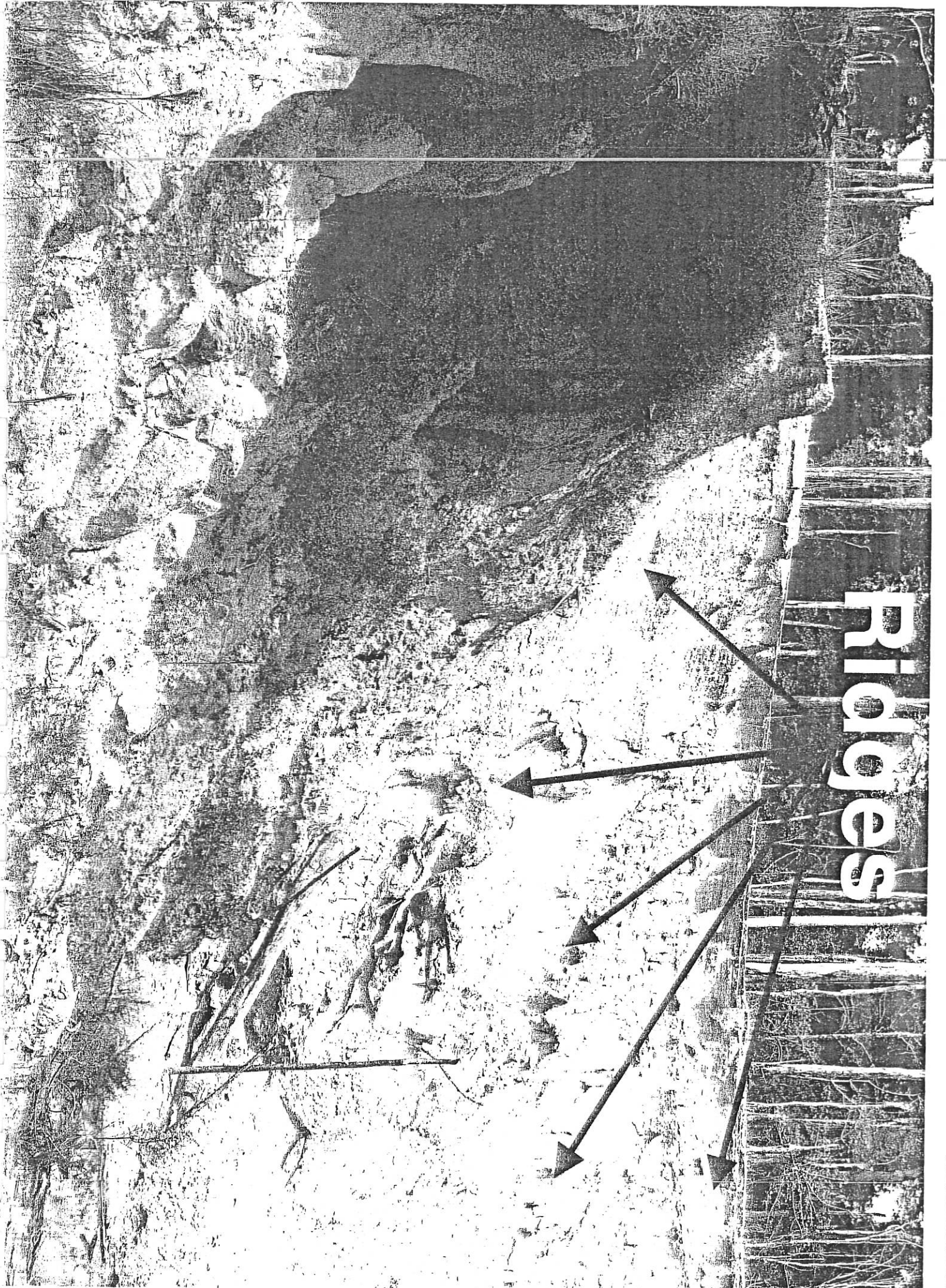


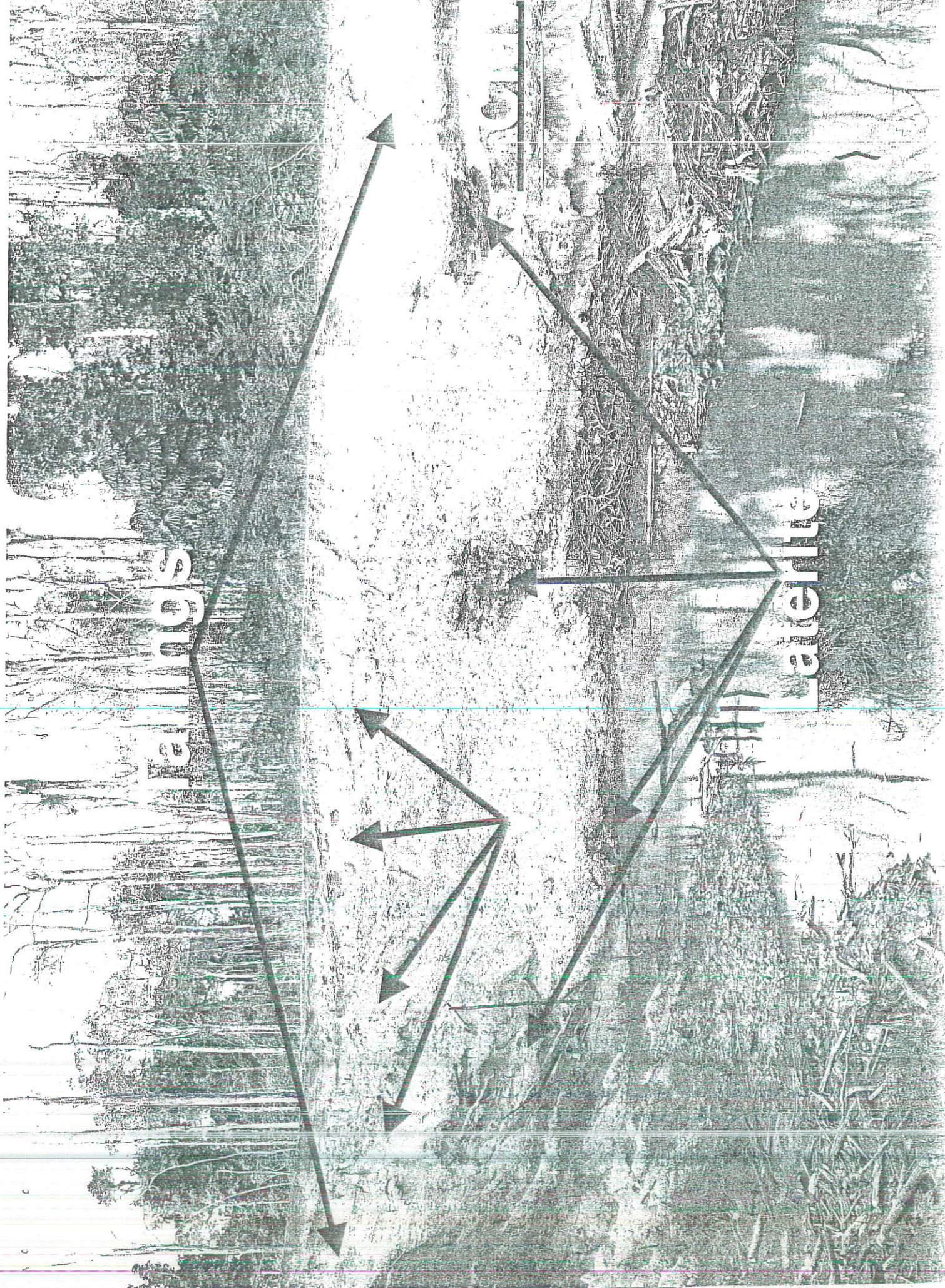
3" Marac Engine

A black and white photograph showing a 6-inch jet engine mounted on a wooden frame. The engine is a complex mechanical device with various pipes, valves, and a large cylindrical component. It is positioned in the center of the frame. In the background, there is a large, dark, cylindrical metal bucket or container. The entire scene is set outdoors on a wooden platform or deck. The text "6" Jet Engine" is overlaid on the left side of the image.

6" Jet Engine

Ridges





Larvite

Larvite

Larvite

Annex C

PRELIMINARY ACCIDENT SITE ANALYSIS ASSOCIATED WITH EVERTON DALY'S DREDGE

BY

Charles L. Griffith, BS Agri. Eng. MS Agri. Process Eng. PE

The Rock Creek Area is part of the Bartica Assemblage with has a geological horizons consisting of various depths of sand, clays and laterite with considerable quantities of iron ore.

The accident site associated with Everton Daly's Dredge is contained in GGMC lease A-10a/MP/000.

APPROACH TO SITE ANALYSIS

Based upon a site reconnaissance along with taking appropriate photographs for further evaluation, it appeared that this L shape site was previously mined, and attributed to myriads of standing vertical and sloped exposed surfaces to a height of approximately 35 feet. The length of the excavation is about 600 feet with a constant width of about 150 feet.

Two tailing structures were observed to the north, east west of this site, and because of the features identified in the above two adjoining perimeter structural faces along with their supporting external triangular prisms with valleys and crests were evaluated.

Based upon the existing topography of the north eastern corner of this site, structural subsidence occurred with evidence of structural vertical sharing along a section of the north as well as the east boundaries.

Further examination of this subsidence revealed prominent unevenness of the valleys as well as the crests, suggest that the unstable character of the unconsolidated tailings mixture of sand, clay and laterite. Such uneven compactness of the mixture of sand, clay and laterite seemed to also suggest that different zones of saturation occurred during jetting. There would be different pore sizes within the mixture sand, clay and laterite resulting different adhesive forces among particles, hence, different moisture transfer, due also to different tailings component permeabilities, as well as length of effective pressure gradients within the tailing complex.

The collapse or flow and deformation of the unstable undersurface zones of the tailings area as evidenced by the observed crests and valleys topographic surfaces, was attributed to differential subsurface moisture saturation below these topographic surfaces, due to jetting.

Annex D

**TRANSCRIPT OF THE TESTIMONY OF
NEWELL DENNISON
COMMISSIONER (AG)
GUYANA GEOLOGY AND MINES
COMMISSION
GIVEN TO THE COMMISSION OF INQUIRY
ON OCTOBER 21, 2016 AND
OCTOBER 24, 2016**

Friday, October 21, 2016

Chairman: Be seated please. Secretary.

Secretary: Good morning all. This is the oath to the witness. Witness today, do you swear to tell the truth

Chairman: You do not say that, we will ask the police to do that. Just go on...second part

Secretary: Mr. Dennison, good morning Sir, please state your correct and full name for the record.

Chairman: Let him state ...

Police: What's your name?

Witness: Newell Morris Dennison

Police: Mr. Newell Dennison, the evidence you are going to give, do you swear to speak the truth, the whole truth, and nothing but the truth so help me God?

Witness: I do

Secretary: Thank you Mr. Dennison

Chairman: Mr. Dennison, you can have a seat please. Your counsel present?

Witness: Yes sir.

Chairman: Well for the record, Counsel

Counsel for GPMC: If it pleases you sir, my name is Ms. Stacy Weever. I am the Legal Officer of the Guyana Geology and Mines Commission, and I appear on behalf of the Commission.

Chairman: Just say the name again Counsel.

Counsel for GGMC: Stacy Weever

Chairman: Stacy Weever

Secretary: Mr. Dennison, please state your correct and full name for the record.

Witness: Newell Morris Dennison

Secretary: Where do you live Mr. Dennison?

Witness: 179 Crown Street, Queenstown, Georgetown

Secretary: For the record, please state your official place of work and your official designation

Witness: Guyana Geology and Mines Commission, 68 Upper Brickdam, Georgetown. My present position is Commissioner (ag.)

Secretary: Mr. Dennison, you recall being invited to make a submission. I will make the terms of reference available to you to guide and assist you as you make your presentation. Your testimony, Mr. Dennison, is being recorded by the instrument in front of you, and will form part of the evidence before the Commission of Inquiry. So kindly speak clearly. If at any stage you wish to state or reveal any bit of evidence in the absence of the public, please so indicate, and the Commissioner will decide whether this wish will be granted. I now invite you Mr. Dennison, to make your submission. Thank you. Commissioner.

Chairman: Before we proceed Mr. Dennison, just want to confirm, you did receive the summons and you did receive the TORs?

Witness: Yes Sir

Commissioner: So we have a copy here just in case you did not have it with you. But you have yours?

Witness: Yes Sir

Chairman: I'll just make a few comments before we start for the record that so we can be clear. Members of the public, good morning. The witness, commissioner and other persons here present this morning to this important inquiry, on behalf of the Commission and our own secretariat, I pledge our support to work faithfully and impartially to the Commission as we seek to achieve the Commission's mandate within its timeframe as faithfully as we can. To the members of the public, I urge you to keep sending your statements and memoranda and I assure you that the Commission will discharge its mandate with integrity, impartiality and professionalism. This is our first hearing, there will be other hearings, all of which will not be limited to Georgetown. We will sit in Puruni, we will also sit in Bartica, and wherever the inquiry leads us. After the completion of the hearings, there will be an analysis and review of evidence, obtaining clarification, material evidence of witnesses, among others, in an effort to determine and meet the terms of reference of the Commission. So again I invite the public to be part of this public inquiry and all persons who wish to give evidence to send statements to the Commission and we will work to get you before the Commission to hear that evidence. The real strength of the inquiry will be the ability not just to look at one set of activities or documents in isolation, but to draw together the different strands from various sources, along with the key public testimony. So I seek your cooperation and attention in making these hearings a complete success. Witnesses that come before this Commission, I pledge to ensure that you're as comfortable as possible, giving this evidence or whatever you wish to say before the Commission. So I now declare these proceedings duly open and invite the Commissioner to read the statement into the record after which I will ask those questions at dictation speed so that Counsel and all of us can get a chance to record what is being said by the

Commissioner. So I'll try to be at dictation speed so when you answer I will ask you to be at dictation speed because it is being recorded handwritten, duly recorded across there with an audio and also duly video recorded. So we have audio, audio visual, and we have good old handwriting. So you may proceed Commissioner.

