

STATEMENT UNDER OATH

OF

TIMOTHY HARPER

Taken pursuant to Notice by Richard J. Lipuma, CCR, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the Southeastern Utah Association of Governments, 375 South Carbon Avenue, Price, Utah, on Monday, September 17, 2007, beginning at 12:17 p.m.

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1           A P P E A R A N C E S (cont.)

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21

22          ALSO PRESENT:

23          Kelly C. Kirkwood, Notary Public

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I N D E X

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P R O C E E D I N G S

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MR. O'DONNELL:

My name's Joe  
O'Donnell. I'm an accident  
investigator with the Mine  
Safety & Health  
Administration, an agency of  
the United States Department  
of Labor. With me is James  
Crawford from the Solicitor's  
Office and Sherrie Hayashi  
with the Utah Commission of  
Labor. We will be conducting  
the questioning today.

I, together with other  
government investigators and  
specialists, have been  
assigned to investigate the  
conditions, events and  
circumstances surrounding the  
fatalities that occurred at  
the Crandall Canyon Mine in  
Utah in August 2007. The  
investigation is being

1           conducted by MSHA, under  
2           Section 103(a) of the Federal  
3           Mine Safety & Health Act, and  
4           the Utah Commission of Labor.  
5           We appreciate your assistance  
6           in this investigation.

7                         After the investigation  
8           is complete, MSHA will issue a  
9           public report detailing the  
10          nature and causes of the  
11          fatalities in the hope that  
12          greater awareness about the  
13          causes of accidents can reduce  
14          their occurrence in the  
15          future. Information obtained  
16          through witness interviews is  
17          frequently included in these  
18          reports, and your statement  
19          may also be used in other  
20          proceedings.

21                        You may have a personal  
22          representative present during  
23          the taking of this statement  
24          and may consult with the  
25          representative at any time.

1 Your statement is completely  
2 voluntary. You may refuse to  
3 answer any question and you  
4 may terminate the interview at  
5 any time or request a break at  
6 any time. Since this is not  
7 an adversarial proceeding,  
8 formal cross-examination will  
9 not be permitted. However,  
10 your personal representative  
11 may ask clarifying questions  
12 as appropriate.

13 A court reporter will  
14 record your interview, so  
15 please speak loudly and  
16 clearly. If you don't  
17 understand a question, just  
18 ask me to rephrase it. Please  
19 answer each question as fully  
20 as you can including any  
21 information that you have  
22 learned from someone else.

23 I would like to thank  
24 you in advance for your  
25 appearance here today. And we

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appreciate your assistance in  
this investigation. Your  
cooperation is critical in  
making the nation's mines  
safer.

After we have finished  
asking questions, you will  
have an opportunity to make a  
statement and provide us with  
any other information that you  
believe is important. If at  
any time after the interview  
you recall any additional  
information that you believe  
might be useful, please  
contact Mr. Richard Gates at  
the telephone number or e-mail  
address on this card.

Would you please swear  
in Mr. Kirkwood --- or Mr.  
Harper?

-----  
TIMOTHY HARPER, HAVING FIRST BEEN  
DULY SWORN, TESTIFIED AS FOLLOWS:  
-----

1 MR. O'DONNELL:

2 Ms. Kirkwood, are you  
3 empowered as a notary in the  
4 State of Utah?

5 MS. KIRKWOOD:

6 I am.

7 MR. O'DONNELL:

8 And have you sworn in  
9 Mr. Harper?

10 MS. KIRKWOOD:

11 I have.

12 MR. O'DONNELL:

13 When does your  
14 commission expire?

15 MS. KIRKWOOD:

16 August 15th, 2008.

17 BY MR. O'DONNELL:

18 Q. Please state your full name  
19 and address for the record?

20 A. Timothy Lloyd Harper, (b) (7)(C)  
21 (b) (7)(C) .

22 Q. Do you have any questions  
23 about how we're going to conduct the  
24 interview as we described it?

25 A. No, sir.

1 Q. Okay. Do you have a personal  
2 representative with you today?

3 A. Yes, I do.

4 MR. O'DONNELL:

5 And would your personal  
6 representative identify  
7 himself by name and address  
8 for the record?

9 ATTORNEY RAJKOVICH:

10 Marco Rajkovich, 2333  
11 Alumni Park Plaza, Suite 310,  
12 Lexington, Kentucky.

13 MR. O'DONNELL:

14 Are you aware that your  
15 representative may have a  
16 conflict of interest in  
17 representing you while being  
18 provided by someone else such  
19 as the company? Mr.  
20 Rajkovich, would you state for  
21 the record whether you also  
22 represent the mine operator in  
23 these matters?

24 ATTORNEY RAJKOVICH:

25 I do.

1 BY MR. O'DONNELL:

2 Q. With this understanding, do  
3 you still want this person as your  
4 representative?

5 A. Yes, I do.

6 Q. Okay. Are you appearing here  
7 today voluntarily?

8 A. Yes, sir.

9 Q. And how many years of mining  
10 experience do you have?

11 A. Approximately 11.

12 Q. And just give us a brief  
13 description of your employment  
14 history, where you started working in  
15 the mine.

16 A. Okay. I started --- my father  
17 --- with my father in Hanksville,  
18 Utah. He owned his own business, a  
19 uranium mine. I worked from the age  
20 of 15 underground in his mine all  
21 through my high school summers. And  
22 then when I turned the age of 18, I  
23 went to work for Keiser Steel  
24 Sunnyside Coal. And I worked there  
25 approximately --- well, I started in

1 1980, I can't recall what month, to  
2 '87. And during that time period,  
3 it's a union mine. There was a  
4 couple layoffs where I left and I  
5 came back. And I was --- for the  
6 first five years, I was a roof bolter  
7 and for the last part of that time I  
8 was a miner operator, miner helper.

9 Then I went to WY-IDA Coal  
10 Company which is --- was a small  
11 operation, started from the outcrop  
12 up in Alpine, Wyoming. There was  
13 maybe 15 employees is all. Up to  
14 Greys River, we started a new portal.  
15 We found it wasn't feasible to mine  
16 that seam because it was so steep,  
17 the grade was, and we couldn't ---  
18 the equipment couldn't mine it. I  
19 went with that same company to  
20 Arizona during the winters. I worked  
21 for them in an open pit gold mine in  
22 the Bradshaw Mountains.

23 And then --- it was pretty  
24 unstable work, so I had enough of the  
25 mining at that time and then I went

1 to work for Tram Electric in 1989.  
2 And I worked there for 16 years. I  
3 started out as a technician, worked  
4 my way up to a general manager. And  
5 for the last eight and a half years  
6 there, I was the general manager of  
7 the company.

8 And then I decided to go back  
9 in the mining industry mainly to have  
10 more time with my family, so I  
11 started with Crandall in 2005 and it  
12 was the end of February.

13 Q. So you've been there ever  
14 since then?

15 A. Yeah, a little over two and a  
16 half years.

17 Q. And what do you do there, Tim?

18 A. I was general mine  
19 mechanic/electrician.

20 Q. Okay. And did you have that  
21 same job on the 6th of August?

22 A. Yes.

23 Q. Mechanic? And have you been a  
24 mechanic since you've been there?

25 A. Yes.

1 Q. Okay. Have you ever done any  
2 other jobs at the time other than  
3 being a mechanic?

4 A. Mostly when I was section  
5 mechanic before I went out by general  
6 mine, I would fill in at times as a  
7 buggy operator.

8 Q. Okay.

9 A. Just bailing off during lunch.  
10 Or I'd always help the facemen do  
11 facemen work.

12 Q. I know it sounds like you've  
13 been in a few different states  
14 working in coal and metal, non-metal.  
15 What mining certificates do you have  
16 in Utah or any other states?

17 A. The only mining certificate I  
18 have is my electrical certification.

19 Q. Okay.

20 A. My 32 hour training.

21 Q. Okay. Who was your boss on  
22 August the 6th?

23 A. Larry Powell.

24 Q. And has he been your boss ever  
25 since you've been there?

1 A. No.

2 Q. How long has he been your  
3 boss?

4 A. I would --- I'm not sure. You  
5 know, several months.

6 Q. Okay. Who was it before then?

7 A. Ryan Mann.

8 Q. Okay. So the week of the  
9 accident, what was your work  
10 schedule?

11 A. The week of the accident, we  
12 were on afternoon shift. We were ---  
13 mechanics work 5:00 to 5:00. We'd go  
14 in 5:00 in the afternoon and come out  
15 5:00 in the morning.

16 Q. And is that five days a week?

17 A. It was four on, three off.

18 Q. Four on, three off?

19 A. We were working 12s, 12 hour  
20 shifts.

21 Q. Okay. And on August 6th, you  
22 started what time?

23 A. At 5:00 p.m.

24 Q. Okay. Did you work the shift  
25 before the accident?

1 A. Yes.

2 Q. Did you work a double that  
3 day, or did you just work your normal  
4 rotation?

5 A. My normal rotation.

6 Q. Okay. Well, let's start on  
7 the 6th, and just start with when you  
8 got at the mine and just walk us  
9 through the whole day.

10 A. Okay. I'd like to refer to my  
11 notes.

12 Q. You sure can.

13 A. I jotted these down on the 6th  
14 when I got home. And I will admit  
15 that the first part of the shift, the  
16 first few hours of the shift is foggy  
17 to me. I don't know if it's because  
18 it was such a traumatic deal or what,  
19 but from --- it seems like from nine  
20 o'clock on that night is real clear.  
21 So I start at 5:00. The first thing  
22 I do is preop my truck. And then I  
23 go to the warehouse and get any  
24 supplies, materials that I need to go  
25 perform whatever job tasks I'm going

1 to be doing.

2 Particularlly, that night I was  
3 setting up a new charger station for  
4 a scoop charger in the mouth at Third  
5 North which is at Crosscut 35. And I  
6 was setting up some CO sensors. And  
7 then I --- my boss, Larry Powell,  
8 told me that he had to leave at 9:00  
9 p.m. that night, and he had a  
10 management meeting the next morning.  
11 And I would be taking over for him  
12 that night after he left. Nine  
13 o'clock he did call me, and I recall  
14 working at that charger station, and  
15 he told me he was leaving. And I  
16 said okay. I remember his last words  
17 was, you know, it's all up to you,  
18 and I said okay.

19 And then I --- earlier that  
20 night, I told Jameson Ward, the  
21 section mechanic, because he was ---  
22 we were the only two mechanics on  
23 shift, that as soon as I got caught  
24 up with what I was doing I would come  
25 in the section and help him out. I

1 knew there was some things that we  
2 were going to look at on the scoop  
3 down in there. I can't remember what  
4 problems they were, but we was going  
5 to go look at that together.

6 And I'd like to refer to my  
7 notes. I was at the mouth of Third  
8 North, Crosscut 35 just finishing up  
9 installing the CO sensor. I went to  
10 get in my truck to go help out in the  
11 section. When I went to start my  
12 truck, it wouldn't start. The  
13 starter just made a windup noise. I  
14 tried to fix it, but could not get it  
15 to work. So I called the mechanic,  
16 Jason --- Jameson Ward in the section  
17 to see if he could come give me a  
18 pull start and then I would go and  
19 help him out in the section.

