

IN RE: CRANDALL CANYON
MINE INVESTIGATION INTERVIEWS

INTERVIEW
OF
BILL REITZE

INTERVIEWERS:
JOE PAVLOVICH, ERNEST TEASTER

DATE:
JANUARY 23, 2008

1 BY MR. TEASTER:

2 Q. Bill, before we get into questioning, we'll tell you a little bit about why we're
3 here, what we're trying to accomplish. For one, Crandall Canyon, Assistant Secretary,
4 Richard Stickler was present throughout most of the rescue effort. And the Agency
5 has since 1989 pretty much done internal reviews following accidents such as we had
6 at Crandall Canyon. And the Secretary wanted to do one of this one, but she didn't
7 want anyone subordinate to the Assistant Secretary, so she decided to do an
8 independent review. And Joe and I retired, about three and a half for Joe and about
9 five and a half years ago for me. We had an extensive background with MSHA, had
10 over 30 years service, worked in a lot of different positions, done a lot of involvement
11 in mine rescue. And anyway, they called upon us and asked us if we would come out
12 and conduct this internal review. We both agreed to do that.

13 We obviously can't do it all ourselves, so we asked these folks here with us, in
14 the room with us, if they would join us and help us in conducting this internal review.
15 And each of them have different areas of expertise. Joe and I have conducted
16 several internal reviews, and several of these folks here have been involved in
17 internal reviews. So we're interviewing the people that we think can provide us the
18 information that we need to conduct this review. We want to draft a report --- at the
19 completion of the interviews, we'll draft a report and submit it to the Secretary, and
20 then she can do with it whatever she desires to do with it. It will be a little different
21 format than what normally is given to MSHA for review and comment and that stuff.
22 What we anticipate is just giving it to the Secretary without the review by MSHA.
23 Now, MSHA will probably come into the loop at some point, but that will be determined
24 by the Secretary.

25 We'd like to keep this as informal as we can. You have some information that

1 we need, and we want to talk to you and get that information. If there's any time that
2 you don't understand a question or need it clarified, just let us know. Again, we want
3 to just keep this as informal as possible. I'll start the questioning and Joe can chime in
4 when he has some clarifying stuff he wants. And then after Joe and I complete, we'll
5 open it up to the other members of the team and let them ask any questions that they
6 have. Is there any questions or any concerns?

7 To start with, we would like to tape this interview so that we will have that for
8 our reference in the future when we need to go back and refresh ourselves of what
9 someone said. Do you have a problem with that?

10 A. No.

11 Q. Okay. Before we get into questioning, Bill, let me read this statement.

12 MR. TEASTER:

13 The Secretary has assigned this group the task of evaluating
14 MSHA's performance during the period preceding the August 6th, 2007, coal bounce
15 at the Crandall Canyon Mine and the subsequent rescue effort. We will also be
16 evaluating issues that were raised during this period regarding Bob Murray and his
17 interaction with MSHA. This is not an investigation or review of any individual person.
18 It's an administrative review of MSHA's actions as an agency. This evaluation will be
19 presented to the Secretary in the near future, and it's intended that the results of the
20 evaluation will be made public. This interview is being conducted to gather
21 information for this assignment.

22 We also intend to interview a number of other MSHA employees so that we
23 may obtain unbiased information from them. From all persons to be interviewed, we
24 ask that you not discuss this interview with anyone until all the interviews have been
25 completed.

1 BY MR. TEASTER:

2 Q. And Bill, are you a management employee, a bargaining unit employee?

3 A. No. Management employee.

4 Q. Okay. So therefore you're not entitled to union representation?

5 A. Right.

6 Q. Okay.

7 MR. PAVLOVICH:

8 Knepp didn't tell you all the questions and give you the
9 answers last night, did he?

10 A. Uh-uh (no). No, he didn't.

11 MR. PAVLOVICH:

12 Okay.

13 BY MR. TEASTER:

14 Q. Bill, would you please state your full name?

15 A. William P. Reitze.

16 Q. And Bill, what is your current position?

17 A. Ventilation supervisor.

18 Q. And how long have you had that position?

19 A. Since I think '92, 1992, I believe.

20 Q. And who is your supervisor, current supervisor?

21 A. Bill Knepp.

22 Q. How long have you worked for MSHA?

23 A. Since 1987.

24 Q. Would you give us a brief overview of your experience that you had both prior
25 to coming with MSHA and then after joining MSHA?

1 A. Well, I graduated from Colorado School of Mines, and then joined U.S. Steel
2 Mining Company back in 1975. And I worked for them as the --- first a management
3 trainee and then mine engineer, senior mine engineer for them until they shut the
4 mine down the end of 1985. And then was able to get a --- finally get a job working
5 here in 1980 --- early 1987. And started as a ventilation specialist at that time. And
6 then went on to become a ventilation supervisor.

7 Q. What part of the country was you working for U.S. Steel? Was that out west?

8 A. Somerset, Colorado.

9 Q. Somerset. Have you had much experience with mine bumps or bounces?

10 A. We had a few small ones, yeah.

11 Q. Would you please describe for us what your duties as a ventilation supervisor
12 entail?

13 A. My primary responsibility is to ensure that the ventilation plans, maps, ERPs,
14 mine emergency evacuation plans, mine rescue plans are reviewed and brought up to
15 where they need to be or recommend for approval to the district manager. We also
16 do site reviews, mine site reviews, you know, looking at different things. We consult
17 with the inspection, the enforcement side of things, to assist from an engineering
18 perspective anything --- any of the issues that they may have come up.

19 I have three --- well, right now I guess officially I have one specialist, but I've
20 had three up until just recently. And we've been trying to keep up with all those
21 different and assorted odds and ends.

22 Q. What happened to the other two?

23 A. Well, one's acting right now as a roof control supervisor. And the other one
24 who's actually been working in ventilation hasn't really started. He wanted to transfer
25 over to roof control as well. And so from a book standpoint, I guess he's part of the

1 roof control group, but he's not really started doing much of his duties over there yet.

2 Q. So you got a couple of your guys who want to get over in roof control, one
3 acting supervisor?

4 A. I don't know that they want to get over there. One wanted a change, wanted a
5 change. He wanted to do something a little different. He's been in ventilation all
6 along. And the other one, there's been apparently a management decision to rotate
7 different people through the roof control supervisor's job, and one of my people was
8 first on the list apparently.

9 MR. PAVLOVICH:

10 Who is that? Who are they, Bill?

11 A. Sid Hansen ---

12 MR. PAVLOVICH:

13 Oh, Sid, okay.

14 A. --- is doing the acting roof control supervisor. And that started yesterday.

15 MR. PAVLOVICH:

16 Okay. When Billy left, I guess.

17 A. Yeah.

18 MR. PAVLOVICH:

19 Okay.

20 A. So they're going to rotate people. They're going to rotate people in through
21 that position, I guess, every 60 days to try out different people.

22 MR. PAVLOVICH:

23 And then who's moving over to roof ---?

24 A. Jeff Fleshman is the one that was interested in a little bit of a change, do
25 something else different. But he hasn't really done a whole lot in the roof control

1 group because we have been --- this office has been so grossly shorthanded with
2 trying to get everything else done that we just --- he just never did move over there.

3 MR. PAVLOVICH:

4 Was he officially transferred?

5 A. As I understand it, he was, yes.

6 MR. PAVLOVICH:

7 Okay. And who do you have left then?

8 A. Hillary Smith.

9 MR. PAVLOVICH:

10 Okay.

11 BY MR. TEASTER:

12 Q. How would you describe your relationship with your supervisor, Bill Knepp?

13 A. I think it's very good. I've known him for, oh, I don't know, probably 30 years
14 anyway or getting close to it anyhow. He used to come and inspect at the mine.

15 Q. How long's he been your supervisor?

16 A. Well, since I started he's been there probably more than anybody else has
17 from the day I started, but well, he came back from West Virginia. He became my
18 supervisor then. Before he left to go to West Virginia, he was my supervisor then.
19 When I was a vent specialist, he's the one that hired me, so ---.

20 Q. You found him supportive on issues that you identify that needs to be
21 addressed with the industry ---

22 A. Yes.

23 Q. --- on any plans or anything that they submit?

24 A. He supports me very well, yes.

25 Q. Can you recall any incidents where he didn't support you, didn't agree with

1 you?

2 A. Well, there's always times when, you know, we have --- I don't know about
3 disagreements, but we don't necessarily see exactly the same way, but you know, as
4 the manager, he's the boss and he's the one that gets the --- you know, makes that
5 decision. Now, anything specific? Right, now, I can't think of anything specific. I'm
6 sure it's come up. I mean, that comes up all the time in everything that we do where
7 we disagree with others. But generally speaking, no.

8 Q. How would you characterize your working relationship with Al Davis, the
9 district manager?

10 A. Al Davis, I think I have a pretty good working relationship with him as well.

11 Q. Has there been any differences of opinion on a plan that stand out to you?

12 A. That stand out? I mean, again, you know, we don't always see eye to eye on
13 various different things, but he's the one that makes the ultimate decision on what
14 needs to be done based on the knowledge that he has of the whole district as opposed
15 to just my area.

16 Q. Can you recall any differences of where you felt a plan should be this way or
17 the company wanted something and you disagreed with it and Al, say, disagreed with
18 what the company had submitted?

19 A. 100 percent? No, no. Not 100 percent.

20 Q. How is your working relationship with the supervisors in Price, Ted Farmer,
21 Bill Taylor?

22 A. I believe they're okay. I mean, when I need information I call them and when
23 they need information from me, you know, we talk. Talk about various things back
24 and forth on different issues.

25 Q. Any conflicts you've had with them that you can think of?

1 A. Oh, there's been a few conflicts, yeah. But namely with Ted Farmer. But
2 those have always been resolved.

3 Q. Could you share with us some of those conflicts?

4 A. See, I'll try and think of a specific. It hasn't been for a while. I think what
5 those --- I can't even remember exactly what it was at the time. I can't remember
6 exactly what it --- what it probably could have been, I mean, again, I can't give you an
7 exact example, but what it probably could have been is where they ---. Sometimes
8 out in the field supervisors feel that a plan needs to be changed for a reason, you
9 know, they have their reasons. But we then talk about needing a specific reason as
10 opposed to, well, I think it needs to be changed. And what's your basis? Do you have
11 citations that have been issued? Do you have supporting documentation? Do you
12 have --- you know, what is the reason other than, well, I think it needs to be changed.
13 And sometimes they don't care much for that, that whole method of doing things, you
14 know, because when people above me are going to ask the same question, you know.
15 What's your justification for what you're asking for, you know. If they have
16 justification, we go for it, but sometimes they just say, well, I think this needs to be
17 changed and without any real substantial documentation or justification.

18 Q. How often would you say you talk to them about ventilation issues?

19 A. Talk to the Price people? Basically on an as-needed basis if there's things
20 that come up or if they have things that come up, then we discuss things. I mean, we
21 have more than just the Price field office to deal with. We have seven field offices so
22 we're talking to different people all the time.

23 Q. Well, roughly how often do you interact with your field office supervisors on
24 ventilation issues?

25 A. Well, every week we talk ---. I talk with at least one, usually more than one.

1 Q. Can you remember any times in the last two or three months where you've
2 talked to Ted or Bill about ventilation issues, submittals, approvals?

3 A. Last two or three months? I talked to Bill a couple weeks ago about some
4 issues going on. And we also send e-mails back and forth sometimes.

5 Q. Do you feel, Bill, that you have enough personnel to do your job?

6 A. No, no. Not at all.

7 Q. How about walking us through what your specialists do?

8 A. Right now what we're doing or what we're supposed to be doing?

9 Q. Well, what you're doing and then what you're supposed to be doing.

10 A. Right now we're just trying to keep up with amendments and submittals that
11 are being sent in, sent in for, you know, basically to keep mine operators going, you
12 know, on ventilation-related issues. You know, I have one person that's in the ---
13 what's it, ILDP, the Independent Leadership Development Program. And so she's
14 been doing on and off with that. We've also been contributing to the EO-1s, which
15 that's all well and fine, but that doesn't allow us to get our work done, our plan review
16 stuff done and that kind of thing. And that's been, as I'm sure you're aware, a very
17 high priority to get the EO-1s done.

18 Q. Do you have a feel for how much time percentage wise that your specialists
19 would devote toward EO-1s?

20 A. The EO-1s, specifically working for the field offices? Well, in December I had
21 --- let's see, Sid worked for a week, Hillary worked for a week, and then of course, Jeff
22 was --- Jeff and I were both over at Deserado monitoring the issues that were going on
23 over there. So there was two weeks right there, two full weeks right there in
24 December. In November, October and November, we had some as well that were ---
25 they'd spend a week working on those kinds of things. And when I say a week, I'm

1 talking about, you know, not 40 hours. We're talking about maybe 60 hours or
2 something like that, when I say a week.

3 Q. If you worked 60-hour weeks, were they working more than 8-hour days?

4 A. Oh, yeah.

5 Q. And while they're doing this EO-1 inspections, there's plans that are submitted
6 that are just laying there, you just give the priority?

7 A. Yes.

8 Q. It's not that they don't have stuff to do?

9 A. Oh, absolutely.

10 Q. There's work here but you --- the problem is completing the regular
11 inspections?

12 A. Right. Well, the other thing, too, that happened in the last two years,
13 particularly in FY07, our workload increased about 50 percent because of --- almost 50
14 percent because of the ERP plans that we have to review and all of the iterations and
15 changes that occurred in thinking and in guidance from headquarters and things like
16 that. And then, you know, there's been a couple of those where that changed, and so
17 then we have to change our --- what we require in our plans and things. So we have
18 our ERPs. Then of course we had the --- in '06 we had the ETS for the Mine
19 Emergency Evacuation regulations. And then in December of '06, those became
20 finalized, which required some changes again to the MEE plans. Plus then we had, of
21 course, this whole seal debacle that's been going on where, you know, basically all of
22 the seals that --- in the country got outlawed, just flat out outlawed, especially for us
23 because, I mean, somebody said, well, you know, Mitchell-Barretts are still out there.
24 Not really, because the maximum height on those was 8 feet and maximum width
25 was, I think, 18. And that doesn't fit. I think only three of our mines could use those

1 then. So then we had to try and get tech support to go along to --- not go along but to
2 review some of the plans that the mines had been submitting. So we went round and
3 round on that issue. We didn't get a whole lot of real good --- I don't know.
4 Cooperation isn't the word because they were behind. I mean, they were way behind
5 when they started getting seal plans in and things like that. So we have six mines that
6 build a seal a week as part of their system, their mining system. Plus then we have all
7 these other issues, other mines that want to seal --- their whole system is designed to
8 seal as they get done with certain areas but they couldn't because they didn't have
9 approved seals. And you know, that caused a tremendous increased volume of work
10 for us to do, you know.

11 And then we had the ETS come out for the seals back in May. So that
12 basically threw everything --- all that work that we tried to get done prior to that, that
13 all went out the door and then we started over again with that. And that all generated
14 a whole new type of workload, different --- along, you know, slightly different paths and
15 things like that. And of course again in February that's all going to do --- we're going
16 to start over again because in February I understand that the final is supposed to be
17 out for the seals. So we've been doing nothing but --- well, I shouldn't say it that way.

18 We have done a lot of wheel spinning because, you know, we start down a
19 path and then it gets changed and that. Plus we've had this tremendous increase in
20 workload because we've got now ERPs which we never had before. The Miner Act
21 created that. Of course, we have the new MEE which is now --- that's finally calmed
22 down. We've got those for the most part.