A: Thank you Sir. If it pleases you Sir, I shall read into the record a statement which I provided for your convenience.

Q: Proceed please.

Witness: This is a witness statement of the Commissioner (ag.) of the Guyana Geology and Mines Commission. I, Newell Morris Dennison, of Georgetown, Guyana, am the Commissioner (ag.) of the Guyana Geology and Mines Commission. The Guyana Geology and Mines Commission was established by virtue of the Guyana Geology and Mines Commission Act Chapter 65:09 of the Laws of Guyana. I have been employed at the Guyana Geology and Mines Commission for an excess of 22 years as Manager of the Petroleum Division, as the Assistant Commissioner, as the Deputy Commissioner Technical, and presently the Commissioner (ag.) of the Guyana Geology and Mines Commission. As the Commission (ag.) of the Guyana Geology and Mines Commission herein after referred to as the GGMC, I am responsible for ensuring that the daily operations of the GGMC are carried out by the designated officers. On the 9th day of October, 2016, at approximately 10:00h, I received a telephone call from Commander Budhram of the Guyana Police Force, who is stationed at Bartica. Commander Budhram informed me, which I verily believe to be true, that there was a mining fatality at Rock Creek in the Puruni Backdam, Cuyuni, Mazaruni, Region Seven. On the 9th day of October 2016, Commander Budhram informed me, which I verily believe to be true, that a mining accident had occurred on the 8th day of October, 2016, and thereafter I immediately attempted to contact Senior Mining Engineer, Mr. Michael Howard, who was the

assigned engineer of that mining district. On the 9th day of October, 2016, I was unable immediately to make contact with Senior Mining Engineer Mr. Michael Howard and I then telephoned Senior Mining Engineer Mr. Carlos Todd, who was then successful in making contact with Senior Mining Engineer Mr. Michael Howard. On the 9th day of October, 2016, Senior Mining Engineer, Mr. Michael Howard, telephoned me at approximately 10:10h and informed me, which I verily believe to be true, that he was alerted that there was a fatality at Rock Creek in the Puruni Backdam, Cuyuni, Mazaruni, Region Number Seven, as a result of a mining accident. On the 9th day of October, 2016, Senior Mining Engineer Mr. Michael Howard undertook to investigate the accident, which resulted in the death of Mr. Keon Wilson. On the 9th day of October, 2016, at approximately 10:22h, I also informed the Honourable Minister of Natural Resources, Mr. Raphael Trotman, and the Honourable Junior Minister of Natural Resources, Ms. Simona Broomes, by text messages of this unfortunate fatality. On the 9th day of October, 2016, I received by email a copy of a report prepared by Senior Mining Engineer, Mr. Dharampaul Chandan, who is stationed at the Puruni Mining Station, and had investigated the accident on the 8th day of October, 2016. The report provided, sorry, the report provided further information about the accident to which I now refer. That I have been informed by Senior Mining Engineer, Mr. Dharampaul Chandan, that on the 8th day of October, 2016, at approximately 17:40h, that he was notified by Mr. Everton Daly that an accident occurred whereby a mining pit in the vicinity of Rock Creek, Puruni, Cuyuni, Mazaruni, Region Number Seven, had collapsed, which resulted in the death of a miner, Mr. Keon Wilson. On the 8th day of October, 2016, Senior Mining Engineer, Mr. Dharampaul Chandan, was stationed at the Puruni Mining Station with another Mines Officer. Currently, there are two officers who manage the Puruni Mining Station. These officers conduct daily monitoring, inclusive of monitoring on weekends. The officers then make entries into their

diaries of their findings with respect to the monitored operations. The GGMC's records reflect that within the area of the Puruni Mining Station, there were 120 mining operations monitored during the month of September 2016. Senior Mining Engineer, Mr. Dharampaul Chandan, informed me, and I verily believe it to be true, that on the 8th day of October, 2016, at approximately 18:30h, he carried out an investigation at the scene of the accident and observed that the body of Mr. Keon Wilson had already been recovered and was present at the scene of the accident during his investigation at Rock Creek, Puruni, Cuyuni, Mazaruni, Region Number Seven. Senior Mining Engineer, Mr. Dharampaul Chandan, informed me, and I verily believe to be true, that after rendering assistance at the scene of the accident and conducting an initial investigation, a party inclusive of the dredge owner of the operation, returned to the Puruni Mining Station, and he then recorded witness statements from all the available witnesses. On the 8th day of October, 2016, Senior Mining Engineer, Mr. Dharampaul Chandan, dispatched his investigation report at approximately 23:30h to Ms. Diana McDonald, Manager (ag.) of the Mines Division, Senior Mining Engineer Mr. Michael Howard, Deputy Chief Mines Officer Mr. Kerwin Josiah and Administrative Officer Ms. Nkase Carter of the GGMC, of the details of the accident. The report of the Senior Mining Engineer, Mr. Dharampaul Chandan, details his observations and provided statements taken at the scene of the accident which took the life of Mr. Keon Wilson. On the 10th day of October, 2016, I was informed by Senior Mining Engineer, Mr. Dharampaul Chandan, and verily believe to be true, that Mines Officers Mr. Steve Burnett and Mr. Lennox Wilson, had inspected the Rock Creek, Puruni, Cuyuni, Mazaruni, Region Number Seven area, as required by the operation procedures of the GGMC Mining Act Number 20 of 1989 and Regulations of the Mining Act. That I was also informed by Senior Mining Engineer, Mr. Dharampaul Chandan, and verily believe to be true, that during inspection by Mines Officers Mr. Steve Burnett and Mr.

Lennox Wilson, they observed that there was no mining activity being conducted in

the vicinity of the location of the accident. That I was also informed by Senior Mining Engineer, Mr. Dharampaul Chandan, and verily believe to be true, that during their inspection, Mines Officers Mr. Steve Burnett and Mr. Lennox Wilson observed that there was a camp which housed several miners in the Rock Creek area, inclusive of the camp which Mr. Keon Wilson, deceased, was employed as a General Manager. That I was also informed by Senior Mining Engineer, Mr. Dharampaul Chandan, and verily believe it to be true, that during their inspection, Mines Officers Mr. Steve Burnett and Mr. Lennox Wilson, were informed by the miners present in the Rock Creek, Puruni, Cuyuni, Mazaruini, Region Number Seven area, inclusive of miners of the camp which employed Mr. Keon Wilson, deceased, that mining activities had not occurred for the last two months on that site or any other site in the area. It was recorded by the Mines Officers, Mr. Steve Burnett and Mr. Lennox Wilson, in their records, that the miners employed at the camp of Mr. Keon Wilson, deceased, had not been granted any permission from the Commissioner of the Guyana Geology and Mines Commission to operate any dredges, and did not have the requisite permission to carry out any mining activity on the mining permit on which the camp was established. That the information provided by Mines Officers, Mr. Steve Burnett and Mr. Lennox Wilson, revealed that the equipment in the possession of the camp, which employed Mr. Keon Wilson, deceased, included a six inch dredge which was not registered by the GPMC. As a result, Mines Officers, Mr. Steve Burnett and Mr. Lennox Wilson, informed the miners of the regulations of the Mining Act, and that their statutory obligation to acquire the necessary permissions of the GPMC before commencing mining operations in the area. The officers assigned to the Puruni Mining Station, would have conducted scheduled monitoring of the Rock Creek, Puruni, Cuyuni, Mazaruini region, Region Number Seven area, in the last quarter of the year 2016, and therefore would have returned

to the area to ensure that the miners had adhered to the directions of the Mines Officers, Mr. Steve Burnett and Mr. Lennox Wilson. The GGMC, as a result of the May 2015 mining tragedy, at Mawusi or Pepper Creek, Potaro, Region Number Eight, facilitated a comprehensive investigation of that accident. The investigation was conducted by Dr. Grantley Walrond et al. Accordingly, the report submitted by the investigation team stated several recommendations which have been implemented after collaboration with other stakeholders in the sector, and every effort is being made to respond in a strategic manner to curb mining accidents in the mining sector. The Mines Officers of the Commission are statutorily obligated to ensure compliance with the Mining Act No. 20 of 1989 and the Mining Regulations of the Mining Act. The Standing Operating Procedures of the Guyana Geology and Mines Commission's Mines Officers when conducting monitoring activities can now be summarized if I am permitted to do so. Thank you.

Q: Thank you Commissioner. If I may ask the intention of the last statement. Is the intention for you to continue or this is an abridged version of the entire body of what you wish to present to the Commission?

A: This is an abridged version of what I would like to present if I may but I suspect that there may be questions pertaining to what our officers are required to do in the field. And if it suits you Sir, I am prepared to continue along that line.

Q: Duly noted. We'll take this as an abridged version of your statement and we'll/I'll ask you questions on it. And we will recall you on Monday morning.

A: Yes Sir

Q: To continue to present that the remainder of your statement and further questioning. Because I would assume that it won't be this afternoon, the further

version will not be this afternoon. I am making that assumption that the further version or the latter part of this statement will not be this afternoon.

A: No it will not Sir but I am to be guided by what other questions you may wish to put so that I may be able to add substance to the material that was presented. I am not quite sure.

Q: I think just be guided by the TORs, the Terms of Reference, it says information you think is useful to the Commission; that would help the Commission in its business of investigating inquiry. So whatever information you think is useful, whatever documents you believe should be handed over, then you hand those documents over to the Commission. It makes it easier so we don't have to subpoena any documents, having discovering them subsequently that they are useful, if you hand them over and you bring them we can formally introduce them into the evidence and mark them as exhibits. So it's really the TOR will guide you as to what you think can be laid over and so we can then question you on

A: Well Sir if I may, may I guide you to, in addition to the Standing Operation Procedures which I have submitted, the accident report which would be substance that I would like to have in the record, and which might present an opportunity again for questions to come to me.

Q: Duly noted. May I, Counsel? Accident report? I received the Accident Report so I'm going to pass it back to you and ask you if this is the report you laid over on the command of a letter to the Commission and once there is no disagreement then we will enter it into the evidence and mark it as Exhibit NDI. Please take this to Mr. Dennison. Is that the report you laid over to the Commission?

A: I confirm that this is the report that I laid over.

Q: Thank you. We will mark it as Exhibit ND1. Do the, Counsel, mark on it top, you can mark the top right corner Exhibit ND1 please. Are the other documents that you laid over, would you like to be marked into evidence?

A: Mr. Commissioner, if it is convenient to do so Sir, I would like to do that.

Q: I have before me Mining Regulations under repeal Mining Act Chapter 65:01, Mining Act, you would like to tender this into evidence?

A: Yes Sir.

Q: Kindly show it to Mr. Dennison please. Kindly confirm if that's the document you laid over to the Commission.

A: Yes Sir.

Q: Duly accepted as ND2, Exhibit ND2 Mining Regulations. I also have before me laid over Draft Safety Rules of the Commission.

A: Just once again Sir to indicate that

Q: Just one moment, one moment please as I make a note. Yes.

A: Just to inform again that this document is only a draft document as it is so marked.

Q: But before we do that, what is the rider on this document? What does that mean?

A: Well

Q: If we enter it into evidence as exhibit, then it becomes part of the proceedings and therefore it means you can be questioned on it and other officers of GGMC, because it forms part of your safety procedures so are you putting a rider clause in it? I don't know if Counsel like to speak, is there a rider clause in it?

Counsel for GGMC: If I may speak

Q: You can sit

Counsel for GMC: The Commission usually practices what is stated in the document. But as far as enforcement procedures we stick to the regulations and the Law, the Mining Law.

Q: It sounds as though you are flying and sailing at the same time, I am not too clear here.

Counsel for GMC: We are guided by that document, by the draft document.

Q: You are guided by it?

Counsel for GMC: Yes.

Q: So, is that the rider statement you would like to place on it?

Counsel for GMC: That is so.

Q: Document is tendered.

Counsel for GMC: As a guide.

Q: As a guide.

Counsel for GMC: Yes.

Q: You are guided by it?

Counsel for GMC: Yes.

Q: So Draft Regulations entered into the body of the evidence as Exhibit ND3, and you'll number them consecutively ND for this particular witness, Counsel. Are there any other documents you wish to, that were laid over, you wish to have from your perspective as a record for the Commission to refer to?

A: Sir, I had laid over a document entitled "Guyana Geology and Mines Commission Standard Operational Procedures Mines Division".

Q: Is that the document laid over Commissioner?

A: Yes Sir

Q: It's duly noted. Accepted into evidence as Exhibit ND4. Commissioner, would you enter the Organisation Chart into

A: Yes Sir.

Q: Please

Q: Kindly confirm that it is laid over to us.

A: Yes it is.

Q: On the checklist for GGMC, is the Checklist for GGMC Domination of Forest Clearance, Clearing by Mining for MRV/LCDS, Education Awareness and Technical Assistance to Miners

A: That's a two pager?

Q: It's a thirteen pager.

A: Yes I think I know which one it is. Yes. Yes please.