20 Jameson said he would go tell  
21 Don Erickson, the section step-up  
22 boss, and then be on his way to come  
23 give me a pull. About 45 minutes  
24 later as I was waiting, I heard a  
25 large rumble coming at me that

1       sounded like a large roar up deep in  
2       the top passing by, like a large  
3       cracking of rock rolling through deep  
4       up high in the roof. And a large  
5       gust of air following behind the  
6       sound came by me blowing two large  
7       steel drive through doors open. And  
8       then they closed and blowing small  
9       rocks off the roof that was peppering  
10      me as it came through.

11               My first thought was there has  
12      been an entry cave-in close by and it  
13      had to have been a big long cave-in  
14      for as long as it rumbled. I was  
15      approximately 105 crosscuts away from  
16      the section and did not think I would  
17      hear or feel a cave-in if it was down  
18      in that area. I then ran to a nearby  
19      phone and called Conspect and asked  
20      what just happened. His reply was  
21      the section has lost power at Seven  
22      and Six Belt and are down, and the  
23      water gauge on the fan had made a  
24      change. And the building he was in  
25      outside just shook really hard. I

1 knew then something had happened in  
2 the section and felt it was something  
3 bad for me to feel it clear out in  
4 the mouth of Third North.

5 Then Jameson, the mechanic,  
6 that was on his way to get me got on  
7 the phone in Zone Four and asked what  
8 the hell just happened. He said a  
9 big gust of air just blew by and said  
10 it pushed his truck sideways and said  
11 something bad has happened. I said I  
12 think we have had a cave-in  
13 somewhere. I told him come and get  
14 me and we'll go into the section and  
15 find out what is going on. I told  
16 Conspect to call Don Erickson and PED  
17 him to find out what has happened in  
18 the section and Jameson and I will  
19 head that way.

20 When Jameson and I went by  
21 Crosscut 96, we seen that all the  
22 stoppings were blown out and the  
23 visibility was very poor due to the  
24 thick dust. I had to stick my head  
25 out the window of the truck and help

1 Jameson with directions due to dust  
2 was so thick. Then we got to Zone  
3 Five phone at the head of the  
4 section, Crosscut 113, and drove  
5 above 50 feet passed it and had to  
6 stop due to a large chunk of coal in  
7 the roadway. We then got out of the  
8 truck and I went to the Zone Five  
9 phone and called Conspect and asked  
10 if he had made contact with Don  
11 Erickson. He said no. I said call  
12 Gary Peacock, the mine manager, and  
13 tell me we have had a cave-in and  
14 that all the stoppings are blown out  
15 from 96 inby and that Jameson and I  
16 are going to try to advance into the  
17 section. And I told him to keep  
18 trying also to get a hold of Don  
19 Erickson.

20 At this time, we were  
21 assessing the situation. The roof  
22 was still working really hard. It  
23 sounded like it wanted to come in on  
24 us, and the visibility was down to  
25 where we could barely see our hands

1 in front of our face. And we had to  
2 --- we advanced in, Jameson and I,  
3 and we had to come back out, retreat  
4 back out because we thought it was  
5 going to come in on us.

6 Then a truck pulled up, and it  
7 was Brian Pritt, a fireboss. As we  
8 was talking about the situation,  
9 another truck pulled up and it was  
10 Tim Curtis and Brent Hardee, two  
11 other firebosses. We all started to  
12 advance and went maybe a crosscut or  
13 so and retreated due to the roof and  
14 ribs working so hard. Then we  
15 discussed getting some apparatus and  
16 going in under then and waiting a  
17 little bit to see if the top and ribs  
18 would settle down. Brent Hardee and  
19 Tim Curtis said they would go get  
20 apparatuses.

21 When they came back with the  
22 apparatuses, we started to put them  
23 on when only two was complete and  
24 usable. Tim Curtis and Brian Pritt  
25 put the two good ones on. That is

1 when Jameson and I decided to don on  
2 SCR rescuers and wear them in. Brent  
3 Hardee said he would go get materials  
4 to start correcting the air and check  
5 seals to see if any of them had been  
6 blown out.

7 As Brian Pritt, Tim Curtis,  
8 Jameson Ward and I started to  
9 advance, we made it just a few  
10 crosscuts and retreated due to the  
11 top working again really hard. It  
12 sounded like the top was going to  
13 come in again. It was working so  
14 hard. We waited a few minutes, then  
15 went in again. And this time  
16 advancing from Crosscut 113 to 123.  
17 Brian Pritt's meter started alarming  
18 oxygen levels had dropped from 21.9  
19 and was reading 16 percent on his  
20 meter when we ran into the cave that  
21 was impassable.

22 We then retreated back to Zone  
23 Five, Crosscut 113 and waited a few  
24 minutes for the entry to settle down.  
25 We was making another plan to try to

1 get into the return entry room which  
2 is room three. Brian Pritt, Jameson  
3 Ward, Tim Curtis and I went into the  
4 next Number Two entry and crossed  
5 over the belt line and up into entry  
6 Three. We tried to advance into room  
7 Three, which is the return. We only  
8 made it a few crosscuts, which is  
9 several hundred feet, when the ribs  
10 started bouncing and top working  
11 again really hard and had to retreat  
12 due to hardly any visibility and it  
13 again sounded like the roof was going  
14 to come down also in entry Three.

15 As we crossed back into the  
16 belt line, Brian Pritt was beating on  
17 the structure and water line in hopes  
18 of a response and did not get any.  
19 We went back into entry One very  
20 frustrated that we could not get in  
21 and decided that the best thing we  
22 could do at this time was we all  
23 needed to work on getting the air  
24 corrected due to the oxygen readings  
25 that were dropping and CO was rising.

1 We knew that we might have a seal  
2 blown out from the old workings. We  
3 retreated back to Crosscut 96 and  
4 started correcting the air. At this  
5 time, help was arriving from outside  
6 the mine.

7 We worked on repairing blown  
8 out stoppings until mine rescue  
9 arrived and was told we had to go to  
10 the surface. This statement was  
11 written August 6th when I got home.

12 Q. That's a pretty good  
13 description of what happened. When  
14 you talked about --- you mentioned  
15 the word bump and we're probably  
16 going to hear it a lot of times  
17 during the interview. Just give me a  
18 --- what your definition of a bump or  
19 bounce so it gives us some type of  
20 reference?

21 A. Out here in the west we've  
22 always called them bounces ever since  
23 I started at Sunnyside Coal. We  
24 always called them bounce. In a  
25 laymen's term, we would talk amongst

1 each other. The way we described  
2 bounces was a soft bounce was just  
3 something mild. We described ---  
4 another one was good bounce. That  
5 was a real heavy hit bounce that may  
6 roll the rib out. And we described a  
7 hard bounce. A hard bounce is a real  
8 loud and would really roll big chunks  
9 of coal off the side.

10 Q. So you're talking about  
11 material not coming from the roof ---

12 A. Right.

13 Q. --- but coming from the rib?

14 A. Right.

15 Q. What about the bottom?

16 A. We would call that floor  
17 heaving.

18 Q. Okay. When you --- about what  
19 time was it when you first felt that  
20 rush of air? Do you have any idea?

21 A. I looked at my watch, and it  
22 was 2:48.

23 Q. 2:48?

24 A. Well, excuse me, when I looked  
25 at my watch right after the incident

1        --- I remember looking at my watch  
2        before I ran to the phone and it said  
3        ten to 3:00.

4        Q.        Okay.

5        A.        But I think my watch is a  
6        little bit fast.

7        Q.        So how long did the rush of  
8        the air and the debris and all that  
9        --- how long did it last? Do you  
10       know how many seconds or ---?

11       A.        It wasn't really that long  
12       where I was at. It was like --- like  
13       a rush --- as a matter of fact, I was  
14       looking at the top because it was so  
15       loud of a roar that I actually  
16       thought that top was going to be  
17       rolling as it was coming through. It  
18       passed over me very quickly. It ---  
19       and I pictured in my mind as long as  
20       it passed through, that maybe 300  
21       feet fell in somewhere. That's what  
22       went through my mind, that a big long  
23       cave-in happened really close. And I  
24       pictured 300 to 400 foot of top  
25       coming in as long as that roar went

1 through.

2 The gust of air that passed  
3 through was very quick and it was  
4 only a few seconds going through.

5 Q. And did the air --- was it the  
6 same duration as the rumble or did  
7 you just feel air and the rumble  
8 lasted longer?

9 A. The rumble lasted definitely  
10 longer.

11 Q. Uh-huh (yes).

12 A. And the rumble went through  
13 and subsided and then the air came.

14 Q. Okay. So you heard it first?

15 A. Right.

16 Q. Okay. And you said you were  
17 hit with some debris?

18 A. Yeah. It was blowing off,  
19 just little pebbles and rock dust as  
20 it come through. And I remember it  
21 peppering me, just little tiny  
22 pieces, like, just ---.

23 Q. Could you feel it in your  
24 feet, too, or did you just ---?

25 A. No, I never did.

1 Q. You never felt it in your  
2 feet?

3 A. No. And it sounded like it  
4 was way up high.

5 Q. So you thought it was a fall?

6 A. Yeah.

7 Q. Uh-huh (yes).

8 A. Yeah.

9 Q. So then the next you did was  
10 you immediately called outside. And  
11 who did you talk to?

12 A. Conspect.

13 Q. Conspect. And what was your  
14 message to them?

15 A. I asked them what just  
16 happened.

17 Q. And he said?

18 A. And that's when he said that  
19 he didn't know, that the section had  
20 lost its power and that Six and Seven  
21 Belt were down, which told me right  
22 there that there's a problem in the  
23 section because they dump on Seven  
24 Belt.

25 Q. So you knew something happened

1 inby there?

2 A. Right.

3 Q. And what else did he say? You  
4 said he felt --- he did or ---?

5 A. He said he felt the whole  
6 building shake outside, and he said  
7 the fan gauge had fluctuated or ---  
8 he said the fan gauge --- I think his  
9 exact words, there's been a change in  
10 the fan gauge, water gauge.

11 Q. Did he say what it was?

12 A. No.

13 Q. He didn't tell you that?

14 A. He didn't give me specifics.

15 Q. So then after ---?

16 A. And I heard when that air went  
17 through --- the big gust of air went  
18 through, and then it was like it  
19 pushed back too because I heard the  
20 --- like the fan --- like the air. I  
21 thought the fan went off because all  
22 of a sudden there was no air and then  
23 it started back up.

24 Q. Did you feel it in your ears?

25 A. Yes. I still have a blown

1 eardrum on the right.

2 Q. So the Conspect guy, what did  
3 he say he was going to do after this?  
4 You told him what? You gave him some  
5 instructions, didn't you?

6 A. Yes. I told him to --- I  
7 says, have you contacted the section,  
8 and he says, no. He says, I haven't  
9 made contact --- or I think he told  
10 me that he tried and he couldn't make  
11 --- nobody's responding. And I told  
12 him Jameson Ward and I are going to  
13 head down there to keep trying to  
14 contact Don Erickson in the section.

15 Q. Yeah. Who did you talk to?

16 A. I don't know his name. I know  
17 he's a Spanish fellow.

18 Q. Okay.

19 A. And I was never familiar with  
20 him.

21 Q. So you said you were going to  
22 go inby. And did he say he was going  
23 to contact anyone or ---?

24 A. No.

25 Q. Nothing?

1 A. At that point, we were --- we  
2 were unsure of what was going on, and  
3 we were going to investigate to see  
4 what was going on.