23 Q. What is that one?

24 A. Mine Emergency Evacuation plans.

25 Q. Okay.

1 MR. PAVLOVICH:

2 Bill, you've got several mines that seal their gobs as they
3 progress back ---

4 A. As they mine, that's correct.

5 MR. PAVLOVICH:

6 --- because of SPONCOM problems.

7 A. Correct.

8 MR. PAVLOVICH:

9 And we absolutely have to minimize and restrict as much
10 ventilation. When all your seals were outlawed, you know, you couldn't just shut those
11 mines down. So what did you do? Did you get any help out of headquarters on that?
12 I mean, did ---?

13 A. Basically, no.

14 MR. PAVLOVICH:

15 So they didn't understand the mining concerns and problems
16 that you had, and you had to do something with those seals; correct? I mean, or else
17 shut down 10, 15 minutes, however many you got.

18 A. Right, right.

19 MR. PAVLOVICH:

20 There's quite a few.

21 A. That's a true statement.

22 MR. PAVLOVICH:

23 And yet headquarters wouldn't help you on the plan approval,
24 and tech support didn't have anything to recommend at that time I guess because they
25 were still trying to work on ---

1 A. Right.

2 MR. PAVLOVICH:

3 --- what would be an acceptable seal?

4 A. Correct. Well, they weren't working on acceptable seals. All they were doing
5 was they were reviewing seals that people had submitted to them.

6 MR. PAVLOVICH:

7 Okay. Like 120s and 50s; right?

8 A. Well, that's the new stuff. Really, that's the new stuff. That's under the ETS.
9 Prior to that, there were no real --- there were no real standards, per se. So they were
10 kind of making the seal standards up as they went to some extent, which was very
11 frustrating, well, for the operators for sure and for us to a great extent as well because
12 we were dealing with those operators. But you know, they'd submit something, and it
13 might sit there for two, three, four --- I think we've had even some five months where
14 they didn't hear word one back from tech support, not a letter, nothing.

15 MR. PAVLOVICH:

16 And all the time they're still mining, they're still building
17 something because ---.

18 A. They have to do something.

19 MR. PAVLOVICH:

20 So you guys were just kind of left hanging out?

21 A. Yes.

22 MR. PAVLOVICH:

23 So now those seals that were built when the new standards
24 came out, where do they stand?

25 A. Well, that's a good question. I mean ---.

1 MR. PAVLOVICH:

2 You don't know yet?

3 A. Really, that's a good question.

4 MR. PAVLOVICH:

5 Yeah, in other words, you don't know yet what's going to
6 happen with that because you've not gotten any guidance on it?

7 BY MR. TEASTER:

8 Q. The new standard's coming out next month and that will tell you what to do;
9 right?

10 A. No, not necessarily because we have these --- we have these big areas that
11 are actually sealed under the 20 PSI standard, the ones that are then --- then they
12 switched over to what they thought might get through tech support which were
13 substantially larger seals. And then they had to switch over to the ETS-type seals
14 which are actually just --- they're finally starting to get rolling on those now. Well, I
15 should say probably within the last two months where they're starting to publish those,
16 get those out and available for people in the last two to three months, something like
17 that. So the only thing that I know of is that we're going to make them monitor it and
18 we'll have to allow them to seal it because if we don't allow them to seal, then we're
19 going to have them on fire all over the place. So there's really not a whole lot of
20 choice here, not really.

21 Q. So you don't have no idea what the final standard's going to look like that's
22 coming out next month?

23 A. No, because there's been a lot of this S-MINER Act now is talking about
24 requiring more stuff. And I don't know how that is going to affect the new regulation if
25 at all. Maybe it isn't going to. I don't know. That part I can't tell you. I really don't

1 know.

2 Q. Going back to the issue of not having enough people, have you requested
3 additional people?

4 A. Oh, yeah.

5 Q. And what's in the pipeline as far as getting you some help that you're aware
6 of?

7 A. Well, as I understand it, there were some things going on last summer when
8 MSHA started hiring a whole bunch of these, you know, new inspectors and things like
9 that. Billy was actually supposed to hire two people, two extra people to help him in
10 roof control. And then Jeff decided he wanted to go over there, so Jeff was going to
11 go over and do that. And then I was going to get to hire one person, but the three is --
12 - all that I was slated to have was three as a maximum for specialists. That's all.

13 And then the two that Billy was going to hire, as I understand it, somebody
14 over hired or some such thing and because --- I mean, in another part of the country
15 they over hired or something, so they just cut off all hiring for us.

16 MR. PAVLOVICH:

17 Bill, would three people be enough for you to do your job if
18 you weren't doing EO-1s and all this other stuff, if you were just doing vent work and
19 stuff you got? Could you do it with three people or would you really need four for that?

20 A. It would be really tough right now because of the increased workload of the
21 MEEs and the ERPs. I would hope that at some point in time, I can't foresee it right
22 now, but that this whole seal issue is going to settle out. I'm hoping. I'm very
23 optimistic along those lines. Now, you know, again, I don't know when that's going to
24 be. Another year down the road, two years down the road. I don't know.

25 MR. PAVLOVICH:

1 A. That's an issue right now. You know, we hired a guy in roof control with no
2 experience and started him at --- I think he was started at a seven, could have been a
3 nine, but in any case, he walked across the exact same stage to get his diploma. I
4 watched him do it as my Ex. (b)(6) and Ex. (b)(7)(C) you know. He started out at \$31,000 a year,
5 and my Ex. (b)(6) and Ex. (b)(7)(C) started out at \$45,000, same stage, same degree. They're both
6 mechanical engineers. Same everything, you know. And my Ex. (b)(6) and Ex. (b)(7)(C) ended up at
7 \$45,000. Okay. He's been out of --- they've been out of school since May of '06, okay.
8 My Ex. (b)(6) and Ex. (b)(7)(C) has already had --- well, he switched jobs, but he's already had a raise in the
9 job he's got, and he's up to about \$55,000, \$56,000, something like that. And Pete is
10 up to \$32,000. Same stage, same degree. You know, unless there's somebody that,
11 you know, is basically on the end of --- you know, getting ready to retire or doesn't
12 want to have to deal with the six or seven days a week and can see the value and the
13 benefits that the government can provide, and we can hire them at a 12 level right out
14 of the industry, you know, the availability of engineers is --- and some of the technical
15 people and that is almost zero. Now, the industry's having trouble trying to hire
16 engineers right now. And some of them are going for \$80,000s right out of school.
17 So, you know, how we can compete with that at \$32,000 is just --- you know, that's just
18 a --- that's a salary thing but it's also an availability issue.

19 BY MR. TEASTER:

20 Q. Well, it's certainly helpful, but is it a necessity that a ventilation specialist be
21 an engineer?

22 A. Is it a necessity? No, it's not a necessity. But the availability of those kinds of
23 people that have the knowledge background and the --- I don't know, I guess the
24 education through their experience is not real good really either out here.

25 Q. How much of your time is done reviewing instead of supervising, where you

1 actually do the work of a specialist? Do you have a feel for that?

2 A. Well, that kind of goes in cycles, but I usually have to work at least probably
3 one to two days a week trying to keep up with those kinds of things, helping to review.

4 Q. If you got staffed up to your three people, would that take that one or two,
5 three days away from you so that you could ---?

6 A. It wouldn't take it away, no. No. As far behind as we are now, no. Not a
7 chance, not a chance.

8 Q. How far behind are you?

9 A. We're doing the 2000-204 forms, so those reviews are being done by the
10 enforcement side, okay. But the actual paperwork review, the whole complete and
11 total plan, we haven't done in over two years. The ERPs, they're due for six-month
12 reviews now. Not all of them, but a fairly sizeable portion of them are due for review
13 now.

14 MR. PAVLOVICH:

15 So would you say, Bill, all you're basically doing in ventilation
16 right now is addendums ---

17 A. Yes.

18 MR. PAVLOVICH:

19 --- and trying to keep up with the addendum requests that the
20 operators send in?

21 A. Yes, sir.

22 MR. PAVLOVICH:

23 You've not done a full review of a vent plan in two years?

24 A. Now, obviously when we do some of those addendums, parts of those plans
25 do get reviewed.

1 MR. PAVLOVICH:

2 Right.

3 A. Have to be reviewed as a part of that addendum request.

4 MR. PAVLOVICH:

5 Okay.

6 A. But the whole ---.

7 MR. PAVLOVICH:

8 But it's nothing you just go pull out a plan and say I'm ready
9 for a six-month review of this plan, I'm going to do it?

10 A. I think we've done two, maybe two in the last year, year and a half.

11 BY MR. TEASTER:

12 Q. So to meet the mandate of the Act, you're using the inspectors' review as
13 definite ---

14 A. Yes, sir.

15 Q. --- to meet that?

16 A. Yes, sir.

17 Q. And your goal then is to review by specialists each ventilation plan in its
18 entirety?

19 A. That's my goal. That's the way I've been charged. That's my understanding
20 of what I've been charged to try and do is to make sure that those get done every six
21 months for the whole plan review, yes.

22 Q. How about, Bill, walking us through your --- step-by-step of your SOP for
23 ventilation plan approvals?

24 A. Okay. They come into the office by one means or another, either
25 electronically. A lot of our amendments and things are coming in electronically now.

1 They're taken over to be logged into the Mine Plan Approval System, and then they
2 are assigned to me. They're all assigned to me, all the vent plans, ERPs, MEEs, mine
3 maps, mine rescue plans, all of those. And then I have assigned mines to my three
4 people for them to be responsible for. So those plans then get reassigned from me to
5 those individuals. And then they try and work as diligently and as expeditiously as
6 possible to try and get those plans to meet what needs to be done.

7 Once they get done with whatever, they'll recommend either approval or
8 disapproval or whatever the case may be. Generally it's one of those two things.
9 They'll submit it back to me. We'll look at it, discuss it if necessary, which a lot of
10 them do end up getting discussed. Then I will --- if I accept what their
11 recommendation is and everything looks good, then I will pass it on to the
12 administrative person to do the
13 --- basically the typo type, proofreading of the letter. And then it goes on to the
14 assistant district manager for technical services, Bill Knepp. And then if he agrees, I
15 guess, with our recommendation, then he'll pass it on to the district manager for his
16 review. And if there's anybody in that whole chain that doesn't like --- you know, has a
17 problem with it somewhere along the line, then it gets kicked right back down the line.

18 Q. Does the enforcement ADM have any involvement in the approval process?

19 A. Not a lot. We do consult with the field offices as well. The specialist consults
20 with the field office if it's an amendment that either doesn't --- you know, there's
21 something fishy with it, you know. A lot of times you can tell that, you know, they're
22 submitting this because there must be some other kind of an issue. So then the field
23 office is brought in, that's discussed. If we have issues with the way that they want to
24 do something and it doesn't --- things don't look like this is a good way of doing things,
25 we'll consult with the field offices to discuss those kinds of issues. And that's before it

1 ever --- usually it's before it ever gets to me. But I also do that, too, occasionally when
2 something doesn't look right or something isn't --- it's where I think they need to be
3 discussed.

4 Q. Do you have any feel for how often that would occur where the specialists or
5 yourself would need to consult with a supervisor and/or the inspector on a ventilation
6 submittal?

7 A. I'd say it's probably in the 30 to 40 percent range. That's a guess on my part.
8 I don't know exactly. The other thing we do, too, is we also consult with the other
9 groups depending on what the subject is. You know, if it's something roof control
10 related, we'll consult with them. If it's something that's an MMU, health related, air
11 quantity related, spray related, we'll consult with the health group on that issue. Every
12 once in a great while there may be a need to consult with the electrical group as well.
13 That doesn't happen quite as often.

14 Q. As far as you know, Bill, was the steps outlined in the SOP followed for the
15 approval of the Crandall Canyon Mine plan?

16 A. Yes. As far as I know, they were.

17 Q. There's a statement in the SOP that states that comments regarding plan
18 adequacy are solicited from MSHA field offices representing the miners and other
19 MSHA personnel where appropriate. What circumstances dictate when a reviewer
20 would do this?

21 A. Okay. The SOPs generally address full-blown six-month reviews for the
22 whole plan. That's generally what the SOPs are written to address, okay. So every
23 six-month review that we do, every single one, there's a requirement out there that
24 they have to consult with the field office personnel to get feedback for that six-month
25 review. And that's what that's primarily referring to.

1 Q. And you essentially haven't done any six-month reviews for the last couple of
2 years?

3 A. Right.

4 Q. So there would have been no interaction in regards to that issue?

5 A. In regards to the whole plan, that's true because we haven't done a whole-plan
6 review.

7 Q. Can you recall or do you know if there was any involvement at all with the
8 field office in approval of the plans and addendums there at Crandall Canyon Mine?

9 A. I honestly don't remember. I don't remember. There probably was, but I don't
10 remember specifically.

11 Q. Do you know when the normal steps of the SOP would not be followed, would
12 be deviated from? Can you identify any circumstances where we would skip this
13 process for whatever reason?

14 A. Well, again, the SOPs are primarily aimed at the six-month reviews of the
15 whole plan, okay. They're not aimed at doing amendments. And so there's not always
16 a need to consult with the field office depending on the amendment and how they
17 submitted it and what the purpose for that submittal is.

18 Q. Is there a guideline for when you consolidate the base plan, you get a lot of
19 addendums, a lot of things in the plan where it starts becoming voluminous where you
20 would consolidate it, have it ---?

21 A. Again, generally that occurs during the six-month review. We do try and weed
22 out some of it as we go along, but generally speaking that's --- the six-month review is
23 --- that's one of the purposes for that. If we need to have a whole brand new plan,
24 we'll get a whole brand new plan in. I mean, that's when we review those kind of
25 things. And right now, to be honest with you, right now we need quite a few brand new

1 plans as far as I'm concerned, but we just don't have the manpower or the time to get
2 that pulled off.

3 Q. So once you get to where you can start doing the six-month reviews, you'll get
4 back in to that thing?

5 A. Oh, boy. We need to do it really bad.

6 Q. And you don't see that occurring in the foreseeable future based on the
7 workload coming and what you currently have ---

8 A. No, sir.

9 Q. --- and the current people that you have?

10 A. No, sir, I don't.

11 Q. Do you think that causes confusion for our inspectors as to find out what's
12 required at the ---?

13 A. It can. Yes, it can.

14 Q. Are you aware of any situations where --- that were brought up as a result of
15 that confusion?

16 A. Specific situations? I mean, it's happened, but I don't remember of any
17 specifically recently, no.

18 Q. Okay. Do you know Bob Murray?

19 A. No. Never met the man.

20 Q. Did you ever talk to him?

21 A. Never talked to him.

22 MR. PAVLOVICH:

23 Ernie, can I ask Bill a couple more questions ---

24 MR. TEASTER:

25 Sure.

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MR. PAVLOVICH:

--- about plans pertaining to Murray? Bill, you said you'd try to get feedback from the field office on plans, and I guess that's kind of the way I took it from what you said was on an as-needed basis, if an addendum is submitted or something and you think there's a question or it appears there's something funny in here that maybe they're submitting it because of an enforcement action or something that you would ---. How do you go about asking for that feedback from the field office, or how would your specialists go about asking for it?

A. Call them.

MR. PAVLOVICH:

So they call them on the phone. You call who, the supervisor?