Q: We mark that Exhibit 5. Counsel can you return the exhibit please? Accident report on top please. The Commission really wish to understand, try to understand exactly what happened over the period on the 8th of October so Mr. Dharampaul Chandan, where is he physically located? Mr. Chandan, where is he physically located?

A: He is physically located at the Guyana Geology and Mines Commission's headquarters as Senior Mines Engineer, but he is also assigned from time to time, on a regular basis, to Mines Stations to conduct regulatory and other activities on behalf of the Commission.

Q: And what is his duty? What is his designation? His appointment? Mr. Chandan?

A: Senior Mines Engineer.

Q: Senior Mines Engineer.

A: Yes

Q: What are his responsibilities?

A: He is gazetted as a Mines Officer so he is empowered to conduct all the compliance and regulatory

Q: Those duties are gazetted?

A: Yes Sir.

Q: Well duly noted.

A: But as a Engineer he has the additional expertise on the technical issues that pertain to mining.

Q: Counsel, I notice the Commissioner has verily believe to be true throughout. Verily believe to be true throughout. How do you wish the Commission to deal with it?

Counsel for GPMC: That is because of telephone conversations. It was not a direct conversation. It included report, statements made during reports, in reports rather, as well as telephone conversations and emails.

Q: So how should I treat it? As verily believe to be true?

Counsel for GGMC: It is true. He believes it to be true.

Q: At the time when he received it?

Counsel for GGMC: Yes.

Q: Let's talk a bit about the dredge. In your statement you said that the dredge was not registered. Could you explain what not being registered means?

A: Any piece of mechanical equipment that is intended to partake or be a component of a mining activity is required to be registered by the with the Geology and Mines Commission, which involves an inspection process and it involves taking information pertaining to the type and other particulars of the equipment. So it is a record with the Commission that these pieces of equipment are in the field, and not only in the field, they are required to we are required to be informed when these pieces of equipment are being moved from location to location.

Q: So a potential miner, a licensed miner, if I understand you correctly, has to get permission to put, has to register his equipment before he places this equipment in the field?

A: He ought to according to the regulations.

Q: Ought to or is required to?

A: Is required to.

Q: Is required to?

A: Yes.

Q: The regulations state to seek permission from GGMC or to have it registered.

A: To have it registered in the first instance

Q: First instance, and thereafter he places it, he places the equipment, in an area that is bounded by some rule of GPMC?

A: Yes, because the next step in that is for him to be permitted so the document of registration is one thing, but in order for us to keep track of which equipment is located where, there's required to be a permission before that operation ... that piece of equipment. For example, if I am operating in this space, I may have a registered piece of equipment with the GPMC but if I don't have permission from the GPMC to operate that registered piece of equipment in that space, it would be considered a breach under our compliance arrangements.

Q: So a piece of equipment that is registered can be in a physical location but in order for the equipment to work in that location it needs an operator's licence?

A: That's right.

Q: But it can be physically located?

A: It can be located there.

Q: But the next thing is an operator's licence?

A: That's right.

Q: And there is a penalty for an unregistered dredge, is there not? I would think that is a breach of the Mining Regulations?

A: It is a breach of our regulations but we don't consider it. The GPMC has in its procedures been employing a methodology of encouraging all the way through until we find that persons are so disposed not to follow procedures that then we enforce. So in a normal way of things, if we encounter an unregistered dredge in a passive

way that would not be considered such a bad thing. But if persistently that particular piece of equipment is found not to be registered then it becomes an item that is prosecu... that can be charges can be laid against under the regulations. So if I am to go a little bit further you may notice that it was expected that there would be a revisit to see if there was compliance. Because all that is required is in this case is paper work to have that dredge registered in the first instance, and then a little bit more paperwork to have the dredge permitted in the second instance.

Q: Are you saying that the GGMC allows dredges to be unregistered?

A: No.

Q: For a finite time? And thereafter they will then move against dredges that are unregistered?

A: Well at the discretion of the officers that happens.

Q: At the discretion of which officers?

A: These are the officers in the field who are the Mines Officers and at the discretion of the officers that

Q: Mines Officers?

A: Yes.

Q: They can have you say at the discretion of Mines Officer a dredge can be unregistered

A: Unregistered.

Q: Without an operator's licence and not be prosecuted?

A: Yes. And one of the main conditions there is if it's benign, it they are not working

Q: If it's not working?

A: If it's not working. If there is no appearance as if they are operating. If they are operating, they are required to cease operating and then charges could be laid. But if they are absolutely not working at the time when the officers are passing through and it doesn't appear as if they're going to be working, then the officer can use his discretion and judgement and encourage the person to get regularized.

Q: Is that discretion and/or judgement a statutory power of the officer? Is there anywhere in the statutes that say the officer may, that is the introductory language for discretion, officer may in his own deliberative judgement allow a dredge to be unregistered without an operator's licence until such time as it become registered? Is that discretion anywhere in the statutes or in the regulations?

Counsel for GPMC: No Sir.

Q: You accept Counsel's answer?

A: Yes Sir.

Q: Having said what you said, are we to understand as a Commission that perhaps there are a number of unregistered dredges in the mining areas and they are unregistered at the discretion of the Mines Officers?

A: No Sir.

Q: So this is the only one that is unregistered in all the mining districts?

A: No Sir. More than likely not.

Q: More than likely not. So they are likely to have other dredges unregistered following this practice so to speak?

A: Yes. Where there are unregistered dredges discovered by the Mines Officer, they are informed and the Mines Officer is equipped with documents, books and receipts, or they can be had at the Mines Station, where with encouragement the persons encountered with unregistered dredges could get their dredges registered. It is a preference to have that happen than in the first instance taking the final step of prosecuting for not having registered equipment. And especially if the equipment is not operating.

Q: But if you use the analogy of a motor vehicle and it's unlicensed, not insurance, that's a breach on the face of the record. I am sure Counsel will agree. It's a breach on the face of the record. But it goes to the owner, the conduct of the owner, the state of mind of the owner. So as we sit in the inquiry, it then goes to the conduct of the GGMC, it goes beyond the Mines Officer who's exercising this discretion. Because if you look at it from a different perspective, one will make different arguments about this whole inquiry, this incident of the death of a miner.

A: There is, as mentioned before, an element of discretion because not every situation is the same. There is sometimes situations where the owner of the dredge may not be on spot to communicate to the officers the documents that ought to be present when they visit and...

Q: Are you saying therefore that one can decide to go into a mining area and thereafter try to get these doc try to get the paperwork done? A person will go into a mining area, not necessarily begin operation but in the mining area and then trying to get the paperwork done? And while they waiting for paperwork, the temptation becomes great and such a person may commence mining while waiting for the paperwork.

A: I wouldn't want to speculate on that Sir.

Q: Would you agree with me that the statute was not designed for that speculation you don't want to speculate on? That the statute wasn't designed for that purpose? Or should I ask you, was the statute designed for that purpose?

A: I would expect the design of the statute was to have dredges registered.

Q: Prior to getting into location or while in location? I just want to clarify this point.
A: It would have to be prior to getting into location. If I may, sorry

Q: Please
A: I raised a situation where construction of the particular equipment might be on spot on location and then attempts made to have the officers go to have that particular constructed equipment registered.

Q: So you're saying that prior to the construction of equipment on location we are dealing with a permit? Some ... of permit?

A: No, no, that wouldn't be the permit as yet.

Q: So how is construction, if there is construction on location, whose location is it?
A: Yes sir, sorry.

Q: Is that co-counsel?

A: Sorry Sir.

Q: Is that co-counsel?

Counsel for GMC: Yes Sir.

Q: Could you as co-counsel just put yourself into the record please? I understand you are co-counsel?

Co-Counsel for GMC: Yes please Your Honour.

Q: Please present yourself so you can get into the record.

Co-Counsel for GGMC: If it pleases Your Honour, my name is Kara Duff.

Q: Kara Duff?

Co-Counsel for GGMC: Yes.

Q: And you are co-counsel?

Co-Counsel for GGMC: Yes please Your Honour.

Q: Please go ahead.

A: Commissioner, I was trying to make the point that there may be pieces of the equipment already on site that wouldn't necessarily constitute a dredge or an engine or what have you, and at some point in time while it is being assembled it still will not constitute itself as a dredge or an engine or a pump or what have you. And I suppose the (the) regulations would say that at the point of time when it becomes an engine or a pump or what have you, that it should be registered but there are situations that I'm sure the officers will encounter where while that assembly is taking place there is no registration being done.

Q: That I understand. The clarification I seek now is the location that the construction, where the construction is being done, that location belongs to who? The piece of land, whose location is it? That's what I am trying to clarify.

A: It does not necessarily have to be the dredge owner's land, it can be land that is owned or tenured by someone else for which the dredge owner would have sought permission to operate.

Q: So

A: And it must also be a valid mineral property.

Q: So therefore if a miner gets permission from an owner to operate on that claim, can he begin to construct his dredge before he gets the certificate to and also the certificate to operate?

A: No, no, he can't.

Q: And is there a duty on the claim owner to ensure that if there is a miner, if he gets, if he sub-leases, cause this is a sub-lease, if he sub-leases, then the person the documents and all the paperwork is in place before that person brings his/her equipment on that property? Is that what the, is that a fair understanding of the regulations or am I writing reading stuff into the regulation?

A: Yes because it is an offence to keep an unregistered piece of equipment in a mining district.

Q: I think that clarifies it comprehensively. So I will now turn to the back to the Puruni. That there is an unlicensed piece of equipment in the mining district? And it is an offence? And the piece of equipment is now under a cease order based on the report that we have received.

A: Yes.

Q: But the equipment that is in the mining area continue to be there in the mining area without no action being taken, as we understand it here, by the GMC through its mining officers to ensure or to prevent the dredge from remaining in operation or remaining in place in the operation area.

A: No. Well Sir there still could be the issue where in the first instance our officers would not have been aware when the piece of equipment would have first been taken into the mining district.

Q: Could we talk a bit about the geography, Puruni Station, Rock Creek, the sort of geography, we'll be going in the ground, the sort of geography. What's the geographical ambit of your mining officers? Is there a mining officer per square hectares? What is the, what is the geographical responsibility per mining officer or set of mining officers?

A: Ok. There is no fixed dimension or...

Q: Area of responsibility is there?

A: There is a notional area of responsibility because of course you will expect that one officer or two officers cannot cover the entire reach of the district but in this particular instance the access from the Mines Station to where this accident occurred, this fatality occurred, required by boat and walking approximately about forty minutes to an hour to get there.

Q: So the distance from the Mining Station to the location of the dredge is about forty minutes?

A: Yes about forty minutes to an hour. That's going with boat and walking.

Q: Is the Mining Station at Puruni?

A: Yes Sir.

Q: So is the distance from the Mining Station at Puruni to Rock Creek?

A: Yes. Sir, I believe I did submit a map and we can tender that as an exhibit too.

Q: Is that the map submitted?

A: Yes Sir.

Q: We tender to mark it as exhibit ND, mark as ND7. Would you say that the customs or culture of the GGMC to allow unregistered dredges to remain in the area,

to go into the area and then get registered, would you say that is driven more by economics and finance as opposed to regulations? I can repeat the question for you.

A: Yes please.

Q: Would you say that the culture or customs that developed over the years by the GPMC to allow dredges to be unregistered in mining areas, that is driven more by finance and economics as opposed to regulations and safety?

A: Sir that is a difficult question. We try as far as possible to follow the regulations. It is not our practice or, it is not our practice to judge whether persons are in financial straits or otherwise. So the issue is to have the dredges registered but we would not prejudice the registering of the dredge on whether we believe someone can afford to do it or not.

Q: My question is whether GPMC, the practice or the custom of GPMC to which we referred to earlier, whether that that discretion, that practice, is driven more by economics and finance rather than its own regulations, that's really the question. Not the dredge owner or potential dredge owner GPMC per se, whether the institution called GPMC, these dredges that may be in an area, is unregistered, and upon discovery, rather than having the dredge be ordered out and disciplinary action be taken, there is a wait period, a wait and see to see if they become registered because if they become registered it's income for GPMC. So my question is, is that practice/custom/discretion which is outside the boundaries of the regulations driven more by income and finance, economics and finance...regulations?

A: Understood clearly now. No.

Q: So what is it really driven by? So what drives it? Cause we're dealing here substantially with a dredge that is unregistered, and this fatality occurred on a dredge that is unregistered, so we have to clearly understand the unregistering of a dredge

and how that how that relates to the entire incident and how it relates to the whole conduct of the GGMC.

A: Sir may I, may I refer this to another time because I have only been in the seat for a short time and

Q: For the record we should get, how long have you been in the acting?

A: I have been acting, actually it's almost, it's probably just a year now.

Q: Just a year? We'll just put that into the record that it's a year since Mr. Dennison has been carrying the duties of Commissioner. We could always return to the question

A: Yes Sir

Q: But the issue of the dredge and its non-registration is a critical issue in this inquiry. So if you need time to be able to address it, the Commission has no difficulty in giving you time to address it. And this is a specific point about the question that I posed.

A: Yes Sir.

Q: Am I to assume that Mr. Chandan, whom you verily believe, was in the area at the time? Or was he dispatched to the area upon being informed that there was a fatality at a mining location? Was he in the area at the time?

A: He was in the area of the Mines Station at the time.

Q: That's the Mining Station at Puruni?

A: Yes Sir.