5 Q. Okay.

6 A. And I think it was probably  
7 just --- it took us maybe ten minutes  
8 to get to the area where we couldn't  
9 drive no further because we didn't  
10 even stop at any zone phones.

11 There's Zone Three, Zone Four. We  
12 just raced down there in that truck,  
13 and maybe ten minutes. And then I  
14 got on the phone with him within no  
15 later than 20 minutes after assessing  
16 the situation and told him to contact  
17 the mine manager.

18 Q. Now, you said that also you  
19 did tell him --- that was the second  
20 phone call?

21 A. Right.

22 Q. Okay. Now, you said that  
23 you've noticed that there was  
24 ventilation controls out?

25 A. Yes.

1 Q. When did you notice the first  
2 one?

3 A. I noticed the first one as we  
4 were driving past 96.

5 Q. And what did you see?

6 A. I seen the walls were gone.

7 Q. Now, you were in Number Two  
8 entry; is that right?

9 A. We were in the main intake.

10 Q. The main intake?

11 A. Yeah. Yes, which is Number  
12 Two.

13 Q. Number Two. So you're looking  
14 at the return wall and the belt  
15 separation?

16 A. I was looking at the belt  
17 line.

18 Q. Okay. And which way were they  
19 blown?

20 A. They were blown towards the  
21 belt line.

22 Q. Okay. Were they completely  
23 out, or were they half out or ---?

24 A. Most of them were completely  
25 out.

1 Q. And was there any debris from  
2 the rib at those locations, the early  
3 locations?

4 A. Not really ---

5 Q. Just the pressure ---.

6 A. --- that I recall.

7 Q. When did you first start  
8 noticing debris?

9 A. I didn't notice debris until  
10 we got to just passed Zone Five phone  
11 when we seen that big chunk of coal  
12 in the road.

13 Q. Okay. And did it look like  
14 the chunk of coal came from one of  
15 the ribs?

16 A. Yes.

17 Q. You think --- okay. What  
18 about the return walls? Were they  
19 blown towards the return or towards  
20 you?

21 A. I don't remember. I can't  
22 recall that.

23 Q. What about inby? Was there  
24 any pattern to the way that the walls  
25 went out? All the walls from where

1       you were at, were they blown towards  
2       the belt line?

3       A.       Yeah. Yeah, there wasn't ---  
4       you know, it wasn't blown going  
5       outby. It wasn't blown going inby.  
6       A little bit more ---.

7       Q.       You mean flopped over?

8       A.       Yeah, like they flopped over.

9       Q.       Towards the belt line?

10      A.       Right.

11      Q.       And you don't remember which  
12      way the return walls went?

13      A.       No. And I just --- I just  
14      remember, you know, the belt line.

15      Q.       Uh-huh (yes).

16      A.       And then I remember when we  
17      turned down six drive looking and  
18      they were just folded over.

19      Q.       As you went in, when did you  
20      --- like, you said you heard this  
21      rumble. Okay. You felt the air and  
22      then you felt the rumble. Did ---?

23      A.       I felt the rumble first.

24      Q.       Felt the rumble first.

25      A.       Then the air.

1 Q. Then the air. So as you were  
2 going in, you said the roof was still  
3 working or ---?

4 A. Oh, yeah.

5 Q. The whole time in?

6 A. Yes. It was working like ---  
7 you know, I've got 11 years  
8 experience and I've never heard top  
9 boards like that. And I'm assuming  
10 it was the top. It could have been  
11 the floor because I've been in  
12 situations in mining at Sunnyside  
13 where I thought the top was working  
14 and the floor actually heaved up  
15 under my feet. And to distinguish  
16 the two, it's pretty difficult.

17 Q. So you continued into Number  
18 Two. Did you meet any other people  
19 other than who was with you?

20 A. Can you rephrase that?

21 Q. Well, who were you with?

22 A. I was with Jameson Ward.

23 Q. Okay. And was there any other  
24 people around?

25 A. No, not at that time.

1 Q. Okay.

2 A. We were the first ones on the  
3 scene.

4 Q. And tell me about how you  
5 assessed the entries?

6 A. Well, when we --- when we  
7 pulled just like 50 feet passed Zone  
8 Five phone, I told him stop and I had  
9 to give him directions as we were  
10 going in because the dust was so  
11 thick. And he was actually driving  
12 pretty fast, and I had to tell him to  
13 slow down or we're going to get in a  
14 wreck here because we were having a  
15 hard time seeing. I knew he was. So  
16 he slowed down a little. We got  
17 passed Zone Five phone, and there was  
18 a big chunk of coal. I remember  
19 hollering to stop, we can't drive no  
20 further.

21 We got out. And the way I  
22 assessed the situation from there was  
23 we were both advancing slowly,  
24 looking at the debris from the ribs,  
25 which was quite frequent as we were

1 walking. And right as soon as we got  
2 out of the truck, the top was still  
3 working extremely hard.

4 Q. Could you explain working?

5 A. Okay. That's a term used here  
6 in the west. It's when you --- the  
7 caprock above when it's cracking and  
8 settling it makes --- we call it  
9 working. That's when basically the  
10 mountain settling down onto the coal  
11 and it's cracking.

12 Q. So you went all the way ---  
13 how far could you get in --- what was  
14 your deepest point of penetration  
15 that you could get into?

16 A. The deepest point was to the  
17 --- to where it was impassable.

18 Q. Which was? Do you know what  
19 crosscut?

20 A. I believe it was 123.

21 Q. 123. And how many entries did  
22 you actually look into?

23 A. We --- like I said, we had to  
24 retreat several times before we dared  
25 to even make it to that area because

1 the top was working. It could have  
2 been the floor, but we assumed it was  
3 the top. I've never heard something  
4 work that hard before. We literally  
5 ran back to where we felt it was kind  
6 of safe where it wasn't working as  
7 hard. And then we finally made it up  
8 to that area. By that time, we had  
9 the other two firebosses with us.

10 Q. Okay. Did you --- how did the  
11 debris path look? Did it look like  
12 it came from the rib, or did it look  
13 like it came out from the ---?

14 A. It looked like it rolled out  
15 from the rib.

16 Q. Okay. So it was piled up  
17 towards the middle? Is that what  
18 you're saying?

19 A. Right.

20 Q. Okay.

21 A. And when I --- when I got to  
22 the part that was impassable, my  
23 initial thought was that --- that the  
24 whole entry caved in because you  
25 could see the roof bolts was kind of

1       concaved maybe three to four feet,  
2       and then you could see the debris was  
3       clear up to the top of the coal seam.

4       Q.       So you thought it was a roof  
5       fall?

6       A.       I initially thought it was a  
7       roof fall.

8       Q.       When did you realize that it  
9       wasn't a roof fall?

10      A.       I realized that later on after  
11      we were talking. We realized that it  
12      wasn't, that it was possibly a floor  
13      heave.

14      Q.       And you said that --- did you  
15      say you had low O2?

16      A.       I remember --- I remember  
17      Brian Pritt --- when the oxygen level  
18      was going off on his meter, I just  
19      remember him saying CO is rising.

20      Q.       CO?

21      A.       Yeah.

22      Q.       Do you know how much?

23      A.       No. He didn't say. He did  
24      say that our oxygen level's down to  
25      16 percent and CO is rising. He

1 didn't say a number.

2 Q. And what crosscut?

3 A. We were really close to where  
4 the --- we were right at 123, right  
5 were the debris was.

6 Q. And you said you put on a  
7 breathing apparatus. What did you  
8 put on?

9 A. My self-rescuer, my SCR.

10 Q. That's the --- what type is  
11 it? Is it the belt wearable?

12 A. Yeah.

13 Q. The CSE?

14 A. Yeah.

15 Q. Okay. And you and who else  
16 put one on?

17 A. Jameson Ward, the section  
18 mechanic.

19 Q. Okay. And what made you ---  
20 what gave you reason to put it on?

21 A. The main reason was because of  
22 the dust, and we was concerned about  
23 --- because you could barely see your  
24 hand in front of your face.

25 Q. And were you coughing and ---?

1 A. Yeah. It was thick.

2 Q. It was hard to breathe?

3 A. That was the only reason we  
4 put them on, so we could breathe good  
5 through the dust.

6 Q. Okay. So did you have any  
7 trouble putting it on?

8 A. No.

9 Q. And how did it function? Did  
10 it work ---?

11 A. Very well.

12 Q. It did?

13 A. Very well.

14 Q. How long did you keep it on?

15 A. I had it on for --- until it  
16 ran out, and it ran out --- I timed  
17 it. It was 50 --- either 50 or 55  
18 minutes. And we have two rescuers  
19 now. At the time, we had two, and I  
20 remember I donned the one that you  
21 pack.

22 Q. Did Jameson put his SR-100 on  
23 also?

24 A. Yes.

25 Q. And did he have any problems

1 with it?

2 A. No.

3 Q. And you both wore it together,  
4 the same time?

5 A. Yes.

6 Q. So tell me about the whole  
7 time you were doing your exploration  
8 with the SR-100 on. How did you ---  
9 where did you go?

10 A. That's --- we had them on when  
11 we advanced to 123.

12 Q. Uh-huh (yes).

13 A. And we made a --- the first  
14 --- like I say, the first couple  
15 times that we tried advancing in  
16 there we didn't have them on, and we  
17 retreated back mainly because the  
18 roof working so hard. That's when we  
19 decided to don those rescuers. We  
20 donned them, and we went back in. At  
21 that time, the other firebosses had  
22 the other apparatuses that mine  
23 rescue people wear. And two of them  
24 was not functionable, so that's why  
25 we used our SCRs. And then they ran

1 out and got those. And I'm not sure  
2 if both firebosses went or just one  
3 to go get those. I can't remember.  
4 And I think both of them went.

5 Q. Did you make it over to four?

6 A. No. We made it to three.

7 Q. Just to three?

8 A. Yeah.

9 Q. And three ---?

10 A. And the reason why we didn't  
11 go down two or try two is because  
12 when we were crossing the belt line,  
13 the sloughage was tremendous where  
14 ribs had sloughed.

15 Q. So you hit one and three?

16 A. We hit one and three.

17 Q. Yeah.

18 A. And we figured that we should  
19 try two because we was concerned  
20 about the tripping hazards and belt  
21 structure that it would be better to  
22 try the return, number three.

23 Q. So how long did you stay  
24 underground?

25 A. I think I got out of the mine

1 around 8:30 I believe. I'm not sure.

2 Q. When were up at the --- did  
3 the visibility get any better?

4 A. Yes.

5 Q. It did?

6 A. Yes.

7 Q. How long did it take to clear?

8 A. When we went back and decided  
9 that we better work on getting the  
10 stoppings corrected, we went back.  
11 And we just got up there and started  
12 working on 96 when Gary Peacock and  
13 Lyle Christensen pulled up. And  
14 that's the mine manager and the  
15 master mechanic. And they proceeded  
16 on down in there, just them two, and  
17 we started working on the air. They  
18 said by the time they got down there  
19 the air was pretty good.

20 Q. So you started at 93. Did  
21 they bring you any material?

22 A. We started at 96.

23 Q. Ninety-six (96). And did they  
24 bring you any supplies in?

25 A. I don't recall them bringing

1 any.