A. Yes.

MR. PAVLOVICH:

Is there ever a time that any of those addendums are ever faxed or somehow sent to the field office like for a regular review by the supervisor and the inspector where they sign off on it? Do you have any of that?

A. Not very often.

MR. PAVLOVICH:

Okay.

A. Not very often.

MR. PAVLOVICH:

So primarily no?

A. Correct.

MR. PAVLOVICH:

1 Well, if I told you that the supervisors, the inspectors, say they
2 never have any input on a plan before it's approved, would that surprise you?

3 A. They've been saying that for a long time, years, many years, and we try to --- I
4 guess I don't know what they want. And as far --- and again, I'm talking about the
5 whole plan. I'm not sure what they want. On amendments and things like that ---.

6 MR. PAVLOVICH:

7 Well, let's --- I mean, you can send the whole plan out and,
8 you know, here's the plan, review it. Well, okay.

9 A. Yeah.

10 MR. PAVLOVICH:

11 But I guess I'm talking amendments.

12 A. Okay.

13 MR. PAVLOVICH:

14 Okay. An amendment is usually three or four pages, maybe a
15 map insert, something, some portion of it?

16 A. True, that's true.

17 MR. PAVLOVICH:

18 I mean, that's not real difficult to send. Sending the whole
19 plan is tedious at best. And you know, with mail and the distances you got, you're
20 talking another two to three weeks' delay.

21 A. Right.

22 MR. PAVLOVICH:

23 But an addendum fairly easy.

24 A. It's easier.

25 MR. PAVLOVICH:

1 I guess if you called me and I'm field office supervisor and
2 you say, well, you know about this, well, I don't know nothing about it, Bill, I guess it's
3 okay. The inspector never gets any cut on that so he doesn't feel there was any
4 involvement. A. Well, that's true.

5 MR. PAVLOVICH:

6 And probably the supervisor doesn't feel like, well, I actually
7 got to review the thing. I mean, you called me and say, you know, we got a plan here
8 and they're kind of saying this, and we're thinking this, what do you think? Well,
9 unless you look at it, unless you see, because I mean, an operator can call you and
10 say what do you think if I did this, Bill, and you say, well, I don't know, send me
11 something; right?

12 A. Yeah.

13 MR. PAVLOVICH:

14 Because you have to see it?

15 A. Right.

16 MR. PAVLOVICH:

17 You just can't have somebody ---

18 A. And that's what we usually do, yes.

19 MR. PAVLOVICH:

20 --- call and ask you a question?

21 A. Right.

22 MR. PAVLOVICH:

23 And so you know, from their perspective you can probably
24 say, well, I can see why they're saying that. They never physically got to hold that in
25 hand, read what it said, look at the map, and say yeah, I think that's a good idea or no,

1 nor did they show it to the inspector and say what do you think and he says, well, I
2 know that mine, that's not going to work, or yes, it does. So you don't give them any
3 of that kind of a cut on it?

4 A. No, we don't.

5 MR. PAVLOVICH:

6 Okay.

7 A. And I guess, you know, we've talked about doing those kinds of things, and we
8 have done some of them in the past.

9 MR. PAVLOVICH:

10 Okay.

11 A. On specific amendments we do it, I mean, depending on the amendment. But
12 generally speaking, we don't. You're right. But the other side of that is that when you
13 do send it to the field ---

14 MR. PAVLOVICH:

15 Uh-huh (yes).

16 A. --- you don't get feedback back. So you call them, you say, well, how about
17 that thing I sent you a few days ago, what do you think of that? Oh, did you send me
18 something? Oh, I guess I haven't seen it. Well, can you take a look at it and what do
19 you think? Oh, yeah, I'll get around to it after I get done helping with this EO-1 or
20 going traveling with this guy or whatever. So you know, sometimes it's better actually
21 if the supervisor's not there. Of course, you have to go through the supervisor to get
22 to the inspector. I mean, that's the proper channels to follow. But sometimes it's
23 easier if the inspector or if the supervisor isn't there to try to talk to the inspector
24 directly. But I mean, there's a time lag as well there. And we're just --- you know,
25 we're on the run constantly to try and just keep our head above water.

1 MR. PAVLOVICH:

2 Okay.

3 A. Maybe that's an excuse, but ---.

4 MR. PAVLOVICH:

5 It's kind of a management problem. I mean, if I'm the
6 manager or the ADM over enforcement and I don't emphasize to my people, look, you
7 know, you want a cut on these plans, when you get it you review it and send it back to
8 Reitze or Billy or whoever. Then it lays there a week, then don't say you didn't get a
9 cut. So somewhere along the line management has to step in and say, okay, we're
10 going to coordinate this program. I mean, you're sending a few. They're not
11 bothering to look at them maybe because they don't expect to get them.

12 A. Yeah, that's what's happened in the past when we've sent them. You know,
13 we started that program of sending them out there, and it took so long. Sometimes it'd
14 take, you know, weeks or even to a month. And most of the time we don't have that
15 kind of time here to be, you know, ---. And of course, the operator usually doesn't.
16 You know, our operations are all 24 hours a day, seven days a week. So we try to be
17 as expeditious, I guess, as possible on a lot of this stuff.

18 MR. PAVLOVICH:

19 So a lot of that's a time problem in your perception of what
20 you need to do and what you need to get out?

21 A. Yeah.

22 MR. PAVLOVICH:

23 Okay.

24 A. As well as the feedback back from --- you know.

25 MR. PAVLOVICH:

1 you know, it compounded, quickly compounded.

2 MR. TEASTER:

3 Do you have any more, Joe?

4 MR. PAVLOVICH:

5 No, go ahead.

6 BY MR. TEASTER:

7 Q. Bill, are you aware of cases where the mine operator's getting these
8 addendums approved and sent to him directly and the field office not getting them for
9 some period of time and they're learning about it as they raise an enforcement issue
10 at the mine?

11 A. No. When we approve things here, the first person that gets that addendum,
12 the very first person that gets that addendum whether it be by fax or by --- well, mail,
13 but by fax is the field office. That's the procedure here. We always make sure that
14 that gets sent first before the operator ever even --- you know, that's the first one to
15 get it and then the operator gets it second.

16 Q. How do you make sure that's occurring? You say you make sure that that
17 happens, because I can tell you that we've gotten --- and it's not localized, it's pretty
18 widespread that it's occurring where inspectors are learning about approved
19 addendums from the mine operator and they're not getting it from the ---.

20 A. The inspectors might be, but the field offices are being notified. The field
21 office supervisors and their administrative people are being notified first before the ---.
22 Now, what happens after the supervisor gets it, you know, I can't tell you.

23 Q. I'm talking of cases, too, where the field office has not got it. I said inspector,
24 but it's the field office has not gotten it and they learn about it through the mine
25 operator.

1 A. Well, I can't answer that. I don't know.

2 MR. PAVLOVICH:

3 You've heard of that complaint before I imagine, haven't you?

4 A. Not very often.

5 MR. PAVLOVICH:

6 Okay.

7 A. Not very often. I mean, sure, it's occurred. It has occurred periodically, but ---
8 where I've heard that comment. But generally speaking, no, I haven't heard that.

9 MR. PAVLOVICH:

10 Okay.

11 BY MR. TEASTER:

12 Q. One thing that I don't --- I've heard it's both but I don't know which is more
13 prevalent, but it's occurring both in roof control and ventilation according to some of
14 the reports that we've been getting. And it happens more than on an infrequent basis.

15 MR. PAVLOVICH:

16 Bill, when you fax an addendum like that like Ernie's talking
17 about to the operator, how do you get it to the field office first? You just fax it to them
18 first?

19 A. Fax it to them first.

20 MR. PAVLOVICH:

21 And then you fax it ---?

22 A. Correct.

23 MR. PAVLOVICH:

24 And so it comes in the field office fax?

25 A. Correct.

1 MR. PAVLOVICH:

2 Doesn't necessarily mean that anybody looked at it?

3 A. That's true.

4 MR. PAVLOVICH:

5 Or that anybody comprehended it or anybody gave it to the
6 supervisor. And certainly the inspector's probably not there. He's at the mine.

7 A. Right.

8 MR. PAVLOVICH:

9 So the operator now has it in hand, and the inspector says,
10 hey, you can't do this, and he says, I got this right here, just got it from Reitze on the
11 fax.

12 A. Most of the stuff though that we deal with ---.

13 MR. PAVLOVICH:

14 Well, you can see where this problem would arise though?

15 A. Well, yeah. I can see where it would rise.

16 MR. PAVLOVICH:

17 So now the inspector says, well, hell, I get it from the operator
18 and I don't ---.

19 A. These amendments are required to have to evacuate at least some portion of
20 the mine.

21 MR. PAVLOVICH:

22 Do what now?

23 A. Most of the ventilation amendments ---

24 MR. PAVLOVICH:

25 Okay.

1 A. --- either have to be done between shifts when there's nobody underground or
2 ---.

3 MR. PAVLOVICH:

4 For the air change?

5 A. For the air change.

6 MR. PAVLOVICH:

7 Sure. Yeah, I understand for that. Yeah, I think Ernie said,
8 you know, we've heard both, you know. There's something with vent, there's
9 something with roof. But I guess we're trying to visualize how this happens, and I'm
10 fairly familiar with how you do things.

11 A. Right.

12 MR. PAVLOVICH:

13 And I guess, you know, we're looking at --- that's probably not
14 a good thing no matter what the problems are, is for an operator to have it before the
15 inspector saw it?

16 A. That's probably true.

17 MR. PAVLOVICH:

18 And so would that cause problems with the inspector and the
19 operator, yes. Would it cause problems with the inspector and the district, yes. Does
20 it cause morale problems? So how do you alleviate the problems? It's probably not
21 an easy issue, but there's some way that you can alleviate and maybe one of those
22 would be making a cut before the plan's approved. I don't know. At least the guy
23 knows that was submitted. I don't know. I mean, it's probably something you guys
24 need to work out, and I guess you've tried it in the past. And the easier way is to go
25 back to the way you're doing business?

1 A. Right. You're right. That is the easier way to do it.

2 MR. PAVLOVICH:

3 And it's the quicker way and the easier way and that's what
4 we're getting. And that's fine as long as everything goes along wonderfully. But then
5 something like this happens and you have people come in looking at the issues and
6 you can see where those problems pop up.

7 A. Right.

8 MR. PAVLOVICH:

9 And that's the first thing the inspector's going to say, I never
10 saw that plan. And now these other ones the operator waved it in my face first, made
11 me mad. So you kind of have to see the whole perspective ---

12 A. Uh-huh (yes).

13 MR. PAVLOVICH:

14 --- and the whole thing as opposed to, you know, because I
15 know everybody's got their own job they focus on.

16 A. Right.

17 MR. PAVLOVICH:

18 My job. And I'm going to do it the best I can, take care of it,
19 but how does it affect everybody else, is something most of us never think about. We
20 just do our best to do our thing.

21 BY MR. TEASTER:

22 Q. Bill, you said you had never met Bob Murray, but you're familiar with the
23 mines that he took ownership here in the district?

24 A. Yeah.

25 Q. Did you notice any difference in dealing with his management personnel and

1 plan approval submittals, interactions with him after he took ownership of those
2 mines?

3 A. Not really, not really.

4 Q. How would you characterize your relationship with, let's say, Laine Adair,
5 involved in the plan approval process?

6 A. I guess I could characterize him as he's a nice guy, but he's one that I don't

7 Ex. (b)(6) and Ex. (b)(7)(C)

8 Ex. (b)(6) and Ex. (b)(7)(C)

just don't see

9 that.

10 Q. Is he pretty aggressive in what he wants to do?

11 A. Yes.

12 Q. And do you think he gets what he wants most of the time?

13 A. Most of the time, no. He does get it sometimes, yeah. But not most of the
14 time. I wouldn't characterize it as most of the time, no.

15 Q. Well, when something is submitted under his name, is the plan most often
16 challenged or is it generally accepted as ---?

17 A. Well, I guess it depends on the plan. I mean, I don't know how I could say
18 that it's always one way or always the other or mostly one way or mostly the other. It
19 all depends on what he's submitting. He doesn't ever sign anything anyway when he
20 sends it, very seldom. Very seldom does he sign it. He always has somebody else
21 that sends it in, but ---.

22 Q. You had a lot of meetings in the last two years where you sit down and discuss
23 issues with Laine Adair?

24 A. Yes.

25 Q. Did any of those issues --- meetings involve Crandall Canyon?

1 A. Let me think if we had one for them or not. I don't think so. I don't think so.

2 Q. Are you aware of any of your specialists or even yourself being instructed to
3 vacate a citation or order that was issued?

4 A. Instructed to vacate, no.

5 Q. Have you vacated --- I said instructed. I was looking to see if anyone had
6 directed you to do it, but have you had the occasion where some of your citations were
7 vacated or your specialists issued paper that was vacated?

8 A. I'm trying to think if there was or not. Not that I remember, no.

9 Q. Do you ever recall instructing anyone to do that?

10 A. No.

11 Q. Have you ever had any requests to move specialists from one mine because
12 an operator had problems with that specialist?

13 A. Nope.

14 Q. Have you ever heard of that ever being done in the district, moving a
15 specialist or an inspector at the request of the operator?

16 A. Not moving a specialist.

17 Q. Have you heard of moving inspectors?

18 A. I've heard of it.

19 Q. Could you share that with us?

20 A. I don't even ---. There were some complaints about one person. I don't
21 remember who the person was, something about a sexual harassment or some such
22 thing. And so that person was moved. There was some --- well, there was another
23 guy that I don't think he was ever moved. They requested it, but he was never
24 moved.

25 Q. Who was that inspector?

1 A. [REDACTED] had a reputation and was requested several times from several
2 different operators to be moved, and as far as I know, he never was.

3 Q. Do you know how recent that was?

4 A. He's been retired for --- I don't know. He retired with you, I think.

5 MR. PAVLOVICH:

6 It's several years.

7 BY MR. TEASTER:

8 Q. Okay.

9 MR. PAVLOVICH:

10 I can't imagine anyone ---. Surely not.

11 BY MR. TEASTER:

12 Q. The [REDACTED] case that you said involved one of the inspectors, was
13 [REDACTED]

14 A. I believe it was. I believe it was.

15 Q. Do you know who made that request?

16 A. No, I do not.

17 Q. You don't know?

18 A. Uh-uh (no).

19 Q. Who was the inspector?

20 A. I didn't get involved in it. I think it was [REDACTED] but I'm not sure.

21 That's on the enforcement side of things, and you know, I don't get into that kind of
22 thing that often. It's a personnel issue as well, so I don't get into that.

23 MR. TEASTER:

24 Let's take about a five, ten-minute break.

25 SHORT BREAK TAKEN

1 BY MR. TEASTER:

2 Q. If someone else signs an approval in your absence, how do you learn about
3 that approval?

4 A. How do I learn about it?

5 Q. Yeah. Well, right. In other words, what is the policy for when you have
6 someone acting in your behalf, they sign a plan, it goes through. How do you become
7 aware of that plan, or do you?

8 A. Most of the time I do because we talk about it when I get back. We'll talk
9 about the different things that have gone through. That's not obviously 100 percent
10 true, but I usually try and keep track of what's gone through.

11 Q. Is there any instructions you would give them regarding that issue as to keep
12 you abreast of anything that's unusual or ---?

13 A. Well, yeah. They always have that. I mean, they do that even now while
14 they're working on their plans, things that come through that don't look quite right.
15 We'll sit down and talk about it.