Q: Do you know when is it they had conducted this inspection, paragraph 19 of your statement? When you said Mr. Burnett and Mr. Wilson had inspected the Rock

Creek, Puruni, Cuyuni, Mazaruini, Region Number Seven area, as required by the operating procedures of the GPMC?

A: I can confirm the time but it was sometime in September Sir.

Q: That's the time they observed there was no mining activities being conducted in the vicinity/area. Do you know what let me ask you, what do you mean when you say there was no mining activity here... no mining activity being conducted in the vicinity of the location of the accident. Two questions that arise. One, what do you mean by mining activity? And secondly, what do you mean vicinity of the location? Is that another place? Or is it *the* location? What do you mean?

A: No mining activities means that there were no operations, there was no dredge operating, there was no excavation being done, there was no mining being done. As it relates to the vicinity, I can have that confirmed as whether it was the actual spot where the fatality occurred or if it was several metres away or where the camp was.

Q: No mining activity means no dredge operation but the dredge could be in place? In this case, a dredge was in place. So your mining officers are saying that they are not, based on what you are saying, are they saying that there was no dredge or they're saying there was a dredge but no activity? Because we know there is a dredge, is an unregistered dredge that has a cease order.

A: There was no mining activities because my recollection of the conversation I had with Senior Mines Officer Chandan, Mining Engineer Chandan, was that there were not even enough people in the camp that would be typical for a mining operation. So there were, it is customary sometimes for camps to just have a minimal amount of people to keep the camp from being vandalised and so on, and it could be that, I am speculating here, it could be that that camp and the persons who were actually at

the camp at the time were carrying out that function. But they certainly were not mining.

Q: Mr. Burnett and Mr. Wilson, these two Mines Officers, are they based in Puruni? Mr. Wilson and Mr. Burnett, the two Mining Officers referred to in your statement.

A: All our officers, all our mines officers and our engineers are based in Georgetown and they rotate into the mining stations in the various districts on a six-weeks by six-weeks rotation.

Q: So these two officers were at the time on a rotation.

A: Yes Sir, rotation in the field.

Q: In the field.

Q: How soon Commissioner can we have Mr. Dharampaul Chandan? How soon can he be available to the Commission? Is he still in the field?

A: No Sir, he is in town. You can have him here...

Q: We will ask you to put him on alert.

A: On alert. Ok. For Georgetown or?

Q: For Georgetown.

A: For Georgetown. Yes Sir.

Q: Monday, in the afternoon.

A: Afternoon. Monday afternoon.

Q: And your Mining Officer, Mr., according to your statement, Mr. Dharampaul is his name?

A: Mining Engineer Dharampaul.

Q: Dharampaul?

A: Chandan.

Q: Mr. Chandan. That they actually informed the miner that he is in breach?

A: His communication to me was that the Mines Officers who had circled through on in September, had informed him that he was in breach by not having a registered dredge.

Q: And how was that information, how was that communicated to someone who is with an unregistered dredge? How is that done?

A: I wasn't there at the time but usually it's verbally. There's an inspection that takes place, there is a matching of records, and if the records of the or if there's no record of the particular piece of equipment or no permits or such that are being, if there is nothing there present to be corroborated well then they are informed, and it's usually a verbal, it's usually a verbal, it's done verbally. You're in breach....

Q: There's no statutory document that is?

A: No.

Q: The statutory documents that would normally be served if it had reached to the point where we were exactly following the law would have been either a cease order or an order to remove or a seizure.

Q: Could you go over those three again? Could you just go over the three you said, the cease order, order to remove or

A: The cease work order normally would be the practice if an unregistered dredge permitted operation is encountered, there would be the cease work order. And the next step would be well it doesn't have to be the next step because they are not in

tandem. It could be the order to remove the equipment and then there could be the seizure of the equipment which has its own predicaments. But it would be, I am being advised and it is true, that to place a cease work order the dredge would have to have been working.

Q: There is a cease work order in the report which we've tendered in as evidence.

A: Yes.

Q: Issued to the miner, Mr. Daly.

A: Yes. My understanding from the report and it is procedure that as a result of this accident, this incident, a cease work order had to be placed. It was required.

Q: So this was not a cease work order prior to the accident?

A: It was encountering the situation that a cease work order was placed.

Q: In other words, this cease work order relates to an accident?

A: Yes.

Q: It doesn't relate to anything else? So the cease work order is used for more than one purpose in this case?

A: Yes.

Q: So is it your testimony Commissioner that the notification for breach in a verbal format forms part of a prior procedure before it get to a cease work order? That one is notified, that the Mines Officer will notify someone and say you are in breach verbally and that is it? Does it say, you just go and say you are in breach and then you move on to some other place and then that's it? If the policeman tells me I'm in breach and he moves on then I might continue in breach. So is that a prior procedure before we get to the cease work order stop that the Mines Officers would just go and

say you're in breach? A forty minute journey to say you're in breach and then leave the. Is that what the regulation demand?

A: The what (what) the regulations demand is that where there's an unregistered dredge in the district that the dredges liable for seizure.

Q: Liable to?

A: Seizure.

Q: Seizure not

A: To be ceased.

Q: Not cessation of anything?

A: To be seized. Seizure.

Q: Let me read back twenty-three for you because it's interesting this is what you have. It was recorded by the Mines Officers Mr. Steve Burnett and Mr. Lennox Wilson in their records, records which we will subpoena at some point in time cause, in their records, that the miners employed at the camp of Mr. Keon Wilson, the deceased, had not been granted any permission from the Commissioner of the Geology and Mines Commission to operate any dredge, and did not have the requisite permission to carry out any mining activity on the mining permit on which the camp was established. And this is what they stated to you that you verily believe?

A: Yes Sir.

Q: Based on this the next action ought to be what you just mentioned. Ought to be not cessation, seizure, would I be correct to say that? Seizure of the equip, seizure of everything because they have no permission. Would the Commission be correct

to suggest that that's the next course of action or ought to be the next course of action?

A: Yes Sir.

Q: And the Mining Officers, these two gentlemen, informed the miner that there's statutory obligation to acquire the necessary permission of GGMC so they essentially said to you well we told them go and get permission?

A: Yes Sir.

Q: And

A: You see, when the Mines Officers are in the field, as these were, seizures become a very difficult thing to achieve because in the first instance they...

Q: Counsel would you, Counsel would you like the Commissioner to go into the minds/mind of the officers?

A: No.

Q: We can always bring them here to speak for themselves.

A: Yes.

Q: But should he go into their minds and speak for them?

A: No.

Counsel for GGMC: No please Sir. I would prefer the officers appear on their own accord.

Q: I have a duty to ensure you don't self-incriminate. No witness come and self-incriminate according to the Act. So we won't. I'll try not to ask any question that would create that so I don't really want you to speak on it. We will have them to

come here but I am referring to that's why I made the point earlier about when you said you truly believe what was said. I am looking at your statement. We're just establishing the fact that what they said they did was essentially to tell them you need to get permission and not seizing the dredge as is required. That's the fact what they did?

A: Yes.

Q: So my question now to you Commissioner is did this raise any alarm bells when they said to you that they did that? That they did not seize it as they're required to do, but simply said go and get permission. Did it cause any alarm on your part? I am going to your mind now. Any alarm or any concern on your part? Were you concerned? Were you alarmed? Did it cause any reaction on your part?

A: Sir, at the time when the Officers Burnett, in September thereabouts, had visited the dredge at that time I would not have immediately been in possession of the report. So examining the issue at this point in time in this circumstance, of course it's an alarm but if there was not this particular circumstance I would not have been as alarmed because from time to time I am aware that the officers do encounter dredges that are not registered and that they're given an opportunity to get themselves regularized.

Q: Do you have any information that in any part of this report in that minors were on the site? Minors.

A: As in m-i-n-o-r-s?

Q: M-i-n-o-r-s. Young men

A: No.

Q: Below the age of 18 and working on the site?

A: No Sir. No report of such.

Q: I hope this is not too technical a question but for the record could you tell us what a jetman is or what does a jetman do?

A: A jetman, Sir, is the person who controls the hose in the hydraulicing process of the mines' face.

Q: You'll have to go slowly.

A: Sorry. The jetman is the person who controls the hose from which water is propelled against the mines' face in a hydraulicking ahm, in a hydraulicking ah

Q: A mines' face?

A: The mines, the face of the mines.

Q: Face.

A: Or the pit wall. And this is a hydraulicking procedure so the idea is for the water to dislodge, undercut and dislodge material from the face that is being, from the face that is being mined. And that material is then slurried through a pump to a location where it is washed down for processing and the extraction of gold.

Q: So the jetman removes burden?

A: He can do that....if he moving the soil.

Q: And that is the soil that passes through the sluice?

A: Yes Sir.

Q: And did you at some point in here mention that Mr. Keon Wilson, the deceased, was the General Manager?

A: I did mention that Sir.

Q: The accident report says he's a jetman. Did he have two appointments? Two positions? Are you positioned to say if he had two appointments?

A: The general manager can be any, the general manager is a name of the person who is operationally responsible for the (for the) activity and he can be jetting.

Q: Is there anything in the regulations that suggest that the GM and the jetman ought not to be the same?

A: No Sir.

Q: So they can be one and the same person? But the information you receive suggest that Mr., the deceased was the GM?

A: That is the information that was reported to me.

Q: Would your inspectors, your mines officers, when they visited, in your own view, when they visited the, I would call it the Daly mine, the Daly mining area cause it's Everton Daly for purposes of reference, Mr. Daly's mining site, when they visited, whether or not it was a registered dredge, wasn't there a responsibility on their part to make a technical inspection of what he was doing there against the backdrop that customarily GMC allows dredges to develop on site until they reach a point where they can be awarded a certificate or a licence. Would you say they had a duty to inspect to see if the construction of the pit was in accordance with the rules and regulations of the GMC?

A: As far as I am aware at this point in time that in the September rotation, there was no real evidence that mining was taking place or was likely to take place in the immediate in the immediate term.

Q: Granted. But my question is, I understand that from the report that you received that there was no mining that's what was said to you, so that is clear. But my

question is, in the conduct of mining operations at GGMC where a dredge owner is customarily allowed, amongst other types of customs, to have a dredge, start to construct the dredge on site, someone site, either his claim or as a lessee, he is allowed to do that, when the mining officers come into contact with him, whether or not it is registered, is it not the duty upon them to look at what kind of construction he/she is undergoing outside of the dredge itself? Because I know there might be regulations governing how the dredge should be constructed, but also the pit, the mining pit.

A: That can be expected. Yes.

Q: I know you wouldn't know if they did that because it's not in your report, but my question is whether if they're visiting if they're not required to do that, to check and see what kind of constructions is done.

A: Can be expected.

Q: Could you explain what is schedule monitoring, because you did say that the officers assigned with schedule monitoring.

A: Yes. In the last quarter of 2016. Where are you Sir?

Q: At 25. I'll just read for ease of reference. The officers assigned to the Puruni Mining Station would have conducted schedule monitoring of the Rock Creek, Puruni, Cuyuni, Mazaruni, Region Number Seven area in the last quarter of the year 2016.

A: Yes. What is meant there Sir is

Q: Just let me continue and finish, and therefore would have returned to the area to ensure that the miners had adhered to the directions of the Mines Officers, Mr. Steve Burnett and Mr. Lennox Wilson. So I want to talk about the officers assigned to

Puruni Mining Station. These would be persons different from Mr. Steve Burnett and Mr. Lennox Wilson, correct?

A: Could be.

Q: In this case, are they? Because... the officers assigned to Puruni ...could you reread your paragraph 25?

A: I have it here. The officers assigned to the Puruni Mining Station would have conducted schedule monitoring of the Rock Creek, Puruni, Cuyuni, Mazatuni, Number Seven area in the last quarter of 2016, and therefore would have returned to the area to ensure that the miners had adhered to the directions of Mines Officers, Mr. Steve Burnett and Mr. Lennox Wilson. Yes. There is a pattern in the rotation and what I am saying, what I am trying to say here is that the officers that in the next quarter on their rotation to do monitoring and compliance and regulatory activities, even though they may not have been the same officers, Burnett and Wilson, or even Chandan and his colleague, whichever officers were assigned would have been expected to revisit this dredge, this operation.

Q: So if I understand you correctly that in the, as we say in the fullness of time, that ends 31st December 2016, officers at Puruni would have returned there?

A: Yes. That was the expectation.

Q: They would have returned there?

A: Yes.

Q: To see if those instructions were

A: Carried out.

Q: And these are instructions that presumably were issued in September?

A: Yes Sir.

Q: So could you say when they would have returned? When they would have returned? Likely when?

A: I am not able to say exactly when Sir.

Q: Is there a schedule that determines when they should return? We're in the last quarter, is there a schedule that they work with that determines when they will return?

A: They were not

Q: Let me just put it back in context, Mr. Burnett and Mr. Wilson were there according to what your report in September.

A: Yes.

Q: So, is there a schedule, if they are operating in the last quarter, which is October, November, December

A: Yes

Q: When they would have returned to this location? If there is no schedule there is no schedule. Just trying to get a sense.

A: There is a normal, there is normally an itinerary that the Mines Division works with. So that's why there is the expectation that this particular operation would have had a revisit. But exactly when in the quarter, I would not be able to say. I am not in a position to say.

Q: That....

A: If I may say so, Sir, this Rock Creek area is not a hotspot for mining activity. The operations there are fairly sparse and it's not known to be a trouble area. So in an

attempt to optimize the resources, in terms of human resources and otherwise, there is a tendency for the officers in their itinerary to try and focus more on where the hotspots of activity rather than areas that are quiet. This area, in the vicinity where this incident occurred, that area is not, I have been advised it's not an area where there's a lot of activity going on.