2 Q. So where did you get the  
3 supplies?

4 A. The fireboss that initially  
5 went up, Brent Hardee, had supplies.  
6 I remember.

7 Q. And about how long did it take  
8 you to ---?

9 A. And that's why us three  
10 advanced. It was Brian Pritt, Tim  
11 Curtis, Jameson Ward and myself.  
12 While the other fireboss was out  
13 checking stoppings and seals, I think  
14 he gathered up material.

15 Q. Okay.

16 A. Because we --- we had material  
17 there that we were putting up  
18 brattice.

19 Q. So about how much --- how many  
20 curtains did you put up? Do you  
21 remember?

22 A. Quite a few. I'm not sure  
23 because we continued to work on it.  
24 As people came, they went ahead of us  
25 and was working on them.

1 Q. So you continued just to work  
2 primarily on ---

3 A. Yeah.

4 Q. --- the ventilation?

5 A. I remember we got clear down  
6 to where the mine rescue team was, so  
7 we put up a lot.

8 Q. So those --- how much time are  
9 we talking? All the way until the  
10 morning?

11 A. Yes.

12 Q. And then who notified you or  
13 told you or directed you to leave the  
14 mine?

15 A. Somebody was telling us that  
16 they wanted us outside. There was so  
17 many people down there at that time.  
18 I can't remember. I think I got a  
19 PED from Gale Anderson which is my  
20 shift foreman and --- that said come  
21 out of the mine or call him or  
22 something. No, I didn't call him. I  
23 think I had a PED that said come out  
24 of the mine. But somebody told me,  
25 and I don't recall who it was, that

1 they wanted us out of the mine and to  
2 go get Brian Pritt and the other guys  
3 and bring them out. I don't recall  
4 who told me that, but I remember  
5 going down and Brian Pritt didn't  
6 want to come out. I remember telling  
7 him, you know, they want us out, and  
8 he wanted to stay and help. And  
9 eventually they made us all go out.

10 Q. So all five of you ---?

11 A. We didn't go out together. We  
12 all had our trucks.

13 Q. Okay. So once you got  
14 outside, what happened then? Who did  
15 you meet? Did you meet with anyone?

16 A. Yes. I meet with a couple  
17 gentlemen from MSHA and gave them a  
18 statement.

19 Q. And what about after that?  
20 What did you do? Did you take a  
21 shower and go home or do you ---?

22 A. Yeah, yeah.

23 Q. So you weren't assigned any  
24 other duties that day?

25 A. No.

1 Q. Okay. Do you know who you  
2 talked to that was from MSHA or ---?

3 A. I'm not sure. I think his  
4 name was Mr. Baker.

5 Q. Baker?

6 A. Is there a representative of  
7 MSHA that's a Baker or Barker? I  
8 don't recall for sure his name.

9 Q. I don't know that guy either.

10 A. I'm not sure. But there was  
11 --- there was Bodee Allred there I  
12 believe. I know Lena Garrett was  
13 there and then I believe two people  
14 from MSHA.

15 Q. So what did you tell these  
16 guys? I mean, how long did the  
17 debriefing or your report last to  
18 these guys?

19 A. Probably just 15 minutes, 20  
20 minutes. I just went through  
21 basically this right here with them,  
22 from where I was at, told them about  
23 I was at Crosscut 35. Told them from  
24 there to --- up to the point to where  
25 we started working on ventilation.

1 Q. And you know, I know --- you  
2 have communication. You said you  
3 called on the phone. What types of  
4 communication do you have in the  
5 mine?

6 A. We just have the mine phones.

7 Q. Is that a pager phone?

8 A. Yeah, it's a pager phone.

9 Q. A hard line?

10 A. Yes.

11 Q. And do you have more than one  
12 --- I mean, do you have ---? What  
13 entry were you --- you were in number  
14 what entry?

15 A. Number One entry.

16 Q. And you were using the phone  
17 in?

18 A. It's called the Zone Five  
19 phone. It's at the head of the  
20 section. It's the last phone before  
21 you get into the section.

22 Q. And what other entries is  
23 there communication in?

24 A. There's communication in the  
25 return. With the new law of having a

1 separate phone with  
2 communication ---.

3 Q. Were they both the same type  
4 phone?

5 A. Yes.

6 Q. Do you use walkies in the mine  
7 at all?

8 A. No.

9 Q. No. Okay. You said that ---  
10 did you at any time try to call  
11 anybody in the section on the phone?

12 A. I didn't.

13 Q. Okay.

14 A. I was leaving that to  
15 Conspect.

16 Q. Okay.

17 A. I felt my job at the time was  
18 to get in there and help them.

19 Q. And you didn't hear any other  
20 chatter or --- other than ---?

21 A. No.

22 Q. Okay. You said something  
23 about someone was beating on the belt  
24 structure trying to contact the guys  
25 inside. Tell me about that.

1       A.       I just remember going across  
2       when we climbed across the belt line,  
3       I don't know what he was rapping  
4       with, but Brian Pritt was hitting on  
5       the belt structure.

6       Q.       About how ---?

7       A.       And we waited --- we didn't  
8       wait very long, just waited a few  
9       minutes and then we withdrew.

10      Q.       He just did it for a few  
11      minutes?

12      A.       Yeah.

13      Q.       And then you waited for a few  
14      minutes?

15      A.       Yeah.

16      Q.       Is that it?

17      A.       Uh-huh (yes).

18      Q.       Okay. And you didn't hear  
19      anything?

20      A.       We was --- it was a very ---  
21      all three rooms was very unstable  
22      conditions, and we felt very  
23      uncomfortable for being in there, you  
24      know, for a long period.

25      Q.       So the only --- did you ever

1 take an air reading?

2 A. No.

3 Q. And you say you noticed air  
4 coming out?

5 A. Yeah, the air was --- the air  
6 was like dead air. And because with  
7 all the stoppings that were gone, it  
8 was just --- it wasn't moving. It  
9 was just three.

10 Q. The wall --- the curtain that  
11 you put up, did you just ---?

12 A. Pogo sticks. We used pogo  
13 sticks.

14 Q. Okay. And did you try to just  
15 establish the return, or did you also  
16 work on the belt line?

17 A. We worked on the belt line.  
18 We started like I say at 96 where the  
19 first one was blown out. And we was  
20 concentrating on the belt line to get  
21 the belt line isolated from the ---  
22 from the intake ---

23 Q. Okay.

24 A. --- which is the return zone  
25 passed the ---.

1 Q. Right.

2 A. We were more concerned about  
3 getting the intake cleared up.

4 Q. Okay. And you said you got  
5 outside about what time?

6 A. I'm thinking it was around  
7 8:30 I think. I know I had to wait  
8 for quite a while before MSHA would  
9 meet with me. It seems like I waited  
10 for like two hours because they were,  
11 you know, just getting set up and  
12 establishing them being there and  
13 what was going on. So I think I  
14 didn't leave the property until like  
15 noon that day or 1:00.

16 Q. Were you injured in any way?

17 A. No. Other than my eardrums  
18 was --- when the initial concussion  
19 come through --- and this has  
20 happened to me before. I've had this  
21 eardrum down in the south main when  
22 we were pillaring we had a big  
23 cave-in. It blew the eardrums like  
24 that and blows in like that. And I  
25 had to go to the doctor to get

1 medication to get it to blow back  
2 out. So I think this right ear is  
3 weak or whatever because it --- they  
4 both blew in. This one blew  
5 immediately right back out, and this  
6 one hasn't returned to normal.

7 Q. Did you get medical attention  
8 for that?

9 A. No.

10 Q. Okay. You say that the other  
11 guys --- they put on a different type  
12 of breathing apparatus. Do you  
13 recall what kind it was?

14 A. I don't know the name of it.  
15 I'm not involved in mine rescue. I  
16 know it was that type of apparatus  
17 that I've seen mine rescue wear.  
18 I've never been trained on those,  
19 those type. I know they didn't have  
20 to go clear outside. They went into  
21 a fire brigade trailer somewhere in  
22 the mine and grabbed those.

23 Q. The notes that you have, did  
24 you take those --- did you take any  
25 while you were in there, or did you

1 do this when you came outside?

2 A. I waited until I got home.

3 Q. Is there possible --- is it  
4 possible that we could have a copy of  
5 those notes?

6 ATTORNEY RAJKOVICH:

7 I'll give you a copy  
8 during the break and mark it  
9 as an exhibit.

10 A. And, you now, I knew that it  
11 was a significant event and that  
12 after time you forget things so I  
13 wrote down immediately when I got  
14 home so I wouldn't forget the  
15 details.

16 BY MR. O'DONNELL:

17 Q. Do you need a break? We'll  
18 take a break. It's up to you.

19 A. I'm fine.

20 Q. Okay. After August 6th when  
21 you went home, did they call you to  
22 come back to work?

23 A. Yes.

24 Q. And when was that? When did  
25 you come back?

1       A.        See, it was --- there was kind  
2       of a lack of communication there. We  
3       were kind of under the impression  
4       that until mine rescue --- you know,  
5       we felt they took control over of  
6       everything. As a matter of fact, we  
7       were told that. That's why we had to  
8       come out because now it's in mine  
9       rescue's hand. And we --- when we  
10      left, nobody --- none of the  
11      management told us what to do, if we  
12      were coming back or what.

13                We were --- all three days off  
14      was starting that next day, so I was  
15      --- I remember I was in pretty much,  
16      you know, shock over the whole deal.  
17      I just kind of went home and didn't  
18      talk to nobody. The phone did ring I  
19      believe it was Tuesday afternoon. I  
20      remember I had my phone unplugged  
21      that next day and a half because of  
22      all the phone calls and stuff that I  
23      was getting and didn't really want to  
24      talk to nobody. So Lyle Christensen  
25      who is over at maintenance and is my

1 boss, he's Larry's boss, contacted me  
2 on the cell phone --- on my cell  
3 phone, that he'd got the number from  
4 one of my co-workers, and told me  
5 that I needed to come back to work.  
6 And we were going --- they were  
7 establishing the rescue efforts.

8 Q. So did you come back at your  
9 regular shift?

10 A. I went back right then. He  
11 told me they need help now, so I went  
12 immediately.

13 Q. And that was on Tuesday at  
14 what time?

15 A. I don't --- I'm not sure.

16 Q. Okay. Afternoon?

17 A. It was afternoon.

18 Q. Okay. And were you going to  
19 work an eight-hour shift or 12-hour  
20 shift or no --- they didn't tell you  
21 how many hours?

22 A. They didn't tell me.

23 Q. Okay. So when you came back,  
24 what kind of work did they have you  
25 doing?

1       A.       My job was outby. My job was  
2       to go through all the outby equipment  
3       and make sure that no damage had  
4       happened to it and then do thorough  
5       inspections of the equipment and  
6       basically to keep things running.

7       Q.       So you weren't involved in any  
8       of the ---?

9       A.       The face work? I did go down  
10      in, you know, at times, and I  
11      remember going down in and going  
12      through some training on some  
13      equipment that they brought in from  
14      back east. I wasn't involved until  
15      --- really heavily involved down in  
16      that area until August 16th.

17     Q.       Okay. And so all the way up  
18     until --- none of your time was  
19     really while they were loading any of  
20     the material out or ---

21     A.       Right.

22     Q.       --- setting the rock props  
23     or ---?

24     A.       I remember going down in the  
25     area and getting cable ready to put

1 nips on the cable so we could quickly  
2 splice into the miner to keep it  
3 bouncing and things like that. I  
4 remember doing some work on the roof  
5 bolter and just --- you know, just  
6 kind of I was outby support, but I  
7 would support that mechanic that was  
8 in there until August 6th. My duties  
9 changed.