16 Q. If field office supervisors or a supervisor discovers a deficiency with a plan,
17 how do they go about letting you know about it, your group?

18 A. Either they'll call --- well, they'll either call, they'll send me an e-mail, or they'll
19 fill out a 2000-204 form. One of the three.

20 Q. But how do you respond back to them?

21 A. Well, if it's a phone call, you know, we'll just talk about it and discuss it. If it's
22 an e-mail, I try and get the answers and send them the e-mail back, send an e-mail
23 back to them trying to answer or get more information or whatever. And with the
24 2000-204 forms, we are supposed to send those back, send a memo back or an e-mail
25 back, something like that to respond to them.

1 Q. Now, whose responsibility is that to send that communication back to that
2 inspector or supervisor?

3 A. Specialists.

4 Q. And what oversight do you have to ensure that any deficiencies that are
5 identified on those 2000-204 forms are addressed?

6 A. Well, if it's sent back as a memo, then I see those. They go through the same
7 chain of command as they would normally throughout.

8 Q. If we mention that there was a whole bunch of these 2000-204 forms that were
9 submitted with deficiencies identified, that there's no record of a response back to the
10 inspector, would that surprise you?

11 A. It would surprise me, yeah.

12 Q. We have this one here. It says ---.

13 MR. PAVLOVICH:

14 Well, in fact this is one that was done by Hillary and signed off
15 on you on a roof control problem. And it looks like she attached a copy of the plan or
16 page of the plan. But see, like this, we were asked --- we asked for all of these and
17 the responses, but we don't see where there's any response, Bill. I mean, here's one
18 from Barry Grosely that's a vent problem and you did send him a letter back and it's
19 actually from Al through Bob and Bill Taylor ---

20 A. Right.

21 MR. PAVLOVICH:

22 --- to Barry Grosely.

23 A. Right. That's the standard procedure.

24 MR. PAVLOVICH:

25 Okay. So that's one that we got. Here's one that's a roof

1 control, and then there's a response on it to Barry Grosely. And I think that's --- two's
2 all we had that showed a response. Now, ---

3 A. They don't really ---.

4 MR. PAVLOVICH:

5 --- these are all --- like this one that was done by Hillary and
6 signed off by you, there's no response to.

7 A. Okay. I can't answer for the roof control side of it.

8 MR. PAVLOVICH:

9 Okay. This is the roof control. This is a vent, there's no
10 response. Here's a vent one, Mike Shumway. Here's a roof one. Here's a roof one.
11 Roof one. And I know you can't answer for the roof ones, and there's a lot. Did you
12 do the analysis of these, Ex. 1(b)(6) and Ex. 1(b)(7)(C) How many were ---?

13 UNIDENTIFIED SPEAKER:

14 There were 18 ventilation, 26 roof.

15 MR. PAVLOVICH:

16 So there were 18 ventilation, 26 roof, and there was two that
17 we found that anything was ever sent back. Would there be more somewhere that we
18 didn't get? And to be honest with you, the inspectors say we can write stuff in there all
19 day, we never get anything back. So now, that kind of verified when we --- this is what
20 we got that that's what was told to us also.

21 A. Okay.

22 MR. PAVLOVICH:

23 How do you know when these come in, Bill? How do you as
24 a supervisor know?

25 A. They get routed to us.

1 MR. PAVLOVICH:

2 All right. So you actually get it. Do you initial it in any way?

3 Do you ---?

4 A. Normally I don't initial it, no.

5 MR. PAVLOVICH:

6 Okay. So you just see it. And how do you handle it? You
7 give it to a specialist?

8 A. Well, I give it to my secretary to input for the MPA.

9 MR. PAVLOVICH:

10 Okay.

11 A. And then give it to the specialist, yes.

12 MR. PAVLOVICH:

13 And what are their instructions?

14 A. Their instructions are that they have to write a memo back when we get these.
15 They have to write a memo back to answer those, answer each one of these.

16 MR. PAVLOVICH:

17 Would you sign off on those memos or initial off on them
18 somewhere?

19 A. When they come through.

20 MR. PAVLOVICH:

21 Well, do you ever look at these and go to your specialists and
22 say, hey, where's the responses on those two 204s that I sent you?

23 A. Not specifically I haven't, no.

24 MR. PAVLOVICH:

25 Okay. So you just kind of hope that they do it and send it

1 back through? So there's no real system in place to ensure ---

2 A. To track it.

3 MR. PAVLOVICH:

4 --- that they've responded to?

5 A. That's true, that's true.

6 MR. PAVLOVICH:

7 So that could very well be all that were responded to; right?

8 A. Could be. Now, again, they may have been responded to by some other
9 means and I just don't know that. You know, I can't answer that part.

10 MR. PAVLOVICH:

11 Okay.

12 A. You know, either by e-mail or by phone. Could have been. I don't know
13 though.

14 MR. PAVLOVICH:

15 How would there be a record of that?

16 A. There wouldn't be a record.

17 MR. PAVLOVICH:

18 So if you got this from Robert Hendricks, it says something
19 about aspirable dust sample and it's requested that a requirement be placed in the
20 vent plan requiring the following, that dust box is emptied, now what would the phone
21 call consist of? Hey, Bob, we got your comment which, you know, we don't buy it or
22 we're going to do something about it, or what? I mean, how do you ever know?

23 A. There isn't a record of that kind of thing, I agree.

24 MR. PAVLOVICH:

25 Okay. So you'd have to have a phone log or note or

1 something if you did that?

2 A. Right. And we probably don't do as good as we should on those, on that.

3 MR. PAVLOVICH:

4 Do you change many plans based on these, Bill? I mean, if --
5 - you said you're basically using that as the six-month review ---

6 A. Right.

7 MR. PAVLOVICH:

8 --- what the inspector sends in? And the inspectors say, well,
9 we send in comments like this but we never get nothing back and nothing's ever done,
10 so I mean, what good is this, you know?

11 A. Well, it depends. Sometimes we do change them, yes. A lot of these that
12 come through, they'll say, well, I believe we need to do this. And we'll call them back
13 or something and say, okay, provide us --- why do you say you believe? What's your
14 justification? And it's very difficult to get their justification in a lot of cases. I mean,
15 just because somebody says, well, I think, you know, that curtain needs to be kept six
16 inches closer to the face, I'm using six inches literally, closer to the face. I says, okay,
17 well, we'll try and see if we can get that closer to the face but why do you say you want
18 it six inches closer to the face? Is there a problem, you know, that has come up?
19 Have you cited issues? Have you --- you know. Well, no, we haven't.

20 MR. PAVLOVICH:

21 I just want it.

22 A. I just want it. You know, and we have had that quite often actually.

23 BY MR. TEASTER:

24 Q. Would you say that's a norm, that they want stuff that they can't justify? They
25 just want it?

1 A. Is that the norm? Boy, I don't know that it's the norm. It happens fairly
2 frequently, but I don't know that it's the norm.

3 Q. Well, let me ask you if you got a process that inspectors are to review their
4 plan as part of their inspection procedures and they identify problems they see with it
5 and they send a --- they draft that issue in a report and send it forward and never hear
6 from it, this is time and time again, do you think that would discourage you from ---?

7 A. Oh, it would, yes. Yes.

8 Q. So if you got --- I understand there's only 18 ventilation, but even 18, I think
9 one of the responses may have been ventilation-related, but --- and you get no
10 response from those ---.

11 A. No written response from those.

12 Q. Well, that's the record. There's no written one, and from what we're getting
13 from the people, there's no comment. I mean, I don't know what the case is. I'm just
14 telling you what we're saying that they feel that they don't get no response. And it's
15 proven by the record. Now, if there's some phones, they didn't seem to be --- they
16 didn't mention any of that. So I think particularly if we're going to rely on that process
17 as the review, that we need to make sure that any of the concerns are addressed
18 whether they're frivolous or not.

19 A. Yeah, I can't disagree with that.

20 MR. PAVLOVICH:

21 Like here's one, Bill, and the guy talks about H2S continues to
22 be a problem at dugout. And he says one longwall employee complained to me,
23 applied to work at a gold mine because he's tired of breathing, he has heavy
24 nosebleeds, a feeling of tightness in his chest, irritated eyes. Readings on face shield
25 81 was 21 parts per million, shield 75, 25 parts per million, shield 71, 23. While doing

1 respirable dust I observed readings as high as 35 parts per million. He says required
2 air masks are not adequate. Well, this is Mike Shumway and Ted Farmer. There's ---
3 .

4 A. Yeah, and actually in that particular case, that was the health group. They
5 actually went and did some studies.

6 MR. PAVLOVICH:

7 Okay.

8 A. But it didn't document it. But I mean, in that case there were studies done and
9 there's actually been some information put into the --- or some requirements put into
10 the vent plan as a result of the studies that were done by the health group.

11 MR. PAVLOVICH:

12 Okay. But see, you know that ---

13 A. I know that, right.

14 MR. PAVLOVICH:

15 --- personally.

16 A. Right.

17 MR. PAVLOVICH:

18 But is there documentation ---

19 A. There's no documentation.

20 MR. PAVLOVICH:

21 --- to show that anything was done so that --- you know. This
22 has been sent off to everybody.

23 A. Yeah.

24 MR. PAVLOVICH:

25 So am I going to look and say they don't care?

1 A. Yeah, I see what you're saying. But you know, ---.

2 MR. PAVLOVICH:

3 And it's not that you don't care. It's just ---.

4 A. Right.

5 MR. PAVLOVICH:

6 If you don't have tracking, you don't have some formal
7 procedure to handle that.

8 A. Right.

9 MR. PAVLOVICH:

10 And probably if a study was done and a plan was changed,
11 then that ought to be sent in to document here's what we did to take care of that
12 problem.

13 A. Okay. But probably the way that those were asked was just send me the
14 2000-204s as far as the question was concerned. I don't know how the question was
15 exactly documented --- or was exactly asked, but you know, I don't have that in front
16 of me right now, but if that was the case, that may have been --- just had them --- we
17 had a secretary go into the file, photocopy those --- or scan them actually, scan them,
18 and send them or put them out there for you to get. It depended on how the question
19 was asked, and I don't remember exactly how the question was asked. But I
20 understand what you're saying. You know, I clearly understand what you're saying.

21 MR. PAVLOVICH:

22 Well, if you find that there are responses to all those ---

23 A. Okay.

24 MR. PAVLOVICH:

25 --- would you give them to us, because, you know, we don't

1 want to have erroneous things that we didn't have the information and then say, well,
2 you weren't doing it but you were? So if you find, here's my file of these that identified
3 deficiencies and here's my responses and every one, could we have those? I mean, --
4 -

5 A. Yeah.

6 MR. PAVLOVICH:

7 --- you could give them to us?

8 A. Oh, yeah.

9 MR. PAVLOVICH:

10 Okay.

11 A. We can get that started effort.

12 MR. PAVLOVICH:

13 Because when we got all that packet, you know, there's 30-
14 some things here but there's only two that are addressed. So it appears that that's all
15 that there was.

16 A. No, I can see what you're saying. And I'm not going to say that every one of
17 them is addressed.

18 MR. PAVLOVICH:

19 Okay.

20 A. I'm not going to say that at all. They're supposed to be addressed, but
21 whether they actually ended up being addressed, I can't tell you. But we'll get that
22 information.

23 BY MR. TEASTER:

24 Q. Bill, do you have any feel for how many mines, underground mines, in District
25 Nine are what they would classify bounce prone or bump prone?

1 A. Specific numbers? Not by specific number. I mean, I know --- I have an idea
2 which ones have probably a higher potential to them, yeah.

3 Q. Is that factor considered in any way in approval of ventilation plans and
4 addendums?

5 A. Yeah.

6 Q. In what way?

7 A. Well, we'll look at --- a lot of times we'll consult with the roof control group as
8 far as is this going to fly because we see some of the maps and things like that, so
9 we'll consult with them and say, well, this looks like there could be a ground control
10 issue maybe with this, did you get your amendments for the same issue that we got for
11 the amendment. And secondly, is this going to fly or not. And there's been times
12 where we just --- we just throw the amendment on the pile until the ground control
13 issues have gotten resolved. And if it's not --- I mean, if it's not something that may
14 directly affect a ground control issue, then we probably won't even --- you know, we
15 won't necessarily consult with them. But there are some mines that we do on a fairly
16 regular basis, that kind of thing.

17 Q. Do you know if any of that interaction was done with the approval for those
18 addendums up in west mains at Crandall Canyon, north and south barriers?

19 A. We talked with roof control people about it. But you know, up to the --- you
20 know, that mine really has not been an issue from a bounce prone --- we would not
21 have considered it a bounce-prone mine, no. That would have been one that we
22 would not have even given it a thought.

23 Q. Bill, how do you utilize the resources and maintain communications with tech
24 support?

25 A. With tech support? Well, right now the instructions for ventilation-related

1 issues with tech support is that we have to send a memo from the district manager to
2 the chief of safety, and then they are the ones that will do whatever --- they'll do the
3 prioritizing regarding ventilation-related issues with tech support.

4 Q. Do you have any specific guidance on what type of issues that you would
5 need to go to tech support for assistance?

6 A. No, that's pretty much up to the district on what we would think.

7 Q. What do you mean, up to the district?

8 A. You know, if there's an issue that comes up, we'll talk about it, me and my
9 specialists and Knepp and Al, and make a decision that way as to whether we think we
10 need to get something done or not.

11 Q. Do you ever go directly to tech support, phone them up and ask them to do
12 something, or is this something that has to go up through the approval of the district
13 manager?

14 A. As of a few years ago, this has to go up through the chief of safety. That's a
15 headquarters directive.

16 Q. It goes to Arlington, as chief of safety?

17 A. Right, yes.

18 MR. PAVLOVICH:

19 So if you want to request help from tech support, Al has to go
20 through the chief of safety, and then chief of safety calls tech support? That's your
21 understanding?

22 A. Yes. That's been that way for the last three, four years, four years,
23 something like that.

24 MR. PAVLOVICH:

25 Four years?

1 A. Three to four years. Something like that.

2 MR. PAVLOVICH:

3 That's why I quit.

4 BY MR. TEASTER:

5 Q. So if ---.

6 A. There was a discussion at event supervisor's meeting along those lines.

7 That's where that came from.

8 MR. PAVLOVICH:

9 Okay.

10 A. Because what the issue was, tech support did not want to prioritize. They
11 didn't want to take the responsibility of prioritizing which things needed to be --- which
12 things were more important and needed to be done before other things, and they didn't
13 have the manpower to do everything that was apparently being asked of them at that
14 time.

15 MR. PAVLOVICH:

16 So is it a formal type thing? AI has to write a memo to
17 Bentley or whoever's chief of safety and say we'd like tech support help in this
18 particular area?

19 A. We usually do on the ventilation side of things.

20 MR. PAVLOVICH:

21 So if you need ventilation help, that's what you do? You write
22 the memo and you have to specify and then when they get it, I mean, does Bentley
23 make a cut or somebody says, no, you don't need their help?

24 A. Somebody has to make a cut up there, yeah.

25 MR. PAVLOVICH:

1 Did you ever send one up that they basically told you, no,
2 you're not getting help?

3 A. It's been made lower priority on some things. It's a priority if they want it to be
4 a priority, I guess. We had a face study done at Sebastian because we kept having
5 ignitions down there. And that was a priority. That was made a priority.