Q: We have a short break, an adjournment, fifteen minutes, and then we'll resume.

Q: Let's return to the unregistered dredge once again, does the, the construction of the dredge, to get a clear understanding on the construction of the dredge. Is there a requirement for a person to be to receive permission to initiate the construction of a dredge?

A: No Sir.

Q: So one is, one a miner, for example, who a person who tends to be a miner, once he, at what point in time he can construct a dredge? Is it any point in time? Alright let me put it in context, I am returning to it because of the dredge that the, Everton Daly dredge, I am referring to Everton Daly dredge, in the Puruni area, at Rock Creek, and I think the report you received suggest that the dredge would have been put together there, I don't know if put together and construction mean the same thing but you know in these inquiry words are very important, Counsel, what is construction versus put together. But I think the word was construction that was used. So is there, and I am trying to get this thing clear because I understand that yes there's a custom or practice in GPMC where persons will have a dredge and then they will work their way towards getting permission, I understand that. But the dredge itself, in the Mining Act, is there a requirement for persons to have any permission before he/she construct a dredge? Or that is entirely on the person's own?

That's what I want to find out.

A: There is nothing that I am aware of in the Act that or the regulations that speak to construction. In fact, I see constructions going on on North Road.

Q: Precisely.

A: And parts are sold there and people buy parts so I know that we haven't registered any of those parts that are coming in so I am I am not aware that there's anything that prohibits the fabrication or construction or

Q: Well we will ask Counsel to do the research please.

Counsel: Very well.

Q: And I will ask Ms. Cave from our side to do this research. I don't think you can assemble a motor vehicle in your backyard in Trinidad and Tobago or Philadelphia or even in Ruimveldt. I think the actual assembling of a motor vehicle fall under some legislation but I do know that dredges are built in the foreshore of Bartica, Bartica beach. I have seen them myself.

A: Dredges or boats?

Q: That's why I ask, my own question is whether or not it is governed by regulation and this is a regulation breach. Over a period of time it was a custom and there is some breach. We will have to do the research to see if there is anything governing the construction of a dredge, the actual construction of dredge because I think it is something you might want to control. You want to control because from the time you start then you know that there is an intention. If a person is constructing dredges to sell for example as a sale like how GM produce motor vehicles to sell, there is a law that govern how these motor vehicles must be made and the regulations that govern that. Since dredges are being constructed outside of GGMC's regulations, then who's regulating these dredges? Who's regulating the type of construction, the

type of steel/material, who's doing that? Are there any technical specifications that you might be aware of for dredge? Is there is the dredge owner or someone decides how large the dredge could be, the kind of engines/motors? Those are rhetorical questions at the moment but if you can offer any answer please do. If not, we will ask counsel to do a bit of research here.

A: We'll do the research and if some research could be done.

Q: Ok. I want to refer to the draft regs, the Draft Safety Regulations that I know they were made under the Occupational and Health Safety Act, and which we have and I am sure counsel will not object to first to take judicial notice of all statutory documents that are relevant to the hearing. Counsel, do you take judicial notice?

Counsel for GGMC: Yes.

Q: It's a statute so we just take judicial notice of it. We don't necessary have to formally enter it into as evidence. But my question about the draft regs or draft safety regulations, were these regulations presented to the Board at any time and did the Board, if presented to the Board, did the Board approve the draft regs?

A: For the time that I have been acting in this position Sir, I am unaware that this has been the case. So these draft regulations have not been presented to this Board, this current Board.

Q: During your tenure?

A: During my tenure. I am unaware of whether it has been presented to previous Boards but if I am to speculate I would say no.

Q: Well the Commission dissuade you from speculating. What we will ask you to do is, in your tenure it has not been presented, and we'll ask for the research to be done to determine if it was ever presented to the Board prior to your tenure. And the

minutes, I think the Board minutes would inform us whether it was presented. Well Commissioner obviously did a lot of work was done with these draft regs because they were actually written in the language and presented almost as if all it needed was the assent of the Prime Minister or the Minister, the subject Minister. But I note the date on it is 2000 and

A: I think is 12 Sir.

Q: 2009. No. 2009 it is, which is some time ago, these draft regs. And that would be like seven years ago. So the Commission would have to proceed to determine exactly what but Counsel can assist with these regs, why

Counsel for GMC: I will take instructions please Sir from the Board and from the other individuals at the Commission.

Q: Ok. But I would say outside of taking instructions if Counsel can assist the inquiry, we'll ask Counsel to assist the inquiry.

Counsel for GMC: Very well Sir.

Q: We have in the in the as evidence the tendered into evidence ND6, which is the report, the accident report, a document upon which obviously would raise a number of questions at various levels within the GMC. So my question to you Commissioner is are you as Commissioner standing by this report? Or this is just simply tendered as an exhibit? The contents of this report.

A: I shall have to stand by this however you've indicated that Engineer Chandan will be called on Monday for what clarifications might be required.

Q: So we stand by, what are we standing by? Content? Fact? Accuracy? Or we just stand by the report?

A: As submitted.

Q: As submitted. So not to the accuracy of its contents? Would you stand by the accuracy of its contents?

A: There could be issues with recollection which I can't speak to Sir and that's why I would have to request that if there is anything that may have to be questioned here, that that scrutiny could be directed at the author of the report.

Q: Well for the record we the report is in as an exhibit, evidence and exhibit, and it is not your report, so we will then, we'll bring the maker of the report and question the maker on the report. The reason I asked the question, Commissioner, is that it has consequences of the accident, how did the accident happen, and sequence of that accident, which are very technical matters. I want to ask a couple of other questions about mining generally. Just want to ask some questions about mining. The average worker in a, and I think I might be right here but I could be wrong, the average person works in Guyana, did the government or the private sector, the two fiscal requirements. One is NIS, the other one is taxes. And the other one is contract of employment. Is there, in the within the regulations or within the GGMC any custom where a miner has to present a contract of employment of his miners, his workers? Evidence to the GGMC that he/she deducting NIS and paying taxes?

A: There is a document that we refer to as a Mining Privilege, and that document, the Mining Privilege, is supposed to be what enables someone who wants to, in the first instance be present in the mining districts for the purpose of mining should have.

Q: Could you just go that over slowly? The Mining Privilege is

A: There's a document that is referred to as a Mining Privilege, and that Mining Privilege is what a, is a contract for a person who is in the district for the purposes of mining. Employers are normally endorsed at the back of that Privilege which denotes to us that John Doe is permitted to work with this employer.

Q: And that is from the perspective of the employer?

A: Yes. Well it's from the perspective of the employee too because if he doesn't have a Mining Privilege, he ought not to be in the backdam mining. He ought not to be in the district mining. But with respect to the question of whether he should have national NIS, no, we do not check for those things, NIS and TIN, we do not check for those. But they're tributors and things like tributes by persons who're working on other person's properties are required to be submitted by persons who are mining.

Q: It might be in the regulations the issue of national, NIS might be in the regulations, I think we should have that checked out. It might be in the regulations because we have the employment, the statute that governs employment in Guyana. Then NIS is a national responsibility for each person who is working. So if you have a small business, if you're hiring people, you're required to register your business and deduct at source.

A: Understood, but Sir the GPMC does not administer the NIS function. The NIS officers would administer that.

Q: In that sense, the question is whether or not the GPMC would issue a licence on any form to a miner or a mining company who is not in compliance with other national laws? ... Other national laws. Because you would agree with me the Occupational Health and Safety Act is not a GPMC Act, but your draft regulations were made under that Act because you are bound by the legislation to produce safety regulations for the GPMC. That's why we have these draft regulations. Similarly, is the Employment Act, the determination of Employment Act ... similarly, other pieces of legislation that relate to employment, so that's hence my question. Within the GPMC, your human resource department, or whichever department, is there an

eye or a vista towards miners and their compliance with employment law and other types of laws that the average Guyanese benefit from when he/she is working whether within the private sector or with government?

A: Very recently, we've had this discussion in relation to tenure holders, persons who might be applying for mining permits and prospecting licences, for example, where we have moved in the direction and it isn't something that is in the law, but we have moved in the direction, that is an assessment, a kind of a .

Q: A little slower.

A: Sorry, a kind of an assessment , something in the nature of a compliance certificate that we use that kind of information, whether you're up on your taxes, whether you're up on your NIS, and such like. I can't remember all the particulars.

Q: This is something recent?

A: This is very recent that we're trying to get that as a, as an aspect of our, as an aspect of our documentation when we are trying to make recommendations for the issue or non-issue of such things as mining permits or prospecting licences and such. But that has not been contemplated for claims.

Q: So is it contemplated for something else?

A: It is contemplated for the medium-scale, larger operations and not for claims. We have the claims, we have the medium-scale properties, and we got the large-scale properties. So yes the companies like Troy and Aurora, they will be required to have those things, but for the medium-scale operations we're trying to use that for the mining permits for example. We're trying to use that as a mechanism to help us with the, as an aspect of you know making our recommendations for the issue of these (these) tenures. But it isn't in the law.

Q: Then I will am going to reiterate our research on the NIS. That might very well be something that is a requirement of a miner. The question is who supervises? But if it's within the GMC, cause the remember the pork-knockers, so to speak, or the miner, doesn't have a legislation independent of GMC, so once, once the Mining Act or the Mining regulations require the individual to have NIS or a miner to ensure that his workers pay NIS, and that's within the Mining Regulations, the supervening authority, the Mining Regulations, is the GMC. Once it's in there, it becomes the GMC and not the NIS per se. NIS obviously has every right to go to any place and check, but once it becomes the supervening authority, it's the GMC itself. So they will have to ensure also, in my humble opinion, they'll have to also ensure that this is being done. So that's why we need to do the research to see if it's something that we inherited over the decades that we don't look at. We have to look at it. Because we have miners who can't go to NIS for any sort of benefit, presumably no death benefits, no insurance, and it doesn't sound well when they have an incident, it doesn't sound well. No contributory benefits. So the whole nature of the employment contract is must be of concern to this Commission, especially when from your own words, and not because you said it because it is a fact, the large miners like Troy Resources are employing Guyanese, and ensuring that their well-being is within the laws of Guyana, so why do we exempt another group of persons from those laws? And I don't want to treat small-scale miners like a sweetie shop. I was saying I don't want to speak to liken small-scale mining to like just a stand in front of somebody's house, where they don't have to go and get anything, it's a lot, but from your recollection, these mine pit cave-ins, have they occurred on, what sort of, what type of claims have they occurred on mostly, in terms of size?

A: The curious thing is that the

Q: Could you try to speak a bit more into your mike so we can ...you can put it to you, we can get the recording very effectively.

A: The curious thing is that they have occurred on mining permits.

Q: That's small? What?

A: Those are medium-scale.

Q: Medium-scale.

A: But the operational configuration, the footprint is actually the footprint of a claim. Because in mining permits, the owner of a mining permit may give out positions or permissions for people to operate on that permit and operate with four-inch dredge, six-inch dredge, as the case may be, and those are normally within certain footprints that would be in accordance with a claim in many instances. So it's not a, it's not a straightforward response.

Q: Would you agree with the Commission if we say that having regard to the fact that most of the accidents, both fatal and non-fatal, occur within claims, small mining operations, then perhaps the greatest vigilance and responsibility of the GGMC should be directed to those kind of claims?

A: And that is so. Even though, as I mentioned, mining permit tenures medium-scale are just that large at 1200 acres or more, the actual operations, that is where our focus has always been because it is a smaller and mechanized operations within the subset of medium-scale operations that has been the challenge to have comply and adhere to the regulations. It is indeed a fact that our greatest attention is with those smaller mechanized and unmechanized operations, I don't want to say pork-knocker, but everybody now has been using mechanization, back hoes, excavators so, but it's those smaller operations that has been our, because they are very mobile.

They could be here today, you monitor them here today, you indicate to them something, you give them a citation on some issue, and when you pass back in seventy-two hours to see whether they've complied with or otherwise, they're gone. They gone somewhere else. And especially too in the instance where they're those who are operating unlawfully, either raiding properties or even raiding state lands.

Q: Well I don't expect a raider to have employment contracts or NIS, yes, but I think your regular small miners who are eking out a living, that's what they do, that even though they sub-leasing from a medium-scale permit, that an examination should be made in relation to the regulations and the duties and obligations of the medium-scale owner and in relation to the small miner. So, from my own perspective, it seems to me as though once you have a medium-scale permit, and let me ask you this question, if a medium-scale mine operations is underway, is that mines, is that mining operation require to have, like Troy Resources, a full spread of financials that include taxes, NIS and all those other attributes? Or this is Troy Resources and Golden Star Resources and Omai and these just large miners? Just the large-scale mining?

A: There is a different

Q: ...the Alphonsos and the Baboolalls and all those persons who are medium-scale miners out there, the Hopkinsons and so, they are medium-scale miners, any mining operations medium-scale, I am not going to deal with right now the subleasing, just dealing with the medium-scale because there is some mining that is still medium-scale done by the actual miner and not subleasing.

A: Yes.

Q: That particular medium-scale mining done by the actual miner as a medium-scale miner, not as a sub-lessee, is he required to have the same, is he held to the same

standard as Troy Resources in terms of his financials, in terms of employment, in terms of health, in terms of insurance? Is he held to that standard?

A: Again Sir, in relation to the mining permits and the medium-scalers, as I mentioned, this is something that we are we want to build into our due diligence for the issue or renewal of medium-scales and PLs and such, but to speak to whether a medium-scale operator, who has his business and mines his business, has these things, again I would be speculating because we do not, as a practice, check for those, those particular documents.