10 Q. On August ---?

11 A. 6th.

12 Q. What about the 16th? Where  
13 were you on the 16th?

14 A. I mean --- excuse me. That's  
15 what I meant, on August 16th.

16 Q. Okay.

17 A. That's when my duties changed.

18 Q. All right. So were you  
19 working underground on August  
20 16th ---

21 A. Yes.

22 Q. --- when the second accident  
23 occurred?

24 A. Yes.

25 Q. So tell me --- August 16th you

1       came to work. And do the same thing  
2       that you did on the last --- just run  
3       through the course of your day.

4       A.       Prior to August 16th, a couple  
5       days before we were the first ones to  
6       get relieved to get a couple days off  
7       because we put so many long hours in  
8       for such a long period. They changed  
9       the manpower structure. And my first  
10      date back was August 16th from having  
11      a few days off. My new duties was I  
12      was step-up maintenance foreman in  
13      the section of the working area. My  
14      job was to help that mechanic in that  
15      area to keep things running.

16     Q.       Okay.

17     A.       And on August 16th, the new  
18      schedule was four on --- I can't  
19      remember what it was, but there was  
20      12-hour shifts, and you only got two  
21      days off. And the crew that had  
22      their two days off --- there was an  
23      overlap date, so I had another  
24      maintenance foreman with me that day  
25      because it was his overlap day to be

1 in there, to be at work.

2 My shift started at 6:00 p.m.  
3 Ryan Mann, who's a maintenance  
4 foreman, Jameson Ward, who's a  
5 mechanic who I was responsible for,  
6 and I loaded up supplies at the  
7 warehouse and went into the mine.  
8 When we reached Zone Four at Crosscut  
9 89, I went to call us in that zone  
10 and heard them say on the phone that  
11 we have men buried and we need  
12 everything you got in a frantic  
13 voice. I told Conspect that Ryan  
14 Mann, Jameson Ward and I are going in  
15 Zone Four and into the section.

16 A miner stopped us as we was  
17 driving into the section, and I think  
18 his last name's Guetierrez. I'm not  
19 sure. I just know his nickname is  
20 Spook. He stopped us and said they  
21 need brattice in there because it  
22 blew out stoppings, and we threw what  
23 he had in our truck and proceeded in.

24 When we got to the area of the  
25 bounce, Gale Anderson, who's a mine

1 foreman, instructed us to start  
2 repairing the stoppings, that they  
3 need air in the face. I started  
4 working on them, and Ryan and Jameson  
5 proceeded to the face. As I was  
6 correcting the air, I seen several  
7 trucks taking injured men out. I  
8 repaired two stoppings and then  
9 headed to the face. It was the last  
10 two before I got to the face that I  
11 was working on. I was just working  
12 my way up.

13 I ran into Ryan Mann working  
14 on Lester Day. Ryan asked me if I  
15 could help Lester and get him out. I  
16 said, yes, and Ryan moved on to help  
17 someone else. As I helped Lester and  
18 walked him back several breaks, we  
19 ran into Benny Allred, and we loaded  
20 Lester into a truck and someone drove  
21 him outside. He wasn't injured real  
22 bad. He just had some head wounds.

23 Then I was heading back into  
24 the face and ran into Jim Marshall,  
25 who's a mine foreman from West Ridge.

1 And he said they needed more trucks  
2 up into the face, that they needed  
3 all the trucks they can get. I said,  
4 I will go get my truck and bring it  
5 up to the face. And as I was going  
6 to get my truck, I was telling  
7 everyone I ran into that they need  
8 more trucks up there.

9 When I was getting close to my  
10 truck, I ran into Isreal Petersen,  
11 who's a maintenance foreman, and he  
12 said that EMTs outside have no trucks  
13 to get in here and asked if I would  
14 run out and get them. And I said,  
15 yes and told him that they want all  
16 the trucks they can get up in the  
17 face.

18 When I got outside, I stopped  
19 and told Bodee Allred that they sent  
20 me out after EMTs. Bodee said they  
21 caught a ride and to go back in the  
22 mine and help bring out some of the  
23 men. I went back into the mine, and  
24 when I got close to the section, I  
25 was right close to the six drive. I

1 ran into Jack Graves. He's a  
2 maintenance foreman. I believe  
3 that's his title or a master mechanic  
4 from West Ridge. He said they need  
5 spider straps, and he was  
6 --- I ran into Jack Graves, and he  
7 said they needed spider straps and he  
8 was going to Crosscut 57 to the first  
9 aid station to get them. Then he  
10 asked if I would go get them because  
11 I knew the mine better, and I said I  
12 would.

13 I loaded everything out of the  
14 first aid station. As I was loading,  
15 I got a PED saying bring O2 and  
16 spider straps. I found oxygen and  
17 water in the trailer but did not see  
18 any spider straps but loaded  
19 everything and headed back into the  
20 section.

21 As I drove up to the section a  
22 transformer, which they call the  
23 fresh air base, I was stopped by  
24 Benny Allred, and he asked where I  
25 was going. I said they need more

1 first aid supplies up there, and I  
2 have everything from Crosscut 57  
3 first aid trailer, but there was no  
4 spider straps that I could see. But  
5 I have everything else. Benny said I  
6 needed to back up and find a crosscut  
7 and pull in and park the truck to  
8 make way for a truck that is ready to  
9 come out. Then someone hollered to  
10 get that truck out of here.

11 As I was backing up and just  
12 pulling into an open crosscut, a  
13 truck came out very fast. I ran up  
14 to the transformer fresh air base and  
15 asked Benny what should I do with the  
16 first aid supplies. He said that  
17 they are all out now and we are all  
18 going out of the mine. Then I ran  
19 into Ryan Mann and we loaded more of  
20 the EMTs or mine rescue supplies with  
21 ours and drove out of the mine.

22 And then there was another guy  
23 that jumped in with us. I don't know  
24 his name.

25 Q. So the actual accident scene

1 at the face, you were never really up  
2 there?

3 A. Uh-uh (no).

4 Q. Just at the power box?

5 A. I was just up there for the  
6 time to take Lester Day out.

7 Q. Okay. Let's take a little  
8 break now.

9 A. Okay.

10 SHORT BREAK TAKEN

11 ATTORNEY CRAWFORD:

12 For the record, copies  
13 were made of Mr. Harper's  
14 notes. His notes dated August  
15 6th, 2007 consisting of two  
16 pages is Exhibit Number One,  
17 Tim Harper Exhibit Number One.  
18 And his notes concerning  
19 August 16th consisting of two  
20 pages is Tim Harper Exhibit  
21 Number Two.

22 (Harper Exhibits One  
23 and Two marked for  
24 identification.)

25 BY MR. O'DONNELL:

1 Q. Before we go on, I just want  
2 to go back and ask you a couple  
3 follow-up questions on some of the  
4 information that you've given us.  
5 The first time that you called the  
6 Conspect guy when you felt --- when  
7 you knew something had happened, do  
8 you have any --- can you remember  
9 what time that was about?

10 A. It was --- my watch said ten  
11 to 3:00.

12 Q. It said ten to 3:00?

13 A. Uh-huh (yes).

14 Q. Okay. And you said that after  
15 that you went inby. It took you ---.

16 A. Ten minutes.

17 Q. And then you called again?

18 A. And I think --- I remember  
19 before I called I spent maybe five,  
20 ten minutes assessing the situation  
21 before I called.

22 Q. So it would have been ---?

23 A. Twenty (20) minutes.

24 Q. After the first call?

25 A. Uh-huh (yes).

1 Q. And was that --- that second  
2 call, that was the last time you  
3 talked on the phone?

4 A. I believe so.

5 Q. Okay. And you say that  
6 someone was bringing out Mr. Day,  
7 Lester?

8 A. That was --- yeah, I was.

9 Q. No. Somebody --- you met  
10 someone?

11 A. He was working --- when I got  
12 to the --- I worked on those two  
13 stoppings that were blowed out before  
14 the area where the ribs came in. And  
15 once I got those two repaired, I ---  
16 Ryan Mann was bandaging him up, and  
17 they were both on their knees right  
18 there. And then the other rescuers  
19 were just a few feet in front of him.  
20 And that's when Ryan asked me if I  
21 would take him out.

22 Q. Okay. Was he walking?

23 A. He was down on one knee I  
24 believe at that time. And then I  
25 lifted him up, and I basically helped

1 him walk. He said he could walk. I  
2 remember holding his --- holding and  
3 helping him walk for several hundred  
4 feet. I remember one time --- it's  
5 pretty low back in there. He hit his  
6 head --- his hard hat, and his hard  
7 hat flew off. And I immediately  
8 stopped him. I said, let's get that  
9 back on. It was kind of hard keeping  
10 it on because he had a big bandage  
11 around him. And I just said I don't  
12 want you hurt any worse again because  
13 he didn't want to put it back on.

14 Q. Did he say anything to you?  
15 Did you have a conversation with him?

16 A. He was rambling. He was in  
17 shock.

18 Q. Was he?

19 A. He made the comment that  
20 somebody could --- they think  
21 somebody's dead up there. He did  
22 make that comment.

23 Q. Did he --- he rode in the  
24 front of the truck with you on the  
25 way out?

1 A. No. I took him until I ran  
2 into Benny Allred who's the section  
3 foreman. And there was a driver ---  
4 I remember a truck was backed up  
5 waiting for us ---

6 Q. Okay.

7 A. --- for the first injured to  
8 come out. And I remember --- well,  
9 he wouldn't have been the first  
10 injury. He was the first injury for  
11 me to bring out. And I just remember  
12 that truck being backed up, and the  
13 driver in it, and I remember loading  
14 him into the passenger seat and  
15 talking with Benny. And then they  
16 hauled him out.

17 Q. What did Benny tell you?  
18 Anything? Did you talk to Benny ---?

19 A. We were just general  
20 conversation, you know, trying to  
21 calm Lester down.

22 Q. Okay.

23 A. We both were talking to Lester  
24 basically. Because when I first ran  
25 up to Benny, I said, Benny, can we

1 get somebody to take him out?

2 Q. You say you repaired two  
3 stoppings ---

4 A. Yes.

5 Q. --- in Number One entry?

6 A. Yes.

7 Q. And do you remember which way  
8 those walls were blown?

9 A. They weren't really blown  
10 completely out, and I remember there  
11 was already brattice there. And it  
12 was like the brattice had fell down,  
13 and I just remember putting the  
14 brattice up.

15 Q. Fell down away from you?

16 A. Yeah, it was ---

17 Q. Okay.

18 A. --- it was just laying there.  
19 And the stopping was just partially  
20 blown. And I just remember there was  
21 a lot of coal debris, sloughage.

22 Q. And I need to --- I got a  
23 little mixed up on the other ones  
24 outby. Were you on the belt line and  
25 you were repairing the walls to your

1        --- if you were facing the section  
2        and you're in the belt line, were you  
3        in the belt line or were you in the  
4        next entry?

5        A.        I was still in the next entry,  
6        but I could see the belt line.

7        Q.        To your right?

8        A.        Yes.

9        Q.        Okay. So those were the walls  
10       between Number One and Number Two  
11       that you repaired? Yes? No?