6 MR. PAVLOVICH:

7 How about all those seal problems?

8 A. Seal problems?

9 MR. PAVLOVICH:

10 Yeah. Where you couldn't get seal approvals for these mines
11 that were sealing every day?

12 A. Well, ---.

13 MR. PAVLOVICH:

14 That didn't go through --- you didn't send that to them?

15 A. We didn't put that in a memo or anything. I mean, I discussed that with
16 several people. I've discussed it with ---.

17 BRIEF INTERRUPTION

18 MR. PAVLOVICH:

19 Okay. So that's one you just ---?

20 A. Well, I talked to Fredland, I've talked to --- oh, what's his name, Calvin. This
21 was in the early stages, you know.

22 MR. PAVLOVICH:

23 Okay.

24 A. I've talked to John --- after the ETS came out, I think I've talked to Eric
25 Sherer, John Urosek, multiple times, not just once, multiple times because one of the

1 issues that we were having is that they were actually getting some of these Minovas,
2 Micon's as well, approved through tech support through their whatever, and then the
3 operators were submitting them to us, and I'd say, well, wait a minute. We don't have
4 any record that this has been approved other than what we got from the operator,
5 okay. So I'd call. And they'd say, well, yeah, yeah, it's been approved. It's on the
6 internet. Oh, okay. So I go and look on the internet and it's got a one-page letter that
7 says such and such, you know, 120 point this, point this, point this, seal's been
8 approved. And you got to follow the manufacturer's recommendations. Okay. So
9 what's the manufacturer's recommendations? Well, we can only get it from the
10 operator and from the manufacturer.

11 As of yesterday, was it yesterday, they finally posted them on the W drive so
12 that we can see them, so that we had something to compare what was being sent to
13 what otherwise --- it's just approve them, just take their word for it. And I go, wait a
14 minute. This isn't the way that MSHA operates here. I want to have something that I
15 can compare with the operator to the other and not have to worry about either getting
16 it from the operator or the manufacturer. Oh, yeah, we'll send them to you. Well, do
17 send them then, you know. And I've had I think five conversations on that same
18 issue, five conversations plus e-mails, including e-mails. Yesterday, or was it --- yeah,
19 yesterday was Tuesday. Yeah, yesterday I saw it. Very frustrating.

20 BY MR. TEASTER:

21 Q. You don't need no approval to do that, and that's not really asking tech
22 support to come out and help you do something?

23 A. No, that's true. That's true.

24 Q. But if you want some assistance, you have to go through the chain of
25 command up to the district manager and he goes through Arlington?

1 A. Yes.

2 Q. And then you get ---. Have you had an occasion where that process was used
3 that you can recall?

4 A. It's not been for a while, so ---. It's not been for the last few --- last couple,
5 three, four years, you know.

6 MR. PAVLOVICH:

7 Well, basically since it came out, you guys had to use it?

8 A. Pretty much. We don't use tech support out here very often.

9 MR. PAVLOVICH:

10 Why not, Bill?

11 A. Well, ---.

12 MR. PAVLOVICH:

13 Why not?

14 A. The people in tech support are very familiar with the condition of Pittsburgh
15 seam and some of those others. I think you know what I'm talking about, Joe. When
16 it comes to a place like Jim Walter and places like that, tech support isn't as
17 knowledgeable or experienced in those kinds of conditions. And when they come out
18 to do things both from a roof control and from a ventilation standpoint, they don't
19 understand --- I truly believe they don't understand a lot of the natural conditions that
20 we have to deal with. And so they don't --- you know, they don't provide a lot of
21 assistance, I suppose.

22 MR. PAVLOVICH:

23 Okay. So in your opinion, what you get out of your own
24 people is as good or better than what tech support can come out and help with, and
25 that your people are more knowledgeable about what you got out here ---

1 A. Yeah.

2 MR. PAVLOVICH:

3 --- than they are?

4 A. Yes, I would say so.

5 MR. PAVLOVICH:

6 Okay.

7 BY MR. TEASTER:

8 Q. Did you utilize tech support more when they were located here in Denver?

9 A. Oh, yes. Definitely. There's no question about that.

10 MR. PAVLOVICH:

11 So what made the difference? You used them all the time
12 when they were here but when they're all in Pittsburgh you don't use them at all?

13 A. Well, there was two different philosophies between the two centers. One
14 center was there to truly assist in trying to resolve problems, resolve issues, gather the
15 facts, resolve the issues. And the other one is gather the facts and we don't give
16 much in the way of recommendations. We don't want to tread on that or something.

17 MR. PAVLOVICH:

18 Are you saying the Pittsburgh tech support doesn't give you
19 much in the way of recommendation? You compile the information or they'll come out
20 and compile it themselves, but then your recommendations you get aren't helpful?

21 A. Well, you know, that's not 100 percent true. There are a few that are helpful,
22 yeah. But generally, you know, we're trying to solve a problem when we call them in.
23 There's a problem out there that needs to be solved.

24 MR. PAVLOVICH:

25 Okay.

1 A. And they don't want to participate as part of the problem solvers.

2 BY MR. TEASTER:

3 Q. Have you requested their assistance and found out that they didn't
4 recommend anything? Because I thought I understood you to say a while ago that you
5 hadn't called on them for quite some time?

6 A. We haven't called on them in a while other than Sebastian.

7 Q. Can you identify a time, Bill, when you called on them with a ventilation issue
8 and they were not able to help you from Pittsburgh?

9 A. Not able to help from the standpoint that they didn't come out, or not able to
10 help ---?

11 Q. No, to come out and technically help you resolve an issue that you had,
12 couldn't recommend something or guide you in some way to resolve this issue that
13 you were dealing with?

14 A. Yeah, the bleeder systems. There's a couple issues with the bleeder systems
15 that we asked for some assistance on how we can solve the problem and they pointed
16 out the problems which we already knew. We knew that they were there, but they
17 didn't help us solve the problem.

18 MR. PAVLOVICH:

19 So in other words, they're not willing to buy off on the different
20 philosophies of mining here in the west as far as bleederless, things like that? They're
21 more locked into the concepts of the eastern mining where everything's got to have a
22 bleeder, everything's got to have certain requirements that they buy off?

23 A. I would have to agree with that statement. I mean, I don't know that that's 100
24 percent true, but yeah. Generally speaking, I would say that's probably true.

25 MR. PAVLOVICH:

1 And so therefore if you guys want to ---?

2 A. I mean, and it's not just the ventilation side. I know Billy's been very frustrated
3 with the ground control issues although those guys have seemed to have helped a
4 little better than some of the others. Jim Kirk, he's about to tear his hair out with the
5 diesel issues. You know, it's not just --- it's almost like it's a philosophy or something.
6 I mean, I don't know that that's true, but it's just kind of outward appearances is that
7 way.

8 BY MR. TEASTER:

9 Q. Is it fair to say then that you would recommend that they re-establish the
10 Denver tech support group?

11 A. That or get people that are fairly well versed in the conditions, you know, in
12 some of the other conditions. The Jim Walter conditions and, you know, the western,
13 the deep mining and the high methane and, you know, steeply pitching seams and the
14 spontaneous combustion issues and the H2S issues like you were reading here, you
15 know. When we first brought that up, we asked for some assistance from the --- was it
16 the health group back in Pittsburgh tech support? They said, well, coal mines don't
17 put out H2S. Okay. You know, what kind of an answer is that? I mean, where do you
18 go from there?

19 MR. PAVLOVICH:

20 So they wouldn't do anything because you couldn't convince
21 them coal mines put H2S?

22 A. Yeah. And that dugout wasn't the only one. I mean, we've got several.

23 MR. PAVLOVICH:

24 Right.

25 A. That at times, not continuously. Right now everything's pretty calmed down,

1 pretty quiet. There's not too much H2S going on right now. But at times we've had
2 what, three different mines doing it.

3 BY MR. TEASTER:

4 Q. So did you get any assistance at all from tech support on that issue?

5 A. I don't think we got a whole lot. I'd have to ask the health group because they
6 dealt with that more than I did, but those are --- again, it's a frustrating type of an
7 issue.

8 MR. PAVLOVICH:

9 So did you say generally, Bill, that you guys kind of handle
10 your own issues and problems in house?

11 A. As much as we can.

12 MR. PAVLOVICH:

13 And don't make any --- in other words, any kind of special
14 effort to get tech support involved in those things because what you feel is you don't
15 get much out of them?

16 A. From the ventilation side of things, I would have to say that's true.

17 MR. PAVLOVICH:

18 Okay. All right.

19 A. I can't answer --- I know roof control's used them more often, but I know Billy
20 kept saying, well, this is --- look at this report and this report and this report. They all
21 got the same recommendations, and they're in three different states. How can they
22 have the same recommendations and they're in three different states? I mean, it's like
23 a canned kind of a thing and we need to have problem solvers or assistance in solving
24 problems, not just that kind of facts.

25 MR. PAVLOVICH:

1 Usually the answer is no?

2 A. Well, the answer is they don't want to provide that information.

3 MR. PAVLOVICH:

4 Okay.

5 A. They don't want to be part of the solution.

6 MR. PAVLOVICH:

7 Okay.

8 A. I'd be more than happy to have them help us. I mean, we just can't seem
9 to ---.

10 BY MR. TEASTER:

11 Q. Are you familiar with Agapito Associates?

12 A. The company, yeah.

13 Q. I know they've done a lot of stuff in roof control. Do you associate with them
14 in ventilation?

15 A. Generally not.

16 Q. What association do you have with them?

17 A. I know of the company.

18 Q. Just know of the company.

19 A. When I worked in industry we hired them to do a ground control thing.

20 MR. PAVLOVICH:

21 Is that what they usually work in, areas of ground control, not
22 ventilation problems?

23 A. Not so much. NVS in California is the one that does the --- mostly does the
24 ventilation stuff.

25 MR. PAVLOVICH:

1 Okay.

2 BY MR. TEASTER:

3 Q. Do you know if District Nine has any type of working agreement with BLM?

4 A. Working agreement?

5 Q. Yes.

6 A. I'm not sure what that ---.

7 Q. Well, like they'll have concerns with whether or not a company can mine a
8 certain area. For example, when they were mining up in the west mains, company
9 decided that area was unsafe to mine. They got BLM --- they had to write a letter to
10 BLM saying it's unsafe. BLM had to approve that or they had to pay for the coal or
11 something to that effect.

12 A. We don't get involved in any of that, no.

13 Q. When did Crandall Canyon first contact you about mining those barriers up in
14 the west mains either formally or informally?

15 A. I don't remember the date. That would have been in the fall of --- probably in
16 the fall of '06. Sometime in the fall of '06.

17 Q. Do you remember whether it was a formal submittal or informal or what type
18 of communication you had with them on that?

19 A. Oh, gosh, I don't know. I don't remember. Well, to have approved it, they
20 would have had to have had formal submittals. But did they tell me about it that they
21 wanted to do that ahead of time? I don't remember. I don't ---.

22 MR. PAVLOVICH:

23 Would this be the submittal and approval on that? It looks
24 like November maybe of '06. It's the first one I have.

25 A. That's the approval.

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MR. PAVLOVICH:

Yeah. Well, is their submittal letter ---?

A. And I don't know if this was the first submittal that they had. They may have had a couple --- you know, one more before that got disapproved or whatever. This is the first one for the north barrier, a first approval for the north barrier.

MR. PAVLOVICH:

Okay.

BY MR. TEASTER:

Q. Are you aware of any inconsistency between the plan that was approved up there for the south mains and the --- I'm sorry, for the south barrier there in west mains in the roof control plan?

A. Inconsistency? You mean the difference in the pillar sizes? Is that what you're talking about?

Q. Any inconsistency between the ventilation plan and a roof control plan for that south barrier?

A. The only thing was that if the roof control plan made them leave a couple more pillars, couple, three more pillars, as far as I know, because of that where it posts down into towards the south barrier.

Q. Which would the inspector enforce if he saw a ventilation plan that said that you had to --- which was going to leave five blocks and they see a roof control plan that said you had to leave eight, and a ventilation plan says you can mine the barriers to that area and the roof control plan said you couldn't? What would the inspector enforce?

A. He should have enforced the roof control plan for that. Most of the time ours are typical sketches, but ---.

1 MR. TEASTER:

2 Do you have the plan there, Joe?

3 MR. PAVLOVICH:

4 Uh-huh (yes).

5 BY MR. TEASTER:

6 Q. Joe will show you.

7 MR. PAVLOVICH:

8 I guess you probably looked at these, Bill, since this
9 happened. This one shows you leaving --- number four's a bleeder down around that
10 offset.

11 A. Uh-huh (yes).

12 MR. PAVLOVICH:

13 And allowing them to mine the barrier all the way out, plus the
14 first way of pillars all the way out even around the offset?

15 A. Uh-huh (yes).

16 MR. PAVLOVICH:

17 Okay. Now, the roof control plan shows no mining of the
18 barrier right at the offset and leaving all eight pillars ---

19 A. Right.

20 MR. PAVLOVICH:

21 --- at that location?

22 A. Uh-huh (yes).

23 MR. PAVLOVICH:

24 So what Ernie's asking you is if you're an inspector, what do
25 you do with those two?

1 A. Well, there would be some confusion there. There's no question.

2 BY MR. TEASTER:

3 Q. How would you say this happened, that one plan shows you can do this and
4 one plan says you can't? They're approved within about a week or two apart. I mean,
5 it's not like one was approved six months before the other or anything. They're fairly
6 close together.

7 A. I think the decision to do this was made after this. I'm not 100 percent sure of
8 that, but ---.

9 Q. So you think they sent this in, you approved it, and then they sent this in with
10 the change and Billy approved it, and there was no communication between the two?

11 A. That's a guess on my part, yeah. See, this was sent in May 17th or was
12 received May 17th. That was received on May 21st.

13 MR. PAVLOVICH:

14 That's pretty close. I mean, you wouldn't have already
15 approved that in three days before this come through; right?

16 A. Right.

17 MR. PAVLOVICH:

18 So probably you're sitting there holding both these plans in the
19 office at the same time, one in roof control, one in vent?

20 A. Okay. Yeah, that's what it appears like. Yep, that's what it appears like.

21 MR. PAVLOVICH:

22 Did you ever see any of the Agapito reports?

23 A. On?

24 MR. PAVLOVICH:

25 Mining in the south barrier?

1 A. No, no.

2 MR. PAVLOVICH:

3 Okay. So probably all you were doing was looking at it from a
4 ventilation standpoint as could that area be ventilated?

5 A. Uh-huh (yes).

6 MR. PAVLOVICH:

7 And you didn't recognize or see that Agapito report specially
8 that said we recommend that no pillars be left on retreat mining of this area? Did you
9 ever know that?

10 A. Uh-uh (no).

11 MR. PAVLOVICH:

12 So no one ever talked to you about that or anything as far as
13 the report says, you know, don't leave a row of pillars or ---?

14 A. I didn't know the report was --- there was even a report until ---.

15 MR. PAVLOVICH:

16 Until after the accident?

17 A. Well, August or September.

18 MR. PAVLOVICH:

19 Okay. So you never seen an Agapito report? Basically you
20 just ---?

21 A. I still haven't seen it.

22 MR. PAVLOVICH:

23 Okay. You just got this plan in and you guys reviewed it and
24 approved it. And would you think that there was probably no communication with roof
25 control when this was approved?