Q: So Mr. Commissioner, what obligates a company like Troy Resources, which is a large mining company, or Exxon Mobil, what obligates that company to conform to NIS, employment, regulations, labour laws, etc.? What obligates such companies? Is it the regulation, the Act, or is just those goodwill on the part of the company?

A: May I ask for an opportunity to review because the large-scale operators like Troy and Aurora and Mobils, they have an agreement, they have a mineral agreement that speak to those things. I know that the mining permits have an appended agreement also, it's a standard agreement, but I just need to check to find out whether or not in those clauses of the mining permit, whether there is anything that specifically speaks to them having NIS and

Q: This is a mining permit for any class? ...For medium?

A: No, medium-scale and mining permit. Prospecting permits to medium-scale or mining permits on a medium-scale.

Q: Well if you, yes, you can lay those over.

A: Just let me check for that please.

Q: If you have, yes, then you can lay it over to the Commission.

A: Yes please.

Q: Thanks. I was going to ask the question what's a tributary?

A: Tributary.

Q: I have it here. A tributary.

A: Under the law, there's someone who pays tribute on account of operating on someone else's tenure.

Q: So this is Mr. Keon Willson, the deceased, he is a tributary to who? He would be a tributary to Mr. Daly, the miner, in this case? And Mr. Daly is a tributary to Mr. Alphonso? How does it work? I am trying to find out here.

A: The tenure holder is Mr. Alphonso who would have given permission for Mr. Daly to operate.

Q: And is that called a tribute? Is he a tributary? Mr. Daly?

A: A tributary, a tribute could be extracted, yes.

Q: From between Mr. Daly and Mr. Alphonso? Between the two?

A: I am not quite certain whether Mr. Alphon, sorry if Mr. Daly, has employed Mr. Keon Willson. I am not sure what that relationship is. If Mr. Willson is employed by Mr. Daly, well then I can see a situation right there where Mr. Willson can be considered a tributary.

Q: Let me return to that, let me therefore ask this question. Your report has the concession holder as Mr. George Alphonso, but what it doesn't say whether, at least I didn't see it, it doesn't say whether Mr. George Alphonso gave permission to Mr. Daly to be present on his claim. I mean, this is the, this is the owner of the claim but

do you have any information that suggest or not suggest whether or not that is the case?

A: In this report, in this report there doesn't seem to be anything indicating that Mr. Wilson had any information, had any permission to operate right, act of negligence, had any permission to operate.

Q: Mr. Wilson?

A: Mr. Wilson, had any permission to operate on behalf of Mr. Daly. ... Sorry, Mr. Daly had any permission to operate from Mr. Alphonso.

Q: Is it the same report we tendered?

A: Yes.

Q: What page?

A: Page five.

Q: Page five at?

A: Acts of negligence.

Q: Two? At two.

A: The third part down.

Q: Yes. While we are there, so this is the same, this is Mr. Chandan, he, this is his signature on the report? ...

A: Yes Sir.

Q: Yes, so we have an unregistered dredge and we have an unlicensed dredge?

A: Yes Sir. The registration is, the licence is issued on an annual basis.

Q: Issued by GPMC?

A: GPMC. So I can have a registered dredge that isn't licence but I shouldn't have a licensed dredge that is not registered. Cause to get your licence you have to be registered.

Q: So my next question to you would be, is it reasonable that your mines officers, Mr. Chandan but more particularly Mr. Knights and Mr. Burnett, Mr. Wilson and Mr. Burnett, that as part of their remit they would be aware or ought to be aware that this dredge is unlicensed? We are aware from your report that they made a report that the dredge is unregistered. Would you say that they ought to have known that the dredge is unlicensed?

A: They should have.

Q: That information will be with them?

A: That information ought to be presented by the, by the person who has encountered.

Q: Precisely, but is it not the GPMC would have records of all licensed dredges?

A: Yes.

Q: Whether it's a direct licence or from a lessee or a lessor?

A: Yes.

Q: You would have those records?

A: Yes Sir.

Q: And those records would be at the various mining stations?

A: Yes Sir.

Q: So is not only the miner presenting the document, but it's also the regulator...

Yes. To corroborate.

Q: Challenge it and say you're not licenced?

A: Yes.

Q: So, what is the penalty for, to have an unlicensed dredge? We know for unregistered you can be, it can be seizure, I think you said that earlier, what is the penalty for an unlicensed dredge?

A: They can be charged and they can be fined.

Q: Charged and fined. Any seizure as part of it? No seizure but they can be charged and they can be fined.

A: Yes.

Q: Neither of which happened? Neither of which happened?

A: No Sir.

Q: Neither of which happened?

A: Yes.

Q: But now being recommended? But it's in the report. It's now being recommended in the report.

A: Because it, yes Sir.

Q: But neither of which happened prior?

A: No Sir.

Q: In September when the ...

A: In September, no. Perhaps, the change in circumstance Sir. If this accident had not happened and the officers encountered the deceased working, it would have been incumbent upon them to give them citation, either cease work order or something and to proffer charges against them for not being registered or licensed. But the issue in September when they passed, as we've gone through before, and for which you have made some very potent points, they were not working.

Q: I was about to ask if you were suggesting there's a time delay between observing and making the decision. Because that time delay will go towards the practice within GPMC but outside of the mining regulations if stop order and cease is what you do right away. In your opinion

A: Sir, Sir.

Q: ...I am just moving to, in your opinion, I am asking for your opinion here, and you don't necessarily have to give your opinion, but in your opinion who would be the on-site persons? Who would be the persons on site to recognize or to determine whether or not the pit that was constructed for this dredge was done in accordance with GPMC's regulations and best practice? On-site, in the general area, who would have that responsibility?

A: In terms of the operations, the general manager is responsible for that. The general manager is supposed to be the person who is experienced and competent in those issues.

Q: Then in your opinion, does GPMC has any responsibility in relation to the construction and safety of a mining pit?

A: Of course.

Q: So, of course GPMC.

A: Yes.

Q: So from the perspective of GGMC, who in this mining area, this mining district, would have that responsibility to ensure that the mining pit that was constructed, because a mining pit caved in, we agree to that, we're not challenging that, who would have had the responsibility to ensure that the mining pit that caved in was properly constructed? In your opinion. If you don't have an opinion then.

A: It comes in two-tiers. It comes from the tier of the person who is the mines officer in the first instance and it comes on the tier of the persons who are the engineers, and it comes at the level of the district engineers, because remember we have engineers who are gazetted as mines officers, but we also have mines officers who are not engineers. So the rudiments of the construction of pits are things that all persons who are gazetted as mines officers should be familiar with.

Q: Just let me have the three. You said they come in three tiers?

A: Yes. For the purposes of our administration and operations, we have the mines officers who are really the life blood of enforcement ...the mines officers, and then we have mines officers who are engineers.

Q: Yes.

A: And then there is assigned district engineers. In other words, it could be an experienced and senior engineer who would have the responsibility of the district.

Q: District.

A: District or sub-district.

Q: In relation to this particular mining claim, this particular mining operation, Mr. Everton Daly, who was responsible for ensuring that the pit was constructed, or the construction of the pit, met the standards of the GGMC?

A: Well Sir, the GPMC is unable unfortunately to preside over the construction of every mining pit that is done, but the GPMC officers in the dispatch of their duties are expected, on encountering operations, to determine whether those operations meet the criteria of safe mine practice.

Q: In this case, could you say whether this was done by the any of the mining officers in the district that they inspected and a determination was made that either way, that whether the pit was safe or not? In this particular case, could you say whether this was done?

A: The report would reflect that Sir. The officers who would have, for example, visited in September in my first presentation, would have indicated that there was not mining going on or mining anywhere. So it seems to me that there was not an assessment of any operation at that time, and that they had not been an opportunity of an assessment of what operations came out to be until such time as this activity, this incident occurred, where it was found that there seem to have been certain deficiencies. Because our officers, on encountering operations will say, Sir this is not in compliance, it's not in.

Q: Will say or ought to say?

A: Well they ought to say. Ought to say this is not in compliance with the, for example if your benching is not done to what could be considered the rudiments, and they can advise as best as they can to correct and usually when that happens, they also return to see if those corrections were made.

Q: You need a moment?

A: Ok Sir.

Q: If you need another moment, fine.

A: It's ok. No, legal was pointing out to me that in the large-scale operations, mine plans have to be submitted for us to peruse and accept, but in the small operations there's no such requirement.

Q: Can we put that in the record? Counsel, can we put that in the record?

Counsel for GGMC: I would like to take every claim on its own characteristics, whatever is taking place there. So maybe on one instance the mines officers would have had a conversation with the general manager who would then communicate .., and then he would receive the necessary advice. In this instance, there was no indication that any mining was going to take place.

Q: We have the report of the Commission to go on so we'll have to get the direct evidence from

Counsel for GGMC: Very Well.

Q: Direct evidence from the persons involved.

Counsel for GGMC: Very well.

Q: So I think we'll have to bring them and take the direct evidence because as you present, Commissioner, through this report, I think they're, at the moment too many openings, too many, you know, that you get a lot of, you're jabbing yourself legally sometimes here.

Counsel for GGMC: I agree with you Sir.

Q: Commissioner, so it's, I don't like the road we were going down just now because I still have a duty and responsibility as head of the Commission. So we'll (we'll) pause here on this and give you a chance to complete the rest of the written statement you'd like to present to clarify anything that was earlier said, you get an opportunity to clarify anything that was earlier said, and also to, this is almost a sidebar, put us

in touch with some of the persons that become critical. I just mention one or two, so at least we'll put those persons on notice. So I'll call an adjournment in the matter of a minute or so and we will adjourn until Monday at 10 a.m. So I am sure the Commissioner himself would want to agree with me that it's quite a lot of time to put things together. But if the time is too much we can shorten it.

A: You're very gracious Sir.

Q: I'm just going to put officially in the record that we would like to Mr. Chandan, so that we'll like to call Mr. Chandan, and I don't know what your logistics are like. We were trying to reach Mr., someone today. Secretary?

Secretary: Mr. Mohan Persaud.

Q: Mr. Mohan Persaud. We're told he is in the Cuyuni area, but is he, do you know if he's still there?

A: We'll check on that Sir.

Q: Your Special Inspectorate, what does that department do? Special Inspectorate.

A: Again before my time, this was contemplated to be a, well they're two persons who were named Special Inspectors under the Commissioner, the Commissioner's office, and their function, from what I understand it, was to do a kind of oversight or audit or compliance activity. For example, where officers may be operating in a certain area and have submitted their itinerary, the Special Inspectors could be deployed to ensure, in the first instance, or not to ensure to ascertain whether or not the officers have been sticking to their itinerary and to again ascertain whether or not there are reports that are made that do not synchronize or corroborate with what they have observed after passing through very closely where the officer should have walked. That was principally what I understand that inspectorate role to be. At

this present time, this may be extraneous to this but there is a Compliance Director within the Ministry of Natural Resources, and that Compliance Director has been utilising the officers of, well those two officers, in his functions at this present time.

Q: We'll speak when we resume, we'll have to, we'll obviously be asking some questions about safety and compliance most likely, but is there a compliance officer within GGMC? Not the Ministry, GGMC.

A: No Sir.

Q: There's no, in terms of the word compliance?

A: No Sir.

Q: But there a number of duties that relate to compliance within GGMC?

A: Yes.

Q: But there is no compliance officer per se

A: Right.

Q: Within GGMC? But there is one within the Ministry of Natural Resources?

A: Yes. In several respects, again, the designation and the gazetted mines officer is considered the officer who is treating with compliance issues on the ground.

Q: Do you know if the Special Inspectorate is within the statute? ...

A: I would have to check that Sir. I would have to check that.

Q: I am aware that mines officer is in the statute. That's a, that's a statutory appointment, mines officer. But I have never, I don't know if the special inspectorate is there.

A: Let me check on that because I don't think they have any other empowerment other than being gazetted as mines officers also under the statutes.

Q: Just for clarity before we close and when we resume, the dredge in question is unregistered and unlicensed? And I am not sure I understand the tributor arrangement because Mr. Keon Wilson is down here as tributor and that means he is subject to someone, am I correct? Like a tenant.

A: Yes.

Q: So in this case, who will he be subject to? Mr. Alphonso or Mr. Daly?

A: That is where I needed to check on because I am saying that that should be Mr. Daly in the first instance.

Q: Mr. Daly in the first instance? But if he's a tributor then he is not an employee, he's a tributor, what does that mean? Mean a tributor to Mr. Daly. Because this mining privilege has tributor, what does that really mean?

A: It ggest, it means Sir that the person who has been endorsed by Mr. Daly, on the winnings, should pay a tribute.

Q: Tribute.

A: I think is ten percent or something like that.

Q: Ten percent?

A: I think is ten percent.

Q: So Mr., well the deceased Keon Wilson, would have been obliged to pay Mr. Daly ten percent of his earnings?

A: Of his winnings.

Q: Of his winnings?

A: Yes Sir. The gold.

Q: Yes. Winnings, it's I understand, is not a term of art. It could be gambling, it could be gold.

A: I am not aware of winnings being used in the context of gambling in this particular instance. I refer to the gold.