12       A.        No. Are you talking  
13       initially?

14       Q.        Outby.

15       A.        Outby from --- are you talking  
16       August 6th outby, or are you talking  
17       the 16th?

18       Q.        Let's get a map.

19       A.        Okay. I'm kind of confused on  
20       which incident.

21       Q.        I'll come over there. Yeah,  
22       we're going back to the August 6th.

23       A.        Okay.

24       Q.        Do you recognize this map?

25       A.        Yes.

1 Q. Okay. Let's see. Okay. We  
2 have a marking pen over here.

3 ATTORNEY CRAWFORD:

4 We'll mark this Harper  
5 Exhibit Number Three.

6 (Harper Exhibit Three  
7 marked for  
8 identification.)

9 BY MR. O'DONNELL:

10 Q. Okay. If you would, just tell  
11 me where you started on August 6th  
12 with your ventilation controls and  
13 where you started to replace them and  
14 if you can, what direction they were  
15 blown.

16 ATTORNEY RAJKOVICH:

17 And just for the  
18 record, this is the same map  
19 as in Curtis.

20 ATTORNEY CRAWFORD:

21 That's true.

22 A. Where is Crosscut 96?

23 BY MR. O'DONNELL:

24 Q. Okay. Went on 96 and came all  
25 the way to where?

1 A. Ninety-six (96) all the way to  
2 --- where is the belt line for six  
3 drive?

4 Q. This would be the belt line.

5 ATTORNEY CRAWFORD:

6 For the record, what  
7 are you pointing to as far as  
8 the belt line? What entry?

9 MR. O'DONNELL:

10 That would be  
11 number ---.

12 ATTORNEY CRAWFORD:

13 Number Three entry.

14 A. So 96 --- because my toolbox  
15 is at 95, and that's what I know it  
16 was one ahead of my toolbox that was  
17 --- they were all blown out. And we  
18 started at 96, and we repaired  
19 stoppings. And I don't know how many  
20 we repaired before help arrived. It  
21 wasn't very many, like maybe two.  
22 And then the help started arriving.

23 BY MR. O'DONNELL:

24 Q. But you were over in --- you  
25 were in the belt entry, or you were

1 adjacent to the belt entry?

2 A. This is the belt entry here;  
3 right?

4 Q. That's the belt entry, Number  
5 Three.

6 A. We were right here.

7 Q. Okay. So you were in the  
8 travelway?

9 A. Right.

10 Q. Which would be Number Two?

11 A. Right. And we was repairing  
12 these stoppings right here.

13 Q. Okay. And he's referring to  
14 the stoppings between the Number Two  
15 entry and the Number Three entry,  
16 which is the belt, and marking them  
17 on the map beginning with Crosscut  
18 106. And so from the travelway, the  
19 travel route that you were with your  
20 truck, can you recall which way the  
21 stoppings between Number Two and  
22 Number Three entry were blown  
23 towards?

24 A. They were blown towards the  
25 belt line just like if they were

1       blown out that way.

2       Q.       So you're saying they ---

3       A.       They were just falling over.

4       Q.       --- were from the Number Two  
5       entry towards the Number Three entry?

6       A.       Yes.

7       Q.       Okay.

8       A.       And then this is six drive  
9       here.

10      Q.       Yes.

11      A.       And so then we repaired these  
12      coming down.

13      Q.       And you're referring to the  
14      --- what belt is that? That would be  
15      number what belt?

16      A.       This is --- this one here is  
17      Five Belt, and this one here is Six  
18      Belt.

19                                    ATTORNEY CRAWFORD:

20                                    When you say here, what  
21      do you mean?

22      A.       That 110 is Six Belt.

23                                    ATTORNEY CRAWFORD:

24                                    Crosscut 110?

25      A.       Yes.

1 BY MR. O'DONNELL:

2 Q. And the separation walls  
3 between it would be 109 and 110 then?

4 A. Yes.

5 Q. And which way were those  
6 forced?

7 A. What I recall they were just  
8 kind of folded over in towards the  
9 belt line.

10 Q. Okay. And let's continue  
11 down.

12 A. Okay. And I remember ---  
13 okay. I started at 96, and I worked  
14 all the way up. And I remember  
15 heading down Six Belt, and there was  
16 a lot of people there at that time.  
17 And the foreman Dale Black come to me  
18 and told me you need to get outside.  
19 You've put in a long day. We can  
20 take over from here. And I think he  
21 is the one that told me they want you  
22 outside now that I think about it.  
23 And then I remember I quit working on  
24 stoppings at this point. Right in  
25 here somewhere.

1 Q. Right there?

2 A. Yeah.

3 Q. Okay.

4 A. And I went down and tried to  
5 find those firebosses that were down  
6 with the mine rescue guys to take  
7 them outside.

8 Q. And what crosscut would that  
9 be?

10 A. That would have been like ---  
11 well, 113 was where the phone was.  
12 When I went down there, they were  
13 several breaks in on the belt line in  
14 here. So they would have been  
15 somewhere in here because I didn't  
16 see ---.

17 Q. And you're referring to  
18 Crosscut 116?

19 A. Yeah, they were somewhere in  
20 that area, between 116 and 118, I  
21 would say.

22 ATTORNEY CRAWFORD:

23 And what area did you  
24 stop working on the ribs? You  
25 went ---.

1 A. It was at Crosscut 110.  
2 Coming down this way, I'm not sure.  
3 It's 110 going in this way, but they  
4 change this way.

5 BY MR. O'DONNELL:

6 Q. Are you saying to the west?

7 A. Yes.

8 Q. Okay. Thank you. Tim, you  
9 said --- you mentioned in your  
10 statement that there was a pickup  
11 truck that was moved? I thought when  
12 you were telling us your recollection  
13 of what happened that there was ---  
14 somebody else's pickup truck was  
15 moved. Tell me a little bit about  
16 that.

17 A. Jameson Ward, the mechanic  
18 that I called out of the section to  
19 come pull my truck to start it, he  
20 told me he was up right in this area  
21 here.

22 Q. Which area are you referring  
23 to?

24 A. He was --- I'm not sure  
25 exactly where. He just told me he

1 was passed six drive, so ---.

2 Q. Somewhere around 1 ---?

3 A. So somewhere around 109, 108,  
4 somewhere right through there.

5 Q. Okay.

6 A. He was --- he just told me he  
7 just made the corner, so that's where  
8 he would have been. He didn't tell  
9 me what crosscut.

10 Q. So he was driving the truck?

11 A. Yes.

12 Q. And he said what happened?

13 A. He said the force of the air  
14 was so tremendous it blew his truck  
15 sideways into the rib, and he hit his  
16 head on the steering wheel.

17 Q. How far --- did he know how  
18 far it blew the truck?

19 A. He didn't --- that's as much  
20 as he elaborated.

21 Q. Okay. Tim, did you ever ---  
22 were you ever in the section, in the  
23 south main, the barrier section where  
24 they were pillaring?

25 A. Yeah. Not that night.

1 Q. No. When was the last time  
2 you were there?

3 A. Down in here; right, where  
4 you're referring to?

5 Q. Yes, south main barrier.

6 A. We call it main west.

7 Q. Main west barrier.

8 A. Okay. The last time I was in  
9 that section was the night before.

10 Q. The night before. And how  
11 long were you in the section?

12 A. Not very long.

13 Q. Do you --- and what were you  
14 doing in there?

15 A. Any time I got finished with  
16 my outby work and got caught up, I  
17 always went in there and helped out.  
18 And I assume I got caught up that  
19 day, and I went in the section to go  
20 help the mechanic out. And when I  
21 got in there, he had a scoop that was  
22 down. And as soon as I got in there,  
23 I either --- I don't remember for  
24 sure. I got a PED or a phone call,  
25 but I got called out by Larry Powell,

1 and it was --- I don't remember what  
2 for. I just remember talking to Gale  
3 Anderson. He was in there, the shift  
4 foreman. And we were discussing what  
5 --- the problems with the scoop, and  
6 the mechanics is working on the  
7 scoop. I was going up to help him  
8 work on it, and I was just talking to  
9 him for a brief second before I got a  
10 PED or a phone call. And then on my  
11 way out, because I had to leave, I  
12 was talking to Don Erickson on the  
13 corner and he pointed out some  
14 dinosaur tracks to me and showed me  
15 on the roof. And then I left the  
16 section.

17 Q. Did you --- so you were in  
18 there daily?

19 A. Pretty much.

20 Q. Do you remember where anything  
21 --- like where the dinner hole was  
22 and the power box and where they were  
23 mining and ---?

24 A. The night of August 6th, I'm  
25 not aware of where for sure. I'd

1 never seen where they were mining  
2 because I hadn't been in there that  
3 day. I was heading down there when  
4 my truck broke down.

5 Q. Do you where the --- what  
6 crosscut the feeder was in?

7 A. No.

8 Q. What about the power box?

9 A. I couldn't tell you what  
10 crosscut.

11 Q. Okay.

12 A. I knew it was around the  
13 corner from that. You know, I've  
14 been there, but I didn't really pay  
15 attention to what crosscut.

16 Q. Was it the same place it was a  
17 couple days before?

18 A. Yes.

19 Q. But you don't recall what  
20 crosscut?

21 A. Uh-uh (no).

22 Q. Did you notice like the night  
23 that you went out on August 6th when  
24 you heard all the noise --- what was  
25 the section like the day before when

1       you were there? Do you recall?

2       A.       I remember --- when I walked  
3       in, I remember seeing some floor  
4       heavage, maybe six to eight inches to  
5       a foot. I remember walking over it.  
6       And I remember noticing the ribs,  
7       that there was erosion.

8       Q.       Where did you see the heave  
9       at? What entry?

10      A.       Number One.

11      Q.       Number One. Do you recall  
12      what crosscut maybe or how far from  
13      the face?

14      A.       It was probably --- I remember  
15      as soon as I walked around the corner  
16      there was a --- they were moving, and  
17      there was a buggy parked there. So  
18      it was close to the face, had to have  
19      been just 200, 300 feet from the  
20      face.

21      Q.       Well, you say you go into the  
22      section almost daily; right?

23      A.       Right.

24      Q.       And you probably were with  
25      them from the time they started

1 pulling back?

2 A. I was --- I can't tell you for  
3 how long. It's been maybe four  
4 months. I was their mechanic for ---  
5 their section mechanic ---

6 Q. Were you?

7 A. --- all the way up here and  
8 then halfway through driving this,  
9 developing it. And then four to five  
10 months ago I was put out by general  
11 mine mechanics, and I went in not  
12 every day but pretty --- anytime  
13 there was a breakdown, I'd go in and  
14 help that mechanic or I had  
15 permissibility down in that area  
16 until just recently. Like a week  
17 before the incident they changed the  
18 permissibility and gave it to the  
19 other section mechanic.

20 Q. So what can you tell us about  
21 the conditions as they --- did they  
22 change? Were they consistent? Did  
23 they get better, worse?

24 A. The conditions to me were from  
25 my experience comparing to up here on

1 the north ---

2 Q. Up here, you're referring to  
3 the north.

4 A. --- and comparing them to the  
5 south main when I pillared down in  
6 there with these guys, they were  
7 normal conditions, very normal.