1 A. That's what it appears like, yeah.

2 MR. PAVLOVICH:

3 Okay.

4 A. That's what it appears like. No. If you look right there ---.

5 MR. PAVLOVICH:

6 Okay. What's that say?

7 A. It says Owens.

8 MR. PAVLOVICH:

9 Okay. So could you explain this surname, date thing for me
10 here?

11 A. Yeah.

12 MR. PAVLOVICH:

13 What does all that mean? Is this your tracking or something?

14 A. It's basically a tracking, yes, as to who's looked at it and who's signed off on it
15 as it's being acceptable.

16 MR. PAVLOVICH:

17 Okay. All right. So can you kind of run us through that?

18 A. Okay. Jeff was the one that did the review on the plan, on the amendment.

19 MR. PAVLOVICH:

20 Okay. And that's on 5/28. Would that be when he finished
21 the review or started the review?

22 A. That's when he put it on my desk, probably just ---

23 MR. PAVLOVICH:

24 Oh, he finished it?

25 A. --- prior to putting it on my desk.

1 MR. PAVLOVICH:

2 So he finished it then?

3 A. Correct.

4 MR. PAVLOVICH:

5 Okay. His review. And then this is your initials or signature?

6 A. Yep.

7 MR. PAVLOVICH:

8 And I see a date. Well, this is 5/28 and this is 5/29.

9 A. Right.

10 MR. PAVLOVICH:

11 So you looked at it on the 29th and signed off on it?

12 A. Right.

13 MR. PAVLOVICH:

14 Then what happened to it?

15 A. Well, then it looks like I wanted to make sure that everything was going to fly
16 as far as these pillars were concerned because we do it that way a lot of times. We'll
17 talk about it. A lot of times we'll get the roof control group to surname on them, to
18 make sure that they've seen them, and that's Owens, Billy Owens, that's roof control
19 signed off on it there.

20 MR. PAVLOVICH:

21 Okay.

22 A. And I must have been acting for Knepp.

23 MR. PAVLOVICH:

24 So you signed off on it again?

25 A. So I signed off on it again, and then Knepp actually ended up seeing it.

1 MR. PAVLOVICH:

2 Okay. Well, these dates show Fleshman, 5/28; Reitze, 5/29;
3 Owens, 5/30. Then back to Reitze, 5/29.

4 A. Well, I didn't look at it again.

5 MR. PAVLOVICH:

6 Okay. So you just put ---

7 A. The same date that I looked at it.

8 MR. PAVLOVICH:

9 --- the same that date you looked at it before?

10 A. Yeah, I guess.

11 MR. PAVLOVICH:

12 You dated it before Billy did then; right?

13 A. I don't remember, but yeah. It doesn't make sense, I agree. But I don't
14 remember.

15 MR. PAVLOVICH:

16 Okay. And then this is what?

17 A. That's Knepp's.

18 MR. PAVLOVICH:

19 This is Knepp then, and he ---

20 A. He saw it on the 31st.

21 MR. PAVLOVICH:

22 --- looked at it on the 31st. Now, how do you know when that
23 goes to Al or whoever?

24 A. Al signed it on the 1st.

25 MR. PAVLOVICH:

1 Okay. So then all you do is reference ---?

2 A. Signature here, Al signed it on the 1st.

3 MR. PAVLOVICH:

4 So you referenced a cover letter then is the next. Now, what
5 about --- does Owens also send stuff through to you?

6 A. He does.

7 MR. PAVLOVICH:

8 Okay.

9 A. When there's a ventilation-related issue with it, yes.

10 MR. PAVLOVICH:

11 Okay. So this one he didn't?

12 A. Right.

13 MR. PAVLOVICH:

14 It's Owens, Knepp, Owens, and then ---.

15 A. See, and actually if you look at this, --- oh, never mind, never mind. Yeah.

16 So apparently he was ---.

17 MR. PAVLOVICH:

18 Owens actually saw yours before he handled his?

19 A. Right.

20 MR. PAVLOVICH:

21 He signed your plan that you approved on 5/30/07?

22 A. Right.

23 MR. PAVLOVICH:

24 And then he reviews his own plan, roof control plan on 6/14?

25 A. Right.

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MR. PAVLOVICH:

And it's signed by him 6/14, then it's reviewed by him again for Knepp 6/14, and then it's approved 6/15?

A. Right.

MR. PAVLOVICH:

Do you have any opinion about any of that?

A. The only thing that I could say, I mean, is that there are times when we're getting rushed. And we try to accommodate, if you will, the best we can the operator for mine, you know, so that he can get started on his mining. I don't know if that's what happened in this case, but, I mean, that does happen periodically where there's not very many people here or whatever. And we try and do, you know, what we need to do.

MR. PAVLOVICH:

So when you say you get rushed by --- is that by the mine operators or by MSHA management or who, or both?

A. Sometimes it's both. Sometimes it's the mine that wants to get going.

MR. PAVLOVICH:

Okay. So the mine sends something in, they want it approved pretty quick. You don't have the people necessary to deal with it that quick. They call Al or they call Knepp or they --- you know?

A. That has happened.

MR. PAVLOVICH:

And what happens then?

A. It becomes ---.

MR. PAVLOVICH:

1 Does AI come and tell you ---

2 A. It becomes more of a priority.

3 MR. PAVLOVICH:

4 --- this is your number one priority, Bill, get this out?

5 A. It becomes more of a priority.

6 MR. PAVLOVICH:

7 Does it happen fairly often?

8 A. Well, when we're so far behind as we are, it happens more often than when
9 we're not.

10 MR. PAVLOVICH:

11 Does it happen more often with certain mining companies or
12 certain operators, or does it seem to be pretty much evenly spread across the board?
13 Or is there any favoritism, in your opinion?

14 A. No, I don't think there's any favoritism.

15 MR. PAVLOVICH:

16 So it could be anybody?

17 A. Could be. We've done it for a lot of different people.

18 MR. PAVLOVICH:

19 Okay.

20 A. Lot of different operators.

21 MR. PAVLOVICH:

22 Okay. So if you see something that you don't necessarily like
23 in that plan, has AI ever told you, well, approve it anyway, Bill, we need to get it out?

24 A. We'll talk about it.

25 MR. PAVLOVICH:

1 Do you see anything wrong with it?

2 A. We'll talk about it. He's got the final decision.

3 MR. PAVLOVICH:

4 Okay. And so what's your answer?

5 A. Has that ever happened?

6 MR. PAVLOVICH:

7 Yeah.

8 A. Yeah.

9 MR. PAVLOVICH:

10 Okay. So he's told you, Bill, I've heard your side of the story,
11 approve it?

12 A. Yeah. As the manager, that's his prerogative, I guess.

13 MR. PAVLOVICH:

14 Okay. Did you disagree with that approval?

15 A. With what approval?

16 MR. PAVLOVICH:

17 Some of those approvals that he said I've heard what you say
18 but I disagree?

19 A. Oh, yeah.

20 MR. PAVLOVICH:

21 Did you hear his side of the story and say, well, now I agree
22 with you, or did he just say, look, approve it?

23 A. No, he usually gives his reasoning.

24 MR. PAVLOVICH:

25 Okay. But do you agree with it?

1 A. Not necessarily. You've never had somebody that --- you've never had
2 somebody that disagreed with you when you said as a DM?

3 MR. PAVLOVICH:

4 I'm just asking the questions. I'm just asking, does that ---?

5 A. I know Ex. (b)(6) and Ex. (b)(7)(C) been in that boat. I've heard stories.

6 UNIDENTIFIED SPEAKER:

7 At this point in time, I do not recall.

8 MR. PAVLOVICH:

9 Okay. Did that ever cause any problems with your specialists
10 where they reviewed something and say, well, this shouldn't be approved and then
11 turn around and AI approves it? And is that rather disheartening for them, or
12 somewhat upsetting that they're trying to do thorough and complete reviews and then
13 turn around and the district manager says I don't agree with that, approve it?

14 A. A lot of times they're not happy with it, yeah.

15 MR. PAVLOVICH:

16 Have you heard them complain about it?

17 A. Yeah.

18 MR. PAVLOVICH:

19 Numerous times?

20 A. I don't know what you mean by numerous times. I've heard them complain
21 about it.

22 MR. PAVLOVICH:

23 I mean, did that happen once or did it happen numerous ---?

24 A. Oh, it happened more than once.

25 MR. PAVLOVICH:

1 More than 10, more than 20?

2 A. I don't know what number.

3 MR. PAVLOVICH:

4 Okay. So it's ---?

5 A. More than once it's happened.

6 MR. PAVLOVICH:

7 Fairly often, would you say?

8 A. I wouldn't say fairly often either, no.

9 MR. PAVLOVICH:

10 Okay. Fairly infrequently?

11 A. Yeah, I guess. Now you're starting to sound like a lawyer.

12 **Ex. (b)(6) and Ex. (b)(7)(C)**

13 I don't take any offense for the record.

14 MR. PAVLOVICH:

15 Have the guys ever come and complained --- so your guys
16 have come and complained to you about it?

17 A. I've heard from them about it.

18 MR. PAVLOVICH:

19 Have they ever said, you know, why bother doing these
20 thorough reviews and stuff on here, AI's going to approve it anyway?

21 A. Have they ever said that? I've heard that before.

22 MR. PAVLOVICH:

23 You've heard that before?

24 A. I don't care much for that attitude, and I make sure that they know about it.

25 MR. PAVLOVICH:

1 A. Well, yeah. But I mean, I don't know what other things have gone on
2 necessarily. I don't necessarily know the whole story on all of those.

3 MR. PAVLOVICH:

4 Okay. Well, you've been in ventilation here since '92. Who
5 would know the whole story about ventilation ---?

6 A. Well, I'm not talking about ventilation. I'm talking about roof control and
7 enforcement and all of that.

8 MR. PAVLOVICH:

9 Okay. All right.

10 A. That's what I'm talking about, the big picture.

11 MR. PAVLOVICH:

12 Other areas?

13 A. Just other areas, that's what I'm talking about.

14 BY MR. TEASTER:

15 Q. You've been supervisor since '92. How many district managers have you had
16 in that period? Five, four?

17 A. Three full time.

18 MR. PAVLOVICH:

19 Well, you had Demashay (phonetic); right?

20 A. I think that was before I became supervisor though.

21 MR. PAVLOVICH:

22 Holgate?

23 A. Holgate. Kuzar.

24 MR. PAVLOVICH:

25 Jack?

1 A. Yeah.

2 MR. PAVLOVICH:

3 And AI?

4 A. And AI. And there's been some actors.

5 MR. PAVLOVICH:

6 So three at least, yeah.

7 A. Three, right. There's been some actors in there, too.

8 MR. PAVLOVICH:

9 Okay.

10 BY MR. TEASTER:

11 Q. And have you found that you had this same issue with the other district
12 managers where you had concerns with approving that plan and they said we're going
13 to approve it anyway?

14 A. Probably.

15 Q. Does that mean yes?

16 A. Yes.

17 Q. And was it more prevalent with one manager over the other that you can
18 recall?

19 A. Probably, yes.

20 MR. PAVLOVICH:

21 Is that one of the reasons why Ex. (b)(6) and Ex. (b)(7)(C) wants to get out
22 of ventilation?

23 A. Oh, no, I don't think so.

24 MR. PAVLOVICH:

25 You don't think?

1 A. Uh-uh (no.)

2 MR. PAVLOVICH:

3 You think it's just to do something else?

4 A. Yeah, change. He's been doing ventilation as long as I have and he wants to
5 broaden his horizons a little bit.

6 MR. PAVLOVICH:

7 Okay. So it's not because of any disgruntlement as far as the
8 approval process or any of that?

9 A. Not that I know of.

10 MR. PAVLOVICH:

11 Okay.

12 A. Not that I know of, no.

13 MR. PAVLOVICH:

14 I'm just asking your opinion.

15 A. Not that I know of.

16 MR. PAVLOVICH:

17 Okay.

18 A. No, I think --- you know, he wants to --- he's Ex. (b)(6) and Ex. (b)(7)(C) I think he's looking
19 at, you know, maybe trying to advance now so he wants to broaden his horizons a little
20 bit more, that kind of thing.

21 MR. PAVLOVICH:

22 How do you think the morale in your group is? Of course,
23 with the workload, that certainly affects it.

24 A. Yeah.

25 MR. PAVLOVICH:

1 MR. PAVLOVICH:

2 Would they more often call AI?

3 A. No. To see where it is in the stack? No. It's usually ---.

4 MR. PAVLOVICH:

5 No, I mean as far as getting it, hey, we need this now, you
6 know, we need this approved.

7 A. I think I'd probably either ---.

8 MR. PAVLOVICH:

9 Do they call AI pretty frequently on that? I mean, do they
10 come to you and say, Reitze, where are you at on this vent addendum, they need it
11 now?

12 A. No, they usually call us first.

13 MR. PAVLOVICH:

14 Okay.

15 A. They'll either call the specialist first ---.

16 MR. PAVLOVICH:

17 So normally they would call you first?

18 A. Me or the specialist first.

19 MR. PAVLOVICH:

20 Okay.

21 A. Right.

22 MR. PAVLOVICH:

23 And then what would happen?

24 A. Well, we'll answer.

25 MR. PAVLOVICH:

1 from Knepp, sometimes I ---.

2 MR. PAVLOVICH:

3 Okay. So not any particular company like Peabody or Arch or
4 anybody like that that seems to have more influence in certain areas, from your
5 perspective?

6 A. No. No, I would say not.

7 MR. PAVLOVICH:

8 Okay.

9 BY MR. TEASTER:

10 Q. Getting back to the inconsistencies in those plans, ventilation and roof control,
11 do you got a roof control plan that says that there'll be no water permitted to
12 accumulate in the bleeder entries and then you come along with an evaluation point
13 and a ventilation plan that says that you'll --- evaluation point at the toe of the water,
14 which would indicate that you're allowing water to accumulate, are you familiar with
15 that?

16 A. Uh-huh (yes).

17 Q. Do you view that as an inconsistency?

18 A. Not really. It depends on the system. It depends on the plan, the layout, it
19 depends on whether they can get to a location that is --- where you can determine the
20 effectiveness of the bleeder system.

21 Q. But if you've got a toe of the water, you've obviously got water in that bleeder
22 entry and you've got a roof control plan that says no water. It shall be maintained free
23 of any water.

24 A. Uh-huh (yes).

25 Q. It appears to me that that's a conflict.

1 A. The access where the bleeder starts is basically at the toe of the water in that
2 case.

3 Q. If you've got a dip here that you're looking for the water --- the bleeder to be
4 filled on the backend, how much of a dip do you have to have to get up to that toe?
5 Isn't there a large distance between where it's roofed back here and the toe of that
6 water? How are you sure that that's being ventilated? I mean, it's not like you got a
7 wall.

8 A. That's the case in any gob pretty much. I mean, you can't get to 100 percent
9 of every gob and be able to determine if all of it's ventilated, first off. And that's pretty
10 much the same with any gob that you have out there.

11 MR. PAVLOVICH:

12 No, I'm talking --- not gob, but bleeder. We know you can't
13 get in a gob. We know there's just air pass through a gob that there could be anything
14 in there. But as far as the bleeder entry goes. Do you examine the bleeder in its
15 entirety or do you have a lot of floating bleeder evaluation points?