Q: Gold. But I am trying to understand again, if you're a tributor, if Mr., if the deceased was a tributor to the operator, the owner of the mine, how does that work? Is it like a sub-tenancy? You know the three bedroom house and a person is operating/occupying one bedroom? I am trying to figure out if the other mining operation, Mr. Daly, he has a six-inch dredge and that's registered in his name according to this, a six-inch dredge, and Mr. the deceased is a jetman but yet he's a tributor. So essentially, how does he acquire this gold? How does he acquire the gold to pay ten percent to Mr. Daly? He's jetting for himself? He has an excavator lifting for himself? Washing and sluicing for himself and then he gets, he pays ten percent to Mr. Daly of that hundred percent? That, am I to like mentally picture this?

A: You're going along the right direction Sir. Mr. Daly may not have equipment of his own, I don't know. Mr. Keon Wilson may have the equipment in this particular instance and they have decided that my contribution to this relationship is my equipment if you allow me to work on what you have permission to or arrangement with the tenure-holder to work.

Q: But on this record the deceased is a tributor, according to this record what we have the deceased is a tributor.

A: Yes, it was mentioned in this record, yes.

Q: Well there's a photocopy of a document and this is in evidence so we're not contesting that this is GGMC document?

A: It is.

Q: How do we, how do we get to know what was the actual relationship on the ground? Who can tell us that? Cause the Commission has within, Commission has within its information that the deceased was not a tributor, the deceased was essentially a worker being paid a wage, being paid wages to/by Mr. Daly, and they're some statements that were presented to the police in that regard, so there is some, there is some anxiety with the deceased relatives, hearing now that he was a tributor, and we see the documents here signed by issued that, is it Hackett or Mabelle? What's a, can you refer to it please?

Counsel for GGMC: It's probably Itaballi.

Q: Itaballi. Geology and Mines Commission, you have a Hicks there, Commissioner? A warden? Mr. Hicks?

A: Hicks?

Q: Hicks will be the name?

A: Yes.

Q: Ok. That too, Commissioner I will obviously give you a list of persons to be on standby because we heading into Puruni next Thursday so, and we'll sit in Puruni next Friday, then we sit in Bartica, Monday and Tuesday. But seeing we'll be there over the weekend, Saturday and Sunday, we can set up on Sunday and meet Mr. Hick. Given every opportunity we got....But from all the information we have, he was working and I think Mr. Daly himself may have given a statement to the police indicating that the outstanding/his outstanding wages are so much, which is right

now unaccounted, nobody knows where it is. Think they call it a bly? They call it a bly. Well I've learnt a lot in the short time. It's called a bly. The bly is the gold you normally have on you and generally miners put it, you know where nobody go to get it? Like a lady would put money in a certain place that men ought not to put their hands to receive it? To retrieve it? The bly is placed in their crotch I understand, but that is just a small amount that he, is like you know your small piece in your pocket. But then I think they said in a statement that they owe him so many pennyweight gold, so many thousand dollars. So when I saw this tributor, I wanted to know what it meant and now I am seeing an official document, it puts into context the kind of relationship that existed at this unregistered dredge in a mining district where miners, where your mines officers visited. So it goes back to what actually happened out there? What did they know? What they didn't know in relation to this, in relation to this relationship. So as we close today, I am raising something again that would obviously set your mind thinking as to what really ... How is all this happening? This is not rhetorical. Is he a contributor? He's a tributor and yet he's a worker at the same time? So we'll have to seek answers from Mr. Hicks, cause this is the gentleman that signed it. So you could easily put him on notice and Mr., and Chairman also the other persons who are going to be, the other mines officers who are in the area, just let him know we'll be there on Thursday, Puruni on Friday. Those will be actually in Puruni. We can/we may take the evidence from them there or we'll bring them out to Bartica ... Monday and Tuesday. So at this stage, it's ten past one, five, seven minutes or seven minutes past one. We agree to pause, to adjourn at one, so I'll just bring this session to adjourn until Monday at ten, at 10 a.m., right here, and look forward to the subsequent statement from you Commissioner and we have indicated to you the persons who we deem we should be seeing between Monday and Wednesday before we travel into Puruni. Thank you media, thank you members of the public and the staff, Counsel and

Commissioner for appearing, and being as candid as you can be, given the circumstances at this Commission of Inquiry. I thank you.

Monday, October 24, 2016

Q: Be seated. Good morning Mr. Dennison, Counsel, members of the media. Today is our second day in the Commission, this Commission of Inquiry, and I wish to start by reminding the Commissioner that he's still under oath and we'll continue hearing from you in relation to this Inquiry. I received by electronic mails a further statement and my question is, do you wish to read the statement into the record? As part of your evidence?

A: Yes Sir.

Q: Kindy proceed Commissioner.

Q: Sir, this is my second witness statement. I, Newell Dennison.

Q: Try to speak, put the mike to you so, you're recording, so you'll need to get it clear. Thanks.

A: Check. I, Newell Dennison, of Georgetown, Guyana, am the Commissioner (ag.) of the Guyana Geology and Mines Commission. The Guyana Geology and Mines Commission has been mandated by the Honourable Minister of Natural Resources, Mr. Raphael Trotman, to undertake a review of the Mining Regulations made under the Mining Act Chapter 65:01 of the Laws of Guyana. The review of the Mining Regulations is presently being undertaken by the Guyana Geology and Mines Commission and the Draft Safety Rule is tendered and marked Exhibit ND3 are also being reviewed and dissected to deduce what safety rules can be included in the Mining Regulations to enhance the safety aspect of the regulations and ultimately

the safety of all participants in the mining sector. It is my understanding that the drafting of the safety rules tendered and marked Exhibit ND3 was initiated by the Occupational Health and Safety Division of the Ministry of Labour, Human Services and Social Security, with the assistance of the International Labour Organization. The Occupational Health and Safety Division then collaborated with the Guyana Geology and Mines, sorry, collaborated with the Guyana Geology and Mines Commission, the Guyana Gold and Diamond Miners Association, and perhaps others to create the draft safety rules tendered and marked Exhibit ND3. To date there are several drafts of the safety rules tendered and marked Exhibit ND3, and the Guyana Geology and Mines Commission is pursuing the opportunity to have the draft safety rules take the necessary steps to include those safety rules and practices into the mining legislation and ultimately the regulations of the Mining Act. This process is presently on-going. The issuance of a claim licence and mining permit provided for by Regulation 22 and section 63 of the Mining Act does not require the applicant to produce any documentation to satisfy the Guyana Geology and Mines Commission that he is in compliance with the National Insurance and Social Security Act Chapter 36:01, Laws of Guyana. The Guyana Geology and Mines Commission is considering that as an internal administrative due diligence, that such instruments are required by the National Insurance Scheme may be required to be submitted in the application for renewal processes by medium and large scale operators in the sector. Thank you.

Q: Thank you Commissioner. I would start, if I may, with the (the) draft rules, and the different terminology being attached to it, so we can be clear. What Exhibit ND3 has on it in (in) pen is Draft Safety Rules, that's on the cover.

A: Yes.

Q: But on the inside, it says Regulations made under the Occupational Safety and Health Act No. 32 of 1997.

A: Yes.

Q: And it goes on to say In exercise of the powers conferred upon me by Section 75 of the Occupational Safety and Health Act 1997, I do hereby make the following regulations, so what is the understanding of the Commission, are these draft regulations? Or are these draft safety rules? This exhibit ND3 that was laid over.

A: Sir, the hurried depiction on the cover in pen was just a mechanism for me to be able to strike off in the list of things that you required that was submitted. It does not necessarily reflect indeed the name, the naming of the document as it's in the internal page.

Q: So how should I or the Commission refer to this as?

A: Well the Commission has been referring to it as the Draft Occupational Health and Safety Rules.

Q: Draft Occupational Health and Safety Rules?

A: So my understanding again because this has been quite before my time and I haven't been fully part of it. But my understanding indeed is that until such time as that or some form of that is extracted or is accommodated within our regulations, we are to as far as possible try to deal with those aspects of it that we consider useful to keeping occupational health and safety within the sector.

Q: So perhaps we can refer to it as Draft Regulations?

A: Again it was my understanding from personal communications with those who have had some dealings with it from the inception, that at some stage it is intended to become part of our regulations. My understanding again was that when it started,

when the collaboration started, that the occupational health and safety function of the Ministry of Labour had contemplated with GGMG that because of certain limitations, GGMG through some kind of mechanism, perhaps an MOU or something like that, would be the ones to undertake its enforcement in relation to the mining sector. But that's all from personal communications.

Q: Just a moment. I am trying to brief myself on the Occupational Health and Safety Act. The understanding of the Commission and this is a, this because it's a nebulous point at the moment and we need to have clarity, because the understanding of the Commission really, the Occupational Safety and Health Act is a pervasive document. It's one that deals with occupational health and safety for Guyana and that agencies have a responsibility to follow what is in here. Well agencies such as GGMG or other agencies can make regulations for the better discharge of their duties but it doesn't prevent them from following what is broadly prescribed under the Act. For example, it may say that a worker and employer has a duty/responsibility ensuring his workers are work in a safe environment but detailing what is a safe environment will be regulations that can be made under the Minister, by the Minister for the agency or the agency itself under the Act. But the whole notion of safety would have been already addressed in the Act, so that's why we're trying to ascertain what has been the view of GGMG at the management level of what we have before me cause it seems to me that this is really draft regulations waiting to be widened into actual regulations that would bind GGMG. But if I recall correctly, you had stated that notwithstanding these draft rules, as you refer them, are followed by GGMG. I've ask Counsel to here to look at it and so we can make a better determination, but perhaps both Counsel for Mr. Dennison and Counsel for the Commission can have a look at this matter so we can have a better determination

Counsel for GGMG: I would appreciate that opportunity.

Q: So I'll ask you to (to) collaborate with Counsel for the Commission so we can be clear on what is this, where we are, and I think it might be important for us to summon Mr. Foster who is the Board Secretary. Perhaps he will bring some clarity to the, to the journey of this, this legislation, this Draft Rules that we may have here. How the Board treated with it as Secretary of the Board.

A: Sir if I may, this predates Mr. Foster by quite a bit.

Q: Good. They're different type of documentary, evidentiary direct evidence. They're different forms of evidence, so the dating of Mr., of him physically doesn't mean it predates the Board handling the matter. The Board may have handled the matter through a previous Secretary and there may be record in the minutes of the Board. So we can actually deal with the Secretary or the Secretariat of the Board to get some clarity on this matter. For the purposes of our understanding at the moment, we're dealing with a point that has not been clarified as to whether we're dealing with draft rules. My first, at first blush, it seems to me as though these regulations were made under the Minister, which is the Minister of Labour, for the mining industry, which becomes, for the mining industry as you said in collaboration with the mining industry, but the duty of the mining industry, of the mining regulatory body still stands whether or not regulations are made. Because those duties are onerous upon the GGMC and in the mining industry based on the Act itself, and based on your own regulations which speak about safety. We need to put this in the right perspective so I'll ask both Counsel to look at it and to brief the Commission on what the, what you think the findings are in relation to those regulations. Are you comfortable with that?

Counsel for GGMC: Yes Sir.

Q: Good. I wanted to seek clarification. Please, complete the discussion.
...complete.

A: Sir I'm done.

Q: Yes I, there's a part of your statement that is unclear where you say to date there are several drafts of the safety rules tendered and marked Exhibit ND3, but we've only marked one as Exhibit ND3. So when you say there's several drafts of safety rules that are marked as Exhibit ND3, where are the other drafts?

A: Sir what I meant to say is that what was marked as ND3 was a combination of several different examinations so to speak.

Q: Earlier drafts?

A: Well again, in my communication with those who know apparently a little bit more about it, I understand that this started in 2009, and it has gone through a process that has been up until like 2012, so whatever interventions and changes that have been taking place, that is essentially what I've been referring to.

Q: So essentially you're saying this is the historical end product of that process?

A: To that point, yes.

Q: Up to that point?

A: Yes.

Q: And who are the persons that have, that have knowledge on this matter? That can, you think might be able to assist the Commission in understanding?

A: Well the personal communications that I referred to mainly was with Mr. William Woolford, former Commissioner of the GGMC.

Q: And is it Mr. William Woolford amongst others for your consultation? Or just Mr. William Woolford?

A: Mainly Mr. Woolford.

Q: For your consultation? But there is a division within GGMC that would have handled this outside of Mr. William Woolford. Some part of GGMC, you know where that would fall? Which department?

A: The Environmental Division, and that would be essentially for the technical aspects of it. And of course the Legal Division would have had its input too.

Q: As far as you can recollect Commissioner, was there a cease order issued before the death of Mr. Wilson?

A: I do not recall that that was so. If I recall, on my last presentation, answering questions that you had put to me, I recall saying that a cease work order was issued upon the engineer visiting the site, and that would have been a standard operating procedure, where there's been an accident, an accident that particularly would have caused life and limb, a cease work order was issued. So at this point in time the cease work order that I am aware that was issued, was issued at the time when the officer visited the site of the incident.

Q: Are there any rules or regulations within the GGMC pertaining to the preservation of a site where there's been an accident, including fatal accident?

A: Sir, Regulation 214:3 does speak in some manner to what happens in the event of a serious injury or death on a claim or permit, but it does not state specifically that the site should be preserved in any special way. But one of the reasons, I would speculate, the cease work order is issued, in addition to preventing a continuation of whatever malpractice there was, was to avoid evidence being disturbed. I would

hasten to say, however, that even the act of trying to extract the victim could lead to, and does lead to a destruction of evidence and compromise of the incident site.

Q: But at the moment, in this particular case, when the cease work order was issued, to the best of your knowledge, when a cease work order is issued, we call it a CWO was issued, are there procedural steps that are undertaken by the GPMC, through its officer on the ground or office on the ground, to preserve that site as best as they could? Is that part of the GPMC's rules/regulations/protocols or conduct?