8 Q. Normal ---?

9 A. Normal for pillar conditions.

10 Q. As far as bumping goes or  
11 bounces?

12 A. They were very mild light  
13 bounces. Every now and then there  
14 were some good ones that I guess  
15 would be on a medium scale. Nothing  
16 --- nothing like it was up here in  
17 the north. There was some extreme  
18 hard bounces while were developing in  
19 the north. This is very --- we  
20 monitored this area pretty close.

21 Q. Okay. I'm going to get ---  
22 I'm going to jump to that  
23 individually. Okay. So maybe we can  
24 --- but let's just talk about the  
25 south barrier. You're saying the

1 south barrier was --- as the section  
2 came out, you didn't notice any  
3 changes or you did notice changes?

4 A. Don't --- they were normal  
5 pillaring conditions to me. They  
6 weren't violent bounces.

7 Q. Okay.

8 A. They were normal conditions.  
9 The floor heaving to me looked normal  
10 because you see that kind of heavage  
11 in pillar sections.

12 Q. Do you recall --- when you  
13 were there last, do you know where  
14 the face area was at?

15 A. I didn't go to the face area.

16 Q. Do you have any idea, just a  
17 rough idea of crosscuts?

18 A. The last time I remember when  
19 I was in there they were mining in  
20 one, and they were mining on the  
21 pillar on the right. And I don't  
22 know what crosscut it was, but that's  
23 what they were mining because I  
24 helped --- and I hope I'm not  
25 confusing myself with another date.

1 But I'm trying to think that day  
2 before. I know for a fact --- no,  
3 excuse me, I am confusing myself with  
4 another date. The day before August  
5 6th I'm not --- I don't know where  
6 they were mining because I went in  
7 and seen Gale Anderson and then I  
8 seen Jameson Ward at the scoop. And  
9 then on the way out because I got a  
10 phone call or a PED I seen Don  
11 Erickson down in One, on the corner  
12 of One, and I didn't see the miner,  
13 where it was at or what they were  
14 doing. So I couldn't tell you the  
15 day before.

16 Q. Were you involved --- I guess  
17 you were. You were section mechanic  
18 you said when they developed the  
19 south barrier?

20 A. Yes.

21 Q. And about what was the mining  
22 height like there?

23 A. It was normal height. It was  
24 like seven feet, six and a half,  
25 seven feet, eight feet in places.

1 Q. And you described what they  
2 were like when you were pulling the  
3 section. What were they like when  
4 you were driving the section, the  
5 roof conditions?

6 A. They weren't bad. They were  
7 pretty good.

8 Q. And do you know how wide they  
9 were driving the entries?

10 A. I couldn't tell you exactly a  
11 footage.

12 Q. And what about going --- you  
13 talked about ground heave when they  
14 were --- when they were pulling. Did  
15 the bottom heave sometimes when they  
16 advanced?

17 A. No.

18 Q. Never?

19 A. I don't recall it.

20 Q. What about the rib noise? Did  
21 you have any bumps or bounces or roof  
22 activity on the drive?

23 A. Now, you're talking down here;  
24 right?

25 Q. Yes.

1 A. Okay. Just normal.

2 Q. Normal as being what?

3 A. Normal as being just small  
4 bounces, light bounces.

5 Q. Any that threw coal?

6 A. None I recall. Maybe it could  
7 have caused a little sloughage here  
8 and there but nothing violent.

9 Q. How often did it bump when you  
10 were driving the section?

11 A. Quite often, just normal  
12 conditions. Any time you start  
13 mining and extracting, it starts to  
14 bump, you know, bounce. So when we  
15 were developing it, you'd hear at  
16 least, you know, several a shift.

17 Q. Several a shift. Just the  
18 noise, the vibrate. Did you feel it  
19 under your feet?

20 A. No.

21 Q. Just you're talking about ---

22 A. Just ---.

23 Q. --- the coal making noise?

24 A. You know --- yeah, you know,  
25 when you extract the coal.

1 Q. Yeah.

2 A. It sets down and you hear the  
3 boom what you call a bounce.

4 Q. Did you ever run any equipment  
5 or run miner or whatever during ---  
6 did you fill in at any time other  
7 than being a mechanic in the section?

8 A. I ran the scoop. When I was  
9 their section mechanic, I ran shuttle  
10 car for them during runs a few times.  
11 Not very often. The only time was  
12 when they really needed somebody. I  
13 did perform faceman duties a lot,  
14 helped out that faceman. I ran the  
15 scoops and helped him load material  
16 on the bolters, things like that.

17 Q. Do you remember anything about  
18 the pillar sequence? How they  
19 pulled? How much coal they took off  
20 the barrier? How deep their cuts  
21 were?

22 A. I was in the development  
23 stages of it. I wasn't their  
24 mechanic when they started pulling  
25 the pillars, ---

1 Q. Okay.

2 A. --- so I don't --- I was  
3 mostly involved in their development.

4 Q. You talked about the north  
5 barrier. You were the mechanic  
6 whenever they developed the north  
7 barrier?

8 A. Yes.

9 Q. Okay. And talk about the roof  
10 conditions whenever you were driving  
11 the north barrier.

12 A. For the most part, the roof  
13 conditions were good. There was a  
14 few --- I remember a few crosscuts  
15 where it got a little ratty. I  
16 remember up in three and four room  
17 --- and I couldn't tell you what  
18 crosscut it was, but I remember we  
19 had a lot of water coming out of the  
20 roof.

21 Q. Out of cracks or out of bolt  
22 holes or ---?

23 A. Out of cracks. And it was  
24 more water than I'd seen in my years.  
25 I mean, it was just like a shower in

1 areas.

2 Q. Did you --- you said it made  
3 the roof bad. What additional ---  
4 what kind of roof supports were you  
5 using in the area?

6 A. Roof bolts.

7 Q. And did they use any other  
8 supplemental roof supports because of  
9 the ---?

10 A. Areas --- if a rib eroded away  
11 in areas, there might be timber or  
12 so. And I know they were timbering  
13 the return.

14 Q. And what about the bumps and  
15 the bounces while you driving it?

16 A. They were --- there were some  
17 really hard bumps up there and  
18 bounces.

19 Q. How bad?

20 A. There was --- there was some  
21 really, really hard ones. I mean, we  
22 talked --- we talked amongst each  
23 other as a crew. We were very  
24 concerned when we started pulling  
25 pillars because the bounces were so

1 hard developed.

2 Q. Did you have any when you were  
3 driving that caused any equipment  
4 damage?

5 A. No.

6 Q. Cover the machine up?

7 A. No.

8 Q. So ---.

9 A. We just had some pretty good  
10 --- pretty good loud bounces and some  
11 rolls of the ribs here and there, but  
12 nothing that I ever seen damaged or  
13 nobody got hurt.

14 Q. So when you were driving, it  
15 didn't really throw any coal?

16 A. Not severely throw it out, but  
17 you know, there was times that it  
18 would roll a rib out. That if it  
19 bounced real hard, you'd come around  
20 --- say the crosscut back from the  
21 face, you'd see a big chunk of coal  
22 that just rolled off.

23 Q. So would you say that when you  
24 were developing the north barrier  
25 that the conditions that you

1 encountered were abnormal or they  
2 were different than other areas that  
3 you drove in the mine?

4 A. Yeah, different. They were  
5 just --- we just experienced more  
6 harder bounces up in that area than  
7 any other place in the mine.

8 Q. And the concerns that you had  
9 --- like you said, you talked to each  
10 other ---

11 A. Yeah.

12 Q. --- because you were worried  
13 about what may happen when you start  
14 pulling?

15 A. Right.

16 Q. Who did you --- did you talk  
17 to anybody else about that?

18 A. No, we just --- just amongst  
19 each other. You know, we --- I  
20 remember talking with Don Erickson a  
21 lot because he was a good friend of  
22 mine and Flash, which is Kerry  
23 Allred, was another good friend. We  
24 talked a lot amongst each other about  
25 conditions.

1 Q. And did you come to any  
2 conclusions on what you were going to  
3 do when that happened or ---?

4 A. No. We were just kind of ---  
5 you know, it wasn't that we were ---  
6 we felt endangered or anything at  
7 that point. We were just monitoring  
8 the bounces. And you know, it wasn't  
9 like we were having close calls. We  
10 were just concerned about the weight  
11 and how hard those bounces were.

12 Q. So then you began pillaring  
13 the section. Tell me about what  
14 activity. Did it increase?

15 A. Yeah.

16 Q. And how did it ---?

17 A. They were just --- they were  
18 really hard bounces when we started  
19 pillaring, some pretty good ones.  
20 And then I remember --- I remember it  
21 was our days off and we came back to  
22 work --- we were working four on,  
23 three off. We came back to work. I  
24 can't remember what month it was.  
25 It's the one that everybody's talking

1       about way back in March where  
2       everybody's saying. We came back to  
3       work and was told we were pulling out  
4       of there because it's bouncing too  
5       hard and the company didn't feel it  
6       was safe.

7       Q.       Do you remember any particular  
8       --- well, let me back up. When you  
9       were --- and you had some hard  
10      bounces that you talked about. Was  
11      there any occasion that the miner got  
12      covered up or anybody got hurt or ---

13     A.       No.

14     Q.       --- there was an air course  
15      that was blocked?

16     A.       None that I recall.

17     Q.       Okay. So you were off you  
18      said around March when the big bump  
19      occurred. Did you --- and they said  
20      they were pulling out?

21     A.       Yeah. When we came back to  
22      work, that process had already begun.  
23      We came back to work and they was  
24      already pulling equipment out of  
25      there.

1 Q. And what was the reason why  
2 they pulled out?

3 A. Because of the bounce.

4 Q. Do you remember where that  
5 area was? What area --- some kind of  
6 location where --- general area of  
7 where you were when that happened and  
8 pulled the section out?

9 A. I don't. I cannot.

10 Q. Okay. Pulled out. How far  
11 did they pull out?

12 A. We were pulling all equipment  
13 back, and plans were to get approval  
14 to go down here in the south.

15 Q. Well, did you begin pillaring  
16 at another location in the south  
17 barrier?

18 A. No, not that I recall.

19 Q. You didn't pull back and say  
20 start a few blocks outby and then  
21 begin another line or ---?

22 A. No, not that I recall.

23 Q. Okay. So ---.

24 ATTORNEY RAJKOVICH:

25 You mean south or the

1 north?

2 MR. O'DONNELL:

3 In the north.

4 ATTORNEY RAJKOVICH:

5 You said south.

6 MR. O'DONNELL:

7 Oh, I'm sorry. I meant  
8 the north. I meant the north.

9 BY MR. O'DONNELL:

10 Q. So you pulled back all the way  
11 out and didn't begin another pillar  
12 line?

13 A. No. We had --- it seemed like  
14 we did have two big bounces.

15 Q. Okay.

16 A. I do remember now that you  
17 mention that. It seems like we did  
18 --- I think I'm correct here, that we  
19 did start pulling pillars. We had a  
20 big bounce and then they decided to  
21 leave a couple pillars and start  
22 again and that's when the other big  
23 one was I believe.