16 A. We have a few where they move, yeah.

17 MR. PAVLOVICH:

18 Okay. So in this particular case with Crandall Canyon, you
19 approved a floating bleeder evaluation as the ---.

20 A. At the toe of the water.

21 MR. PAVLOVICH:

22 Huh?

23 A. At the toe of the water.

24 MR. PAVLOVICH:

25 At the toe of the water.

1 A. Right.

2 MR. PAVLOVICH:

3 How do you take that into consideration, Bill, as far as
4 elevations and everything else?

5 A. Well, in this particular case with them not liberating methane for one, which is
6 the primary hazard associated with that, and with the location that was chosen where it
7 was back to where you could reasonably determine what the effectiveness of the
8 bleeder system was, you know, we thought that wasn't going to be a real problem at
9 this particular operation. Now, that doesn't necessarily mean that that's going to work
10 at some of the other operations, but ---.

11 MR. PAVLOVICH:

12 So primarily what you do, you look at it and if you don't have
13 a history of methane, it's not a big deal?

14 A. No, but you've got to --- no, no.

15 MR. PAVLOVICH:

16 Because they don't have to meet the same requirements as
17 other people; is that true?

18 A. Not necessarily because you also have to look at the design, the system
19 design, and some of that.

20 MR. PAVLOVICH:

21 All right.

22 A. And the area of exposure. Not the area of exposure, but the area that we
23 were talking about for potentially having ---.

24 MR. PAVLOVICH:

25 Okay. Well, this says this bleeder system proposes a

1 wraparound bleeder type.

2 A. Right.

3 MR. PAVLOVICH:

4 Is that wraparound to you? Is that what you would call
5 wraparound?

6 A. Yeah. It's not flowing through from here into another location. You've got to
7 go all the way to the back, and it's coming in and around and then back out this way.

8 MR. PAVLOVICH:

9 So it's a single entry?

10 A. It's a single entry wraparound.

11 MR. PAVLOVICH:

12 But as you come out, as the toe of the water comes out, you
13 knock out a stopping and examine to the toe of the water?

14 A. Except that the toe of the water is in here. Well, in this case it was in here.

15 MR. PAVLOVICH:

16 Well, this was for the south, the one for the south barrier. You
17 approved a similar one for the north barrier?

18 A. Right.

19 MR. PAVLOVICH:

20 With the same wording in essence, which indicates to me that
21 if water builds up back here and is built up, in other words, if now the toe of the water
22 is here as I'm coming out, that's only where I have to examine and that's only where I
23 have to ventilate to even though this may not be roofed; is that true?

24 A. That's probably true, but in this case it's pretty steep.

25 MR. PAVLOVICH:

1 Well, how steep was it?

2 A. How steep is Crandall?

3 MR. PAVLOVICH:

4 I mean, do you analyze that? You know, if water builds up in
5 here. They'll never be more than 3 blocks or 5 blocks or 10 blocks or 20 blocks that --
6 -

7 A. We look at that, yeah.

8 MR. PAVLOVICH:

9 --- the water's not roofed?

10 A. We look at that, yes.

11 MR. PAVLOVICH:

12 So what 's your guideline on how many is enough and how
13 many's too many? If you look at the steepness of the seam or the pitch of the seam
14 and you say, well, if water starts to build up it will roof here when they're at Crosscut
15 130. I mean, do you do that kind of analysis and assume that many crosscuts is
16 acceptable or ---?

17 A. We don't do it to that extent.

18 MR. PAVLOVICH:

19 Okay. So you don't have any number that says ---

20 A. Right.

21 MR. PAVLOVICH:

22 --- ten crosscuts is too many, five's not enough, ---

23 A. Right.

24 MR. PAVLOVICH:

25 --- anything like that? It's just an opinion?

1 A. But see, what --- it's like this.

2 MR. PAVLOVICH:

3 So you're looking at this basically ---.

4 A. First off, the dip is this way. So it's going to fill up this direction, so you're
5 going to be in by the edge of the water on this side.

6 MR. PAVLOVICH:

7 Well, you know, you're not going to be having these people
8 over here mining, pulling these pillars in four foot of water and ---

9 A. No.

10 MR. PAVLOVICH:

11 --- it will go up here?

12 A. That's true. That's why --- I mean, when the water builds up, you know, they
13 may be mining here and the water's built up back to here. So they still have to travel
14 all the way back to get to here.

15 MR. PAVLOVICH:

16 Okay.

17 A. The water's edge, which is back here.

18 MR. PAVLOVICH:

19 All right. So it's common though that you would --- in an
20 instance like this, you may approve floating evaluation points?

21 A. We have, yeah.

22 MR. PAVLOVICH:

23 Okay.

24 BY MR. TEASTER:

25 Q. Read that highlighted area there if you would, Bill.

1 A. The mains adequately at maintaining, bleeder actually is free of obstruction
2 such as roof falls and standing water. Uh-huh (yes).

3 Q. So do you think that that provision allows water to accumulate in the
4 bleeders?

5 A. In a bleeder entry, no.

6 Q. Bleeder entry.

7 MR. PAVLOVICH:

8 Well, this is not a bleeder entry?

9 A. That is.

10 MR. PAVLOVICH:

11 Okay.

12 A. Yeah.

13 MR. PAVLOVICH:

14 So you're saying ---.

15 A. But it also --- if you go on down here --- where's that? That's under ---
16 alternative methods of evaluation of the effectiveness of bleeder systems. It's right
17 here under 371(z), which also references 364(a)(2). So that allows for an alternative
18 means to actually having to travel that whole entry all the way back if there is a means
19 to safely do that. I mean, it's right in the --- you know, in the 364(a)(2).

20 MR. PAVLOVICH:

21 Well, what means would safely --- what means would there
22 be to safely --- if you're floating back, what means would there be to safely evaluate if
23 you're testing here to toe the water and you've got ten crosscuts here?

24 A. You don't have ten crosscuts here, though.

25 MR. PAVLOVICH:

1 How many would you have, Bill?

2 A. Here? You probably have two or three.

3 MR. PAVLOVICH:

4 It's that steep that eight foot of water in three crosscuts?

5 A. Huh? Pretty steep.

6 MR. PAVLOVICH:

7 Okay. Did any water ever build up in this area?

8 A. Not in this area, I don't think. This area it did. I think it was right to about
9 there.

10 MR. PAVLOVICH:

11 Well, did you approve a plan for drilling a borehole ---

12 A. We did.

13 MR. PAVLOVICH:

14 --- here to there?

15 A. We did.

16 MR. PAVLOVICH:

17 Was that ever done?

18 A. No.

19 MR. PAVLOVICH:

20 Why not?

21 A. It was not --- it was back here somewhere where they wanted to do it, but why
22 not? I don't know why not.

23 MR. PAVLOVICH:

24 Well, why would you if you can move your bleeder with the
25 water?

1 A. They were afraid that this was going to build up so much that it would catch up
2 to them or something, I believe. I'm trying to remember the conversation that we had.
3 I can't remember specifically on that. But yeah, they did have a hole.

4 MR. PAVLOVICH:

5 But in essence, you don't have any way of assuring that the
6 area inby the toe of water is being ventilated when you approve a floating evaluation
7 to the toe of the water?

8 A. Above the water?

9 MR. PAVLOVICH:

10 Well, you know, not under the water.

11 A. Above the water.

12 MR. PAVLOVICH:

13 Of course. I mean, ---.

14 A. No, we don't have a boat to make them go out there.

15 MR. PAVLOVICH:

16 Okay. And you don't make them pump it either?

17 A. Not in that particular case, no.

18 MR. PAVLOVICH:

19 Okay.

20 A. I mean, it depends on the cases, but not in that particular case.

21 MR. PAVLOVICH:

22 You got a question now?

23 UNIDENTIFIED SPEAKER:

24 Bill mentioned 364 gives you an alternate method, the DM
25 flexibility in approving a different bleeder system. But the approved roof control plan

1 signed by the DM says that the bleeder entries will be maintained free of water.

2 MR. PAVLOVICH:

3 Were you aware of that, Bill?

4 A. Yeah, that's ---. That specific wording, no, but I know that's in the roof control
5 plan.

6 MR. PAVLOVICH:

7 Okay.

8 A. Or that's where we have them address that.

9 MR. PAVLOVICH:

10 Okay. So if you change that in the vent plan and say we'll let
11 you move this evaluation point with the toe of the water, you don't go to Billy and say
12 you need to take that out of the plan because I'm approving this? Or do you?

13 A. No, because we don't --- I mean, once this is flooded and you can still
14 determine the effectiveness of the bleeder system, why would you want to --- why
15 would you --- it doesn't matter. I guess I don't see why it would matter. I don't see
16 that at all. Once this is flooded and you don't want to --- you're trying to minimize
17 exposure to people, you're trying to minimize the hazards.

18 MR. PAVLOVICH:

19 I'll give you this much. Where it's roofed, I'm not concerned.
20 The area between the toe of the water and the location of where the water roofed
21 gives me concerns because it's not ventilated because you're knocking out stoppings
22 at the toe of the water every time.

23 A. You are doing that.

24 MR. PAVLOVICH:

25 Okay. So the area inby that to the roofed area is then

1 unventilated and can't be evaluated. Would you agree, overtop of the water? The
2 only place for sure there's no gas is where the top of --- the water is roofed to the top?

3 A. But if there was ---.

4 MR. PAVLOVICH:

5 Do you agree with that?

6 A. That's probably true, yeah.

7 MR. PAVLOVICH:

8 Okay. And there's some area from the toe of the water to the
9 roof of the water that is --- unless you got a really steep pitching seam that probably
10 you can't run equipment on, then you're going to have some distance there that's ---

11 A. You're going to have some distance, that's sure.

12 MR. PAVLOVICH:

13 --- not adequately evaluated or can't be evaluated because
14 you're only going to the toe. And the air is short circuited at the toe because as the
15 water's building up, if you didn't short circuit it here then you've blocked off your --- the
16 water effectively blocks off your bleeder somewhere back here?

17 A. Well, that doesn't necessarily mean there's no air going through that inby
18 crosscut.

19 MR. PAVLOVICH:

20 We can't prove there is. We don't know?

21 A. Not in this case.

22 MR. PAVLOVICH:

23 Yeah.

24 A. I mean, you could if you walked to it.

25 MR. PAVLOVICH:

1 A. Well, we've got some that don't.

2 MR. PAVLOVICH:

3 Some that don't, but you know, sure, South Mountain, Day
4 Branch, Elmo, Grundy 21, most of the bottles that ever came back from the fans on
5 those show 0.00 methane.

6 A. And at the face?

7 MR. PAVLOVICH:

8 Oh, nothing at the face. I'm talking about the fan.

9 A. No, I know, but what did ---?

10 MR. PAVLOVICH:

11 Well, if you don't have any at the fan, you don't get any at the
12 face. It doesn't dilute to zero.

13 A. Well, not necessarily. I mean, it could be coming from other areas, too.

14 MR. PAVLOVICH:

15 It could be diluted lower than 0.00, which is what we're --- you
16 know, none at the face either. Of course, the face, most of your readings would be on
17 the handheld and you'd only go as low as a tenth and then never show a tenth. So I
18 guess having said that, one of your philosophies looking at this is if a mine basically
19 doesn't have a history of methane, okay, you're not going to be real concerned about
20 the full evaluation of the bleeder or ---?

21 A. Well, again, it all depends on the design that would happen.

22 MR. PAVLOVICH:

23 Well, I mean, yeah, but the design is what they send you?

24 A. Yeah.

25 MR. PAVLOVICH:

1 out?

2 A. The law doesn't prohibit it.

3 MR. PAVLOVICH:

4 I didn't ask you that.

5 A. The law doesn't prohibit it.

6 MR. PAVLOVICH:

7 Do you approve a lot? Do you approve a lot of those?

8 A. A lot?

9 MR. PAVLOVICH:

10 Yeah.

11 A. We have several, but I don't know if you'd call them a lot, but we have
12 several.

13 MR. PAVLOVICH:

14 Are you aware of a policy from headquarters that says we
15 recommend that you don't approve one way in and one way out?

16 A. No. I don't know what this is, but I don't know if it's a ---.

17 MR. PAVLOVICH:

18 I mean, probably looked at the ---.

19 A. But I mean, this is true. Introduces hazards to the examiner. I agree with
20 that.

21 MR. PAVLOVICH:

22 Okay.

23 A. Okay.

24 MR. PAVLOVICH:

25 So if they say, you know, we recommend that you don't

1 approve ---

2 A. Where does it say that?

3 MR. PAVLOVICH:

4 --- one way in and one way out because of hazards to the
5 examiner, then the alternate of that is let's not make them examine it because of
6 hazards to the examiner?

7 A. First off, this doesn't say that, recommending that you cannot make those.

8 MR. PAVLOVICH:

9 No, it doesn't say you cannot.

10 A. It's pointing out a hazard that everybody knows.

11 MR. PAVLOVICH:

12 Okay.

13 A. That there is a --- it is a hazard to the --- potential hazard to the examiner.

14 That's a true statement. It doesn't say you can't do it.

15 MR. PAVLOVICH:

16 So our point then is we approve some alternate means so that
17 people don't travel, don't have to travel?

18 A. To minimize exposure to the examiner.

19 MR. PAVLOVICH:

20 And that's opposed to requiring two ways in? I'm just asking if
21 that's the philosophy? I mean, the philosophy, is it --- we're looking at it, you know.
22 You maintain two ways in so you're not exposed to that hazard of one way in, one way
23 out, or is the philosophy is that we just move the evaluation point or minimize the
24 travel or whatever so the guy's not exposed?

25 A. I don't think it's either one of those.

1 MR. PAVLOVICH:

2 Okay. What is it?

3 A. I don't understand --- I guess I don't understand where you're going with it. I
4 just --- you know.

5 MR. PAVLOVICH:

6 I'm just asking. I'm not going anywhere with it. I'm just, you
7 know, what we're looking at and what is --- I mean, this is all fact; right?

8 A. Yeah.

9 MR. PAVLOVICH:

10 Okay. And I'm asking you for your philosophy of why it was
11 approved this way and you're explaining that to me?

12 A. Right.

13 MR. PAVLOVICH:

14 And so I'm looking at in the normal gist of things is it common
15 to say, well, we don't want to expose people and we're going to ignore the possibility of
16 two entries, one way, two ways in ---

17 A. Well, we didn't ignore it.

18 MR. PAVLOVICH:

19 --- so we're just going to say, well, we'll just move the
20 evaluation point? Is that the answer not to expose people or is it the operator had a
21 bad design, but we bought it because we let you move the point?

22 A. Okay. And I don't agree with any of that.

23 MR. PAVLOVICH:

24 Okay.

25 A. What I'm telling you is that when the water builds up and you can still what we

1 felt was effectively determining the ventilation for the bleeder system, then we did not
2 see a problem with having to move this back along the water's line. Okay? It just
3 didn't ---.

4 MR. PAVLOVICH:

5 Did you have a --- I'm getting into your questions.

6 MR. TEASTER:

7 Go ahead.

8 MR. PAVLOVICH:

9 Were you aware that when they mined the north barrier that
10 there was a bump that occurred or a bounce?

11 A. I received a phone call that said something along those lines, yeah.

12 MR. PAVLOVICH:

13 Okay. And who was that from?

14 A. There was a voice mail from Poulson, Jim Poulson, I believe.

15 MR. PAVLOVICH:

16 Okay. And ---

17 A. Left me a voice mail after I had gone home.

18 MR. PAVLOVICH:

19 --- so Poulson left you a voice mail that said they had a
20 bounce in whatever they were calling this section? You were aware of what it was;
21 right?