A: Was just clarifying because the intent of the cease work order in part is to prevent just that from happening, but there is no flagging tape or perimeter don't cross the line, or there is no planting of someone to be present to ensure that there is no contamination of the site.

Q: So Commissioner, to the best of your knowledge, what exactly is happening at Rock Creek as we speak right now? The site of the death of Mr. Wilson, what exactly is happening there as we speak? To the best of your knowledge.

A: To the best of my knowledge, there should be no work going on there. The site should be in a state saved for the natural elements, be as the officer, when he visited, had encountered it.

Q: So that means to the best of your knowledge there is no physical GPMC presence at the site?

A: No Sir.

Q: And to the best of your knowledge, there is no such requirement?

A: Yes Sir.

Q: Well let me ask you this question, if you believe that preservation of the site is an important aspect of the GGMC, would it not be incumbent to have some presence at a site where there was an accident, in particular a fatal accident?

A: I understand that there is a documentation by the investigator at the said time, of what has occurred and that includes photographs and so on. And that is the extent to which normally we would try to preserve what evidence is present. But at the same time I would also recognize that there are some standing operating procedures that I believe that the police force might have within its mandate and, well that's where we leave it. I know that we don't plant a, we don't plant a surveillance person as a routine at the location. I don't know that we're able to.

Q: Well, to all our knowledge, what we have is a post mortem report which will be laid into evidence that says that Mr. Keon Wilson died from asphyxiation. That's what we have. But we're yet to determine outside of the police work who was responsible, if at all someone was responsible, or what was responsible. And that's why the preservation of the site is important. So we can determine exactly what happened even without the presence of the police. Because there is a, there's something we call a chain of evidence, having it going from one agency to the next agency, so you preserve the site, you hand it over to the police, and they continue and continue and investigate the site. We don't expect the GGMC to do a criminal investigation. No, of course not. But in terms of the site and what is there and its own preservation, I think is a matter of concern and importance cause we're dealing here we're dealing with not only an accident, but a fatal accident. Or an accident resulting in a fatality. I have before me the Inquiry into the mining pit collapse. A report done by Mr. Walrond, Mr. Bayer, Mr. Sparman, Mr. Hall, dated 4th of August 2015, received by electronic means from ... email to the Commission's email. So

with, I would say with the concurrence of Counsel, once we're not in breach of any legislation, could we navigate this into the record as an exhibit?

Counsel for GMC: I would not advise you here Sir. I would like to at least have a more in depth look at the report to appreciate the content of same, and then I can advise the Commission. Cause at this time I am not quite sure what areas were covered and in what depths they were covered.

Q: Fair enough but, whether it enters into as an exhibit or not
Counsel for GMC: At that time I can make, whether or not it would benefit the Commission's interest and protect whatever information is there.

Q: It is with the Commission as a

Counsel for GMC: That is so.

Q: As a document laid over under a summons

Counsel for GMC: That is so.

Q: By the Commissioner to present all evidence, all information that the Commission believe can assist the Inquiry, so we do have it in our possession. You have it in your possession.

Counsel for GMC: That is so.

Q: It is in electronic means, so I wanted to discuss us using it as an exhibit and marking it electronically, so that you don't necessarily have to produce a printed copy for the Commission.

Counsel for GMC: Very well.

Q: That's a

Counsel for GGMC: Very well. I ... object to that.

Q: That's what I wanted to know and if we're going to mark it electronically, how do we go about marking it electronically.

Counsel for GGMC: We would have to obtain a hard copy, so I would prefer that there would be a hard copy within the series of

Q: Well then I will ask the Commission to lay over a hard copy.

Counsel for GGMC: Very well.

Q: Of this report. I've had some, report. But let me ask, did you have an opportunity, Mr. Commissioner, to go over the report by Messrs. Walrond, Bayer, Sparman and Hall?

A: At some time back, yes, and I know I perused it from time to time but I am sure it's a very extensive report, it's a hundred and something pages, and I am sure that it might be a challenge for me to be able to respond fluently on matters that you might raise. But I have been through the report Sir.

Q: It would be a challenge for me too, it would be a challenge for me too, but I would advise Commissioner and Counsel to become familiar with the report, familiar with its contents, because it will form part of the Inquiry because they're many of recommendations and findings in that report, which obviously conjoin with all other actions will form part of the evidence chain for this Inquiry. So I would advise that you become familiar with the report and it become, we'll bring it in as an exhibit and obviously questions will be asked of the GGMC in relation to the report. So, unfortunately the, because you sit at the apex of GGMC, you will find yourself having to answer a number of questions and perhaps returning to the Commission of Inquiry, Mr. Commissioner. I don't know if that's unfortunate or fortunate, but that

is the nature as we see it right now. They're two other reports I think that we have also, two other inquiries, am I correct? Would be two other or three I think.

A: I understand this. I recall one for Konowak.

Q: Konowak, yes.

A: That's the other one I recall.

Q: So we would respectfully ask if you can lay over hard copies of those reports cause you know we had a digital media that didn't open over the weekend so we couldn't read for some purpose. So if we can have, if you can lay over copies of those reports, then we'll be able to go through them and you yourselves. So we can ask the appropriate questions and get the appropriate answers, or the best answers in that regard. Is it possible to have the, the Grantley Walrond report today? Is that possible?

Counsel for GMC: Yes Sir.

Q: In the fore noon?

Counsel for GMC : Yes.

Q: And the others if possible, hard copy.

Counsel for GMC: I know where to find two of the three reports.

Q: This afternoon?

Counsel for GMC: This afternoon.

A: Which is the third?

Q: Well I am not saying there is a third. I was wondering if there was a third.

A: No. I know about two.

Q: Well, two plus one? The CD that you sent me had two on it?

A: They had two, the Mawusi and Konawak.

Q: Ok.

A: And they had another document on it but that was not an investigation.

Q: Ok.

A: I think you, if I recall

Q: So we're dealing with two reports? Well this afternoon we have Mr. Chandan I believe?

Counsel for GGMC: Yes Sir.

Q: Before us, so we'll, would you be here this afternoon with Mr. Chandan?

Counsel for GGMC: Yes Sir, he's available.

Q: Is this Mr. Chandan sitting there? I've seen you before on Friday?

A: Yes he was here on Friday.

Q: Friday. So Mr. Chandan has been here all the time. Perhaps I could use, is there a statement from Mr. Chandan? Mr. Chandan. Is there something?

Counsel for GGMC: Yes Sir.

Q: I 'm not seeing anything.

Counsel for GGMC: It should be laid over shortly.

Q: Should be laid over shortly.

A: Sorry, just trying to get ...

Q: Commissioner, if there are other reports prior outside of those two, I say of recent vintage, perhaps from the last five to ten years, if they are within the system, could you inform the Inquiry and let us know?

A: You're speaking reports that may have

Q: Accidents, accidents.

A: Accidents reports that may have been

Q: Accident reports directly relating to pit cave-ins. Those reports.

A: Ok.

Q: Whether it was fatal or not.

A: No, but what I was asking is whether by virtue of investigations of the nature of an inquiry?

Q: Yes, an Inquiry whether at the level of a Board, a Committee or a Commission. Even though the general understanding so far is that this is the first COI, Commission, Presidential Inquiry into GPMC, but who knows if there was one done before?...

A: You're not talking about the regular accident report? For example

Q: No, no, an Inquiry.

A: Ok.

Q: Where some sort of process took place that come up with some findings among

others.

A: I am not familiar with any more but I'll certainly look.

Q: I notice from your statement that you're confirming that the issue of NIS is not something that attaches itself to medium and small scale mining, but the GGMC is considering including this as part of new administrative procedures?

A: Yes, the, our intention, and of course it has to be publicized at some stage and for comment and so on, but our intention is that for tenure holders who wish to make an application for, an application for a renewal, for example, is that we try to add for our due diligence such things as we would call our compliance checklist. A GGMC compliance checklist so to speak, and among those things we are looking to include an NIS Compliance Certificate. So it's not that we would, well I am not quite sure that we cannot issue a licence if you don't have it, but we're certainly looking to have such things as a Compliance Certificate as part of the body of documents that would be submitted as we make our recommendations for licences to be issued.

Q: Well having regard to the answer, your answer to that question, it is extremely important that you familiarize yourself with the Walrond report, because the Walrond report make/made recommendations, the recommendations from an Inquiry done and it's a wide ranging, wide ranging recommendations at the time, it was 2015, last year, so the tenure of the, or the tone of the recommendations sort of suggested that GGMC should, with urgent dispatch, deal with certain matters including the issue of (of) liability insurance, something I touched on on Friday. So there is a substantial body of key findings. I don't want to go into it because I want to give Counsel and yourself an opportunity to go over the report so that we, when I question you on it, at least you would had a chance to go it over. So as you present the, your statement today I don't want it to appear as though it's a now-think, but that it's connected to the recommendations of previous reports. I just don't get that sense in the way it is, it has been presented in writing to me, so I think I need to give Commissioner an opportunity to go through that report and look at all that was said

there, that was said there in that the Granley Walrond Report, in relation to, I would say employee/employment, employee/employer relationships, and there is a lot of discussion there on occupational health and safety. They call it OHS, it pervades that report, where the duty lies and duty falls, including the miner. So it's not only GMC, including the miner himself. So I think it's important to familiarize yourself with that report so that we can address this matter comprehensively for the purposes of the, the Inquiry, and the findings to come from the Inquiry. The Commission has no further questions for you at this time. Is there anything else you wish to say to the Commission at this time?

A: I am available as always to the Commission's needs Sir.

Q: Thank you very much Commissioner for your evidence. We reserve the right of course to recall you to give further evidence. If that circumstance arise, we will so do. The

A: Just for clarification Sir, in relation to the Walrond's report, I will then be notified when you shall recall me for that?

Q: Yes, you will get due notification.

A: OK.

Q: On when we wish to recall. You'll get due notification. Well the Commission sits this afternoon at two, and in order to be able to be fair to the witnesses coming, to be fair to the Commission, we need to have an opportunity to go over any statement that is coming prior. So Counsel if you're representing Mr. Chandan, who has been summoned to be here this afternoon, is there going to be a statement or not? Because if not, one is not forthcoming, then we know we'll have to ask direct questions.

Counsel for GGMC: There's a statement that we're going ...

A; You have an explanation why it is not with the Commission forty-eight hours prior as per the summons? At least forty-eight hours.

Counsel for GGMC: Sir, we sought an opportunity to at least have a look of the documents that concern Mr. Chandan's designation, such as his job description and so on and so forth. With that said Sir, we were able to prepare a document which he signed only this morning, and I would seek an opportunity, if the Commission would have me, to lay that over.

Q: Would you like to lay it over now?

Counsel for GGMC: Yes Sir.

Q: Cause the Commission would need some time to go over the document.

Counsel for GGMC: Very well, very well.

Q: You know there is a rule that an intended witness ought not to sit in the hearings?

Counsel for GGMC: I knew not.

Q: I wasn't aware that Mr. Chandan was here Friday. But some rules can be relaxed at Inquiries.

Counsel for GGMC: That is so.

Q: Depending on the nature of the Inquiry, they ought not to sit in, the intended witness.

Counsel for GGMC: That is so, but going forward Sir, is that the rule of the Commission?

Q: I will, I will advise on it. If I don't advise on it, then as we proceeded so far, yes.

But I will seek advice myself.

Counsel for GPMC: Very well.

Q: On this matter. Cause we won't know everyone who is coming, but you know your clients.

Counsel for GPMC: That is so.

Q: And because you know your clients, you are in a position to deal with that. If at all, after I seek advice, there is some ruling that I, without a formal submission, some ruling that I, that I made clear, then, not necessarily the next time we meet, but when I have this information, I'll be so advised.

Counsel for GPMC: I'll be guided then Sir.

Q: We will still go with two. If that's not sufficient time, then when we resume, then I will so state. So this Commission is now adjourned until 14:00h. Thank you again, Commissioner, for the evidence, and members of the press/media, we'll see you back at 14 hours, that is 2 p.m. Thank you very much.

Annex E

VISIT TO ROCK CREEK ACCIDENT SITE ON FRIDAY, 28th OCTOBER, 2016

NAME	DESIGNATION
Rear Adm Ret'd Gary Best	Commissioner
Juanita Thomas	Secretary
Charles Griffith	Technical Expert
Lisa Cave	Counsel for the Commission
Ianna Graham	Diarist
Deron Neblett	Administrative Assistant
Ryan Cumberbatch	Information Technology Expert
Najemi Williams	Assitant to Information Technology Expert
Stacey Weever	Counsel for G.G.M.C
Darhanpaul Chandan	Senior Mines Engineer (G.G.M.C)
Steve Burnett	Mines Officer (G.G.M.C)
Craigan	Leitenent Corporal
Jordan	Police Constable

Annex F

ACCIDENT SITE VISIT ON FRIDAY, 28th OCTOBER, 2016

OPERATION AND EQUIPMENT MATRIX

OPERATION	EQUIPMENT	EQUIPMENT SPECIFICATIONS	STATUS	OWNER	TELEPHONE #
Land Dredge	Jetting Engine	4"	Unregistered and Unlicensed	Everton Daly	
Land Dredge	Marac Engine	4"	Unregistered and Unlicensed	Everton Daly	
Land Dredge	Jetting Engine	6"	Unregistered and Unlicensed	Everton Daly	
Land Dredge	Marac Engine	6"	Unregistered and Unlicensed	Everton Daly	