24 Q. Okay. So the first big ---

25 A. I could be wrong.

1 Q. --- one you're talking about,  
2 what happened there? Was it ---?

3 A. Just again that wasn't on our  
4 shift, so I --- I don't know.

5 Q. Okay. When they did pull back  
6 and begin pillaring again?

7 A. And again, that one wasn't on  
8 our shift either.

9 Q. Okay. So you weren't ---.

10 A. That was on Dale Black's crew,  
11 I believe.

12 Q. Were you ever up in the area  
13 after that?

14 A. Just retrieving equipment.

15 Q. And tell me about the  
16 conditions in there.

17 A. Just normal pillar conditions  
18 of, you know, eroded ribs and  
19 sloughage.

20 Q. And was there any equipment  
21 that you could not recover or ---?

22 A. Not that I recall, no.

23 Q. Do you remember seeing the  
24 entries, how much was --- how much  
25 coal had been thrown?

1 A. I just remember --- no, I  
2 didn't see the --- when they buried  
3 the bit. Just hearsay. They had  
4 that equipment already out when I  
5 came on. I just know hearsay.

6 Q. Okay. And you didn't start in  
7 the mine until 2004; right?

8 A. 2005.

9 Q. '05?

10 A. February.

11 Q. Do you ever perform any  
12 examinations in the mine?

13 A. Yes.

14 Q. And what kind of examinations?

15 A. Part of my job as a mechanic  
16 and electrician is to perform  
17 permissibility.

18 Q. Other than permissibility,  
19 doing any preshifts or ---

20 A. No.

21 Q. --- anything like that?

22 A. No.

23 Q. Okay. When was the last time  
24 you had your annual retraining?

25 A. I don't know what date that

1 was.

2 Q. Was it within the last year?

3 A. Yes.

4 Q. Okay. Do you remember where  
5 you had the training and who  
6 conducted it?

7 A. It was at the college when all  
8 the mines met.

9 Q. Do you know what college that  
10 is at?

11 A. College of Eastern Utah, CEU.

12 Q. Okay. And in the mine --- I  
13 know you're a mechanic, but do you  
14 still participate in evacuation  
15 drills and fire drills or --- you  
16 know, who do you usually travel with  
17 during those?

18 A. Usually, I did it with the  
19 crew, Benny Allred's group.

20 Q. Did you walk out with them?

21 A. Yes.

22 Q. What about your SCSR training,  
23 your hands on?

24 A. Uh-huh (yes). And we just  
25 went through that, so I think that

1 really helped me in the situation I  
2 was in.

3 Q. Okay. We're going to take  
4 just a five minute break now.

5 SHORT BREAK TAKEN

6 BY MR. O'DONNELL:

7 Q. Okay. Just a few follow-up  
8 questions. When you were in the  
9 north barrier, tell me do you know  
10 where there was --- the bouncers were  
11 bigger, smaller, more often? Were  
12 they at the beginning, the middle or  
13 the end?

14 A. What I recall it was more at  
15 the end.

16 Q. End meaning ---?

17 A. Wherever we ended up. You  
18 know, I'm not sure where we --- where  
19 we started pulling. I don't know  
20 what crosscut we started pulling  
21 pillars up there. But it seems like  
22 to me they were closer to the middle  
23 and the end.

24 Q. The end meaning outby end or  
25 inby end?

1 A. Inby end.

2 Q. The inby end. So where you  
3 began pulling and extending outby ---

4 A. Right.

5 Q. --- to where? To ---?

6 A. As we were developing --- as  
7 we developed in, I would say from  
8 midway in to all the way inby from  
9 midway of develop in the north.

10 Q. To the face?

11 A. To the face.

12 Q. Okay.

13 A. Was --- it seemed like, you  
14 know, it was pretty consistent all  
15 the way from there on in that we were  
16 having heavy bounces.

17 Q. And what about coming out now?

18 A. And when we started pillaring,  
19 it really was heavy bounces. And we  
20 didn't pull very many pillars. I  
21 can't recall how many before we  
22 pulled out of there.

23 Q. Okay. You talked about some  
24 areas in the south barrier  
25 particularly in Number One entry with

1 floor heave.

2 A. Uh-huh (yes).

3 Q. Do you have an idea where that  
4 is on the map? And if you would,  
5 could you identify it and maybe mark  
6 it for us? And any other areas where  
7 that you may have noticed where the  
8 floor had heaved.

9 A. It was --- I don't know  
10 exactly where they started pulling  
11 the pillars. I guess right here is  
12 where they started --- let me see  
13 where that ---.

14 Q. And you're referring to ---?

15 A. Oh, here's the --- here's the  
16 dog leg. Okay. I'm saying the power  
17 center was right there.

18 Q. Could you please mark that  
19 down? And you're referring to ---  
20 what crosscut would that be?

21 A. 139 because there's that dog  
22 leg I think.

23 Q. So what was in 139?

24 A. I'm saying the power center I  
25 believe was right there.

1 Q. Could you mark that? You  
2 could mark that pretty big. Just  
3 mark ---.

4 A. Power center. This is our  
5 belt line. I'm thinking the feeder  
6 was right in this area.

7 Q. Could you mark that feeder?  
8 And he's referring to Number Two  
9 entry between Crosscut Number 139 and  
10 140.

11 A. When I came in that day  
12 before ---.

13 Q. That would be --- you're  
14 referring to August the 5th?

15 A. Yeah. I think there was a  
16 shuttle car parked right here.

17 Q. That would be Crosscut 141  
18 between entry Number One and Number  
19 Two.

20 A. And I remember right before I  
21 got to the car I noticed the floor  
22 heaved right here.

23 Q. And for what distance did the  
24 floor heave?

25 A. Just maybe three, four feet.

1 Q. Wide?

2 A. Long.

3 Q. Long.

4 A. And maybe --- maybe probably  
5 about the same distance wide. It was  
6 like a bubble area.

7 Q. Are you referring the area in  
8 Number One entry between 140 and 141  
9 crosscut?

10 A. Yes.

11 Q. And were there any other areas  
12 that you noticed that were heaving?

13 A. I noticed --- where this  
14 shuttle car was at I noticed the ribs  
15 was eroded pretty good.

16 Q. Eroding in what way?

17 A. Meaning sloughage because I  
18 remember seeing ---.

19 Q. Hourglass type where it was  
20 more eroded in the center, the  
21 middle?

22 A. Like it was --- like both the  
23 ribs had eroded up against the car  
24 that was parked.

25 Q. So they were laying down?

1 A. Yeah, sloughed right up to the  
2 car.

3 Q. Okay. And that's the ---.

4 A. That's ---.

5 Q. That's between Number One and  
6 Number Two entry, 141 crosscut?

7 A. Yes.

8 Q. Is that right?

9 A. Yes. And I remember ---  
10 because I remember I was going to  
11 walk through there and it was  
12 sloughed so hard that I didn't --- it  
13 looked like it'd be difficult to walk  
14 along the car. So I went down one  
15 more break, walked up and I believe  
16 the miner was here, but I can't say a  
17 hundred percent sure. But I walked  
18 up, and right here I met Gale  
19 Anderson, right there. And then the  
20 scoop was broke down right here I  
21 think.

22 Q. So the scoop was broke down in  
23 Number Two entry ---

24 A. Yes.

25 Q. --- between Crosscut 141 and

1 140?

2 A. To the best of my knowledge.

3 Q. And you said that you traveled  
4 up the Number One entry to 142  
5 crosscut; is that right?

6 A. Yes.

7 Q. And then across to number ---?

8 A. Number two room. And then I  
9 walked back to this scoop, and I  
10 spoke with the mechanic that was  
11 working on it.

12 Q. Okay.

13 A. And then I got the PED or the  
14 phone call and I walked up to the  
15 power center because there was a  
16 phone there, and I called my boss.  
17 And then I left. I came back down,  
18 and I told that mechanic I had to  
19 leave the area. I can't remember  
20 what I had to go do, but I was called  
21 out. And then I walked back down  
22 this way, and I ran into Don Erickson  
23 right here in the corner.

24 Q. And you're referring to  
25 between Number One and Number Two or

1 142 crosscut?

2 A. Yes.

3 Q. And you said the miner was in  
4 the same area?

5 A. I'm not sure.

6 Q. Okay.

7 A. Like I say, I think they were  
8 moving because this car was parked.

9 Q. Moving outby?

10 A. Usually they're moving the  
11 miner --- usually when you see the  
12 cars parked, they're moving the miner  
13 to another side of the pillar or  
14 something. I wasn't really paying  
15 attention to what they were doing.

16 Q. Okay. Thank you. We talked  
17 about your concerns with other crew  
18 members in the north when you were  
19 driving the north barrier.

20 A. Uh-huh (yes).

21 Q. Do you recall who you talked  
22 to?

23 A. I just recall talking to Don  
24 Erickson and Kerry Allred.

25 Q. And where did you --- I mean,

1       how did you hear about the section  
2       stopping and pulling out in the north  
3       barrier?

4       A.        I didn't hear about it until I  
5       came back to work.

6       Q.        Who did you hear it from?

7       A.        I don't know.

8       Q.        Okay.  Tim, have you given a  
9       written statement or interview to any  
10      management official or outside  
11      organization before this interview  
12      regarding the accident?

13     A.        No.

14     Q.        Has anyone offered you  
15     anything ---?

16                                ATTORNEY RAJKOVICH:

17                                Other than having  
18                                talked to me.

19                                MR. O'DONNELL:

20                                And you count.

21                                ATTORNEY RAJKOVICH:

22                                But you didn't say as  
23                                what.

24     BY MR. O'DONNELL:

25     Q.        Has anyone offered you

1 anything or made any promise to you  
2 in exchange for you to appear or not  
3 to appear here today?

4 A. No.

5 Q. Okay. Tim, do you have  
6 anything that you'd like to add that  
7 may be relevant to our investigation?

8 A. I can't think of anything at  
9 this time.

10 Q. Okay.

11 MR. O'DONNELL:

12 On behalf of MSHA, I  
13 want to thank you for  
14 appearing and answering our  
15 questions today. Your  
16 cooperation is very important  
17 to the investigation as we  
18 work to determine the cause of  
19 the accident.

20 We ask that you not  
21 discuss your testimony with  
22 any person who may have  
23 already been interviewed or  
24 may be interviewed in the  
25 future. This will ensure that

1 we obtain everyone's  
2 independent recollection of  
3 the events surrounding the  
4 accident.

5 After questioning other  
6 witnesses, we may call you if  
7 we have any follow-up  
8 questions that we feel we need  
9 to ask you. If at any time  
10 you have additional  
11 information regarding the  
12 accident that you'd like to  
13 provide to us, please contact  
14 us at the contact information  
15 that we gave you earlier on  
16 the card.

17 The Mine Act provides  
18 certain protections to miners  
19 who provide information to  
20 MSHA and as a result are  
21 treated adversely. If at any  
22 time you believe that you've  
23 been treated unfairly because  
24 of your cooperation in this  
25 investigation, you should

1           notify us immediately.

2                         If you wish, you may  
3           now go back over any answer  
4           you've given us during this  
5           interview and you can make a  
6           statement at this time.

7     A.         I don't feel that I really  
8           need to make a statement. I think  
9           we've covered everything ---

10                         MR. O'DONNELL:

11                         Very good.

12     A.         --- that I know.

13                         MR. O'DONNELL:

14                         Tim, again I want to  
15           thank you for your  
16           cooperation. We appreciate  
17           you coming.

18

19                         \* \* \* \* \*

20                         STATEMENT CONCLUDED AT 2:26 P.M.

21                         \* \* \* \* \*

22

23

24

25