22 A. North barrier.

23 MR. PAVLOVICH:

24 North barrier, okay. And did you subsequently call him back
25 or did someone else call you to explain that?

1 A. The next morning they called me before I could call anybody back.

2 MR. PAVLOVICH:

3 Okay. So they called you again, and then what did they ---
4 what was that conversation about?

5 A. What they wanted to do was they wanted to be able to move this MPL back
6 from the water's edge to even with their pillar line.

7 MR. PAVLOVICH:

8 Uh-huh (yes).

9 A. And I said no, you can't do that.

10 MR. PAVLOVICH:

11 Okay.

12 A. Because you can't determine the effectiveness of this whole ventilated area
13 --- or this whole gob area, I'm sorry. You can't determine that.

14 MR. PAVLOVICH:

15 And why did they want to move that back?

16 A. They said they didn't want to expose their people to the back, to walk into the
17 back, that they'd had ---

18 MR. PAVLOVICH:

19 Okay. So they ---

20 A. --- some rib issues.

21 MR. PAVLOVICH:

22 --- could examine to the toe of the water and this could float
23 back?

24 A. As long as the water ---.

25 MR. PAVLOVICH:

1 As part of their plan?

2 A. Yeah.

3 MR. PAVLOVICH:

4 Okay. But then you can't evaluate from the location of where
5 their concern was?

6 A. From their face?

7 MR. PAVLOVICH:

8 Well, wherever it was.

9 A. Even with the face, no.

10 MR. PAVLOVICH:

11 Did we know where the water was at that time?

12 A. Oh, we knew it was back here.

13 MR. PAVLOVICH:

14 I mean, where was it? Did they tell you it's at crosscut X or
15 any number or anything?

16 A. I don't recall whether they did or they didn't.

17 MR. PAVLOVICH:

18 Okay. So you just said you can examine to the toe of the
19 water but not out here?

20 A. Yeah, right. The plan said they could go to the toe of the water.

21 MR. PAVLOVICH:

22 Yeah.

23 A. I said they couldn't come out here.

24 MR. PAVLOVICH:

25 Okay.

1 A. You know, they wanted to move back I don't know how many crosscuts. I
2 think they did tell me where the toe of the water was. I'm pretty sure they did. And it
3 was back here in this backend, as I recall.

4 BY MR. TEASTER:

5 Q. Did we make an onsite inspection in the north barrier prior to approval of the
6 plan?

7 A. A ventilation-type related or ---

8 Q. Yes.

9 A. --- roof-control related?

10 Q. Yes. How did you determine the dip?

11 A. How did I determine the dip?

12 Q. Yes, yeah.

13 A. Well, you've got --- these seams generally dip in a certain direction. You
14 know, they dip this --- in this particular mine they're dipping this way, and it's on the
15 mine map. In most cases that, or you can tell by the elevations on the mine map.

16 MR. TEASTER:

17 Do we have that on our mine maps?

18 MR. PAVLOVICH:

19 Yeah, we're getting it for you.

20 MR. TEASTER:

21 Okay.

22 BY MR. TEASTER:

23 Q. Going back to that question, do you recall whether or not we made an onsite
24 inspection as part of that approval?

25 A. The roof control people did.

1 Q. I'm talking ventilation. I know roof control did.

2 A. The regular inspectors were in there. That's all I can tell you. Why didn't I
3 have a ventilation specialist go in?

4 Q. How do you know the regular inspectors were in there in the north barrier?

5 A. Well, they were doing the inspection. I don't know specifically.

6 Q. Okay.

7 MR. PAVLOVICH:

8 Those are ten-foot increments.

9 MR. TEASTER:

10 What's that?

11 MR. PAVLOVICH:

12 Ten-foot increments.

13 MR. TEASTER:

14 Can you read that?

15 MR. PAVLOVICH:

16 We're too old, Ernie, to even ---. I think what he's saying is ---

17 MR. TEASTER:

18 652.

19 MR. PAVLOVICH:

20 --- these are ten-foot increments, these lines. And so, you
21 know, when you get to here, these are fairly close. They're about two crosscuts
22 through this area. And then as you get to here you expand out to --- well, about seven
23 crosscuts, and then --- I mean, through this area here it would probably maybe ---
24 might roof and might not. I'm not real sure because it just kind of skirts that edge. Is
25 that pretty much how you see it, Bill?

1 A. Yeah. Up here on this upper ---?

2 MR. PAVLOVICH:

3 It's fairly steep on that end.

4 A. On this end, right.

5 MR. PAVLOVICH:

6 Then it kind of levels out pretty much?

7 A. Right.

8 BY MR. TEASTER:

9 Q. Levels out on the top end?

10 MR. PAVLOVICH:

11 Well, about halfway back it looks like it levels out.

12 A. Yeah, back of the panel, where it's fairly steep on this end.

13 MR. PAVLOVICH:

14 Fairly steep on that end. But ten foot about every two
15 crosscuts.

16 A. Right. And again, this is what --- well, see, this is Jeff. Jeff requested this to
17 be able to make that evaluation or that determination on that water level for whatever
18 that's worth.

19 MR. PAVLOVICH:

20 So Jeff asked for this and they sent this map in with --- I'm not
21 sure what that is.

22 A. I don't know what all of it is but that's probably his backup stuff.

23 MR. PAVLOVICH:

24 I think this is the plan to drill those holes ---

25 A. It could have been.

1 MR. PAVLOVICH:

2 --- into the gob, best I can --- best I can tell, Bill. Would this
3 have been a different submittal or something?

4 A. There was a different submittal, different approval.

5 MR. PAVLOVICH:

6 It's not that one?

7 A. Which one?

8 MR. PAVLOVICH:

9 I mean, would it be different from that one? Oh, this is the
10 drill plan.

11 A. And that's the backup information for the drill plan. That's not the approved
12 drill plan, yeah.

13 MR. PAVLOVICH:

14 No, this is the ---.

15 A. That's not the approved.

16 MR. PAVLOVICH:

17 This is the approved drill plan.

18 A. Right. And this is the backup to this.

19 MR. PAVLOVICH:

20 This is Jeff's notes here; right?

21 A. Yeah.

22 MR. PAVLOVICH:

23 Check valve, okay.

24 A. So we had that information. This was approved before this.

25 MR. PAVLOVICH:

1 Okay, okay. Right. The drill plan was approved before ---

2 A. Right.

3 MR. PAVLOVICH:

4 --- the bleeder plan; right, or the ---

5 A. Right.

6 MR. PAVLOVICH:

7 --- evaluation plan?

8 MR. TEASTER:

9 Let's take about ten minutes. We'll get back and get into the
10 bump.

11 SHORT BREAK TAKEN

12 BY MR. TEASTER:

13 Q. We want to go back and just start back with when you were notified and
14 exactly what you can recall as far as transpired between you and the person at
15 Crandall Canyon regarding that situation where they could no longer travel that
16 bleeder or they wanted to move it out because of a bump or roof conditions, whatever,
17 how you want to explain that. If you just go back through that, we'd appreciate it.

18 A. Okay. And I don't remember all the exact details on which --- I had a whole
19 boatload of phone conversations that --- whatever that Tuesday was. The voice mail
20 was left Monday night after I went home. It said they wanted --- they were going to
21 send me a map or something like that and they wanted to talk about stuff.

22 MR. PAVLOVICH:

23 So the Monday night after you went home?

24 A. Is when I got --- yeah, they left me a voice mail.

25 MR. PAVLOVICH:

1 but he gets even more involved when he gets one of his people that calls here and I
2 tell them no, we're not going to do that. Then he gets --- he hears about it and then he
3 starts trying to work on me.

4 Q. All right. I'm sorry. Go ahead.

5 A. Anyway, so he called me, wanted to seal. And then I said, well, you know,
6 we're going to have to get some seals approved some way or another. There was no
7 mechanism at that point, time to get any kind of seals approved quickly within the
8 agency. And then, I don't know. I think Poulson called in there, wanted John
9 Fredland's number with tech support on the seal issue.

10 And anyway, then as it went on a little bit later on, then Laine called again.
11 Him and I think Peacock, and they said they'd been into the water's edge. Of course
12 there was no methane. Oxygen was running 19.8 or close to 20, somewhere around
13 close to 20. And the ribs were kind of busted up, roof was in a real good shape.
14 Some of the stoppings in the corners had little holes right up in the top corners and he
15 wanted to know if he could use curtains to fix them. I said no, you can't use curtains.
16 There's got to be permanent ventilation controls for that. And he says, well, then, we
17 have to seal. And then he asks me to call AI because AI was back in Beckley.

18 Q. Who asked you to call AI, Laine?

19 A. Laine. And see if there was anything that AI could do to get these seals
20 expedited. And when I talked to AI, apparently John Fredland, who had been handling
21 all of this seal approval stuff, was also at the academy for some reason or another,
22 had been there for many weeks doing something, working on some project or another.

23 Anyway, so AI got to talking to him and then I guess after --- they came to some sort
24 of an agreement, I guess, that if the seal --- if they submit the seals that had been
25 approved for West Ridge, for the West Ridge mine, exactly the way that they had

1 been approved and that they stipulate that the conditions at Crandall would be virtually
2 identical to the conditions at West Ridge from a seal standpoint, a seal compatibility
3 standpoint, I guess, that they could go ahead and use the West Ridge seals.

4 And so I called the mine back and told them that. And so I guess they started
5 working on that. And then I think somebody called me back and said, well, what if we
6 change this and what if we change that, and how can we do this and can we make this
7 thinner if we do this. I said, hey, the instructions are they got to be exactly the same
8 as what was approved for West Ridge as long as the conditions are the same.

9 Q. Okay.

10 A. And that's what they eventually submitted.

11 Q. Was there any consideration to have the field office go up and take a look at
12 that area based on your conversations with them?

13 A. Based on my conversations, no. I mean, I didn't call the field office to tell
14 them to go take a look at it if that's what you're talking about. No, I did not do that.

15 Q. Do you know if the field office was ever aware that this was going on at this
16 particular time?

17 A. I don't know.

18 Q. Laine Adair, none of them made any reference to getting back to the field
19 office?

20 A. Not that I recall.

21 Q. How was that categorized? You said a bounce or a bump, a small one that
22 they'd said they'd had, or how did they categorize that?

23 A. Well, they said they had a bounce.

24 MR. PAVLOVICH:

25 And the reason that they wanted to seal is they told you they

1 could still travel up the entry?

2 A. And they did.

3 MR. PAVLOVICH:

4 And they did travel up. I mean, they told you they went up to
5 the toe of the water?

6 A. Right.

7 MR. PAVLOVICH:

8 But they had some stoppings damaged in the corners and
9 they didn't want to fix the Kennedy panels. They wanted to hang a rag and you said
10 no way?

11 A. That was part of it.

12 MR. PAVLOVICH:

13 And so they said, well, we'll just leave off this coal and seal.
14 Did that not seem unusual?

15 A. No, that was part of it. They also didn't want to have to have somebody walk
16 to the back.

17 MR. PAVLOVICH:

18 Okay. And their concern of that was the roof or the ribs or ---?

19 A. No, he told me the roof was in good shape.

20 MR. PAVLOVICH:

21 So the roof was in good shape. He didn't want to have
22 anybody walk to the back because of what?

23 A. The ribs.

24 MR. PAVLOVICH:

25 The ribs. And ribs meaning because of rib rolls or bounces or

1 what?

2 A. And there was some areas where it was more than five feet from the last bolt
3 to the rib.

4 MR. PAVLOVICH:

5 So the ribs had bounced off, in other words. And so they
6 would have had to resupport that?

7 A. Correct.

8 MR. PAVLOVICH:

9 Okay.

10 A. So they would have had to halt.

11 MR. PAVLOVICH:

12 So his indication was we got to go in there and set timbers or
13 cribs or cans or ---

14 A. Right, whatever.

15 MR. PAVLOVICH:

16 --- something and we don't want to do that?

17 A. Right.

18 MR. PAVLOVICH:

19 So it was more than just patching stoppings?

20 A. Oh, yeah, yeah, yeah.

21 MR. PAVLOVICH:

22 All right.

23 A. Right, right.

24 MR. PAVLOVICH:

25 Well, I heard you say that, you know, the roof was good and

1 they had holes in stoppings, but I didn't realize he told you that he was concerned
2 about the ribs and the distance from the bolts to the ribs and additional support. Okay.

3 BY MR. TEASTER:

4 Q. Did you give any consideration as to why you had that much unsupported roof
5 between a bolt and a rib, how that might have come about?

6 A. Well, they said there was a bounce, so that probably could have caused
7 something along those lines.

8 Q. Do you think that that was their form of reporting of a bounce that's required to
9 be reported under Part 50?

10 A. No. They know that they don't report it to me. No.

11 Q. Was there any indication of if they had got that evaluation point as they had
12 requested that there would have been a continuation of mining, or did they indicate
13 that mining was going to cease, or what?

14 A. They didn't indicate one way or the other. The implication was that if they
15 could get that moved back, they would just continue mining.

16 Q. Have you seen the pictures of the extent of that bounce that occurred?

17 A. It seems like I saw one back last fall or something.

18 Q. That purple that you're looking at, that indicates the extent of the area that
19 was affected by that bounce.

20 A. Really?

21 Q. And there's a lot of photographs that were taken by I think Laine Adair shows
22 the impact of it. Ex. (b)(6) and Ex. (b)(7)(C)

23 A. Ex. (b)(6) and Ex. (b)(7)(C)

24 Ex. (b)(6) and Ex. (b)(7)(C)

25

1 standpoint.

2 Q. Well, you look at those photographs. Tell me if that's kind of the picture that
3 he painted for you when you talked to him on the 12th or 13th.

4 MR. PAVLOVICH:

5 The little insert there kind of shows where the direction of the
6 camera shot. Okay. So the camera's looking right overtop of a pillar.

7 A. Oh, okay. The first one's I kind of envisioned that it might be okay, these first
8 ones. I mean, that would be his description to me on these first couple, three,
9 something like that. No, this is not I envisioned this at all. It's not the way --- that's not
10 the way I took his description at all from that one with the stoppings.

11 MR. PAVLOVICH:

12 Yeah, that's looking straight over a block.

13 A. These are looking into the gob?

14 MR. PAVLOVICH:

15 Some of those are looking into the gob, yeah. I mean, you
16 expect to see some fall in there.

17 A. Yeah.

18 MR. PAVLOVICH:

19 And I don't know if he's trying to show there that it was
20 hanging, the roof's hanging or if they had a fall or what. I mean, some of them just are
21 taken into the gob approaches, Bill.

22 A. This is not how I pictured it for that bleeder entry, not at all.

23 BY MR. TEASTER:

24 Q. Well, if you stopped at those first couple of photographs, you'd have said,
25 well, yeah, this is what Laine relayed to me?

1 A. That's what I understood, yeah.

2 Q. Do you know why he would not have gone more in depth into explaining that
3 situation?

4 Ex. (b)(6) and Ex. (b)(7)(C)
5

6 MR. PAVLOVICH:

7 Ex. (b)(6) and Ex. (b)(7)(C)
8

9 A. Could have been, yeah.

10 BY MR. TEASTER:

11 Q. Were you ever made aware that following that bump they had to mine about
12 60 shuttle cars of coal to get to recover battery-powered scoop or diesel-powered
13 scoop or something?

14 A. Uh-uh (no). Nope. No, it was my understanding they were going to just back
15 the equipment out. They wanted to start mining in the south barrier, and they wanted
16 to start --- I mean, after we talked about seals and things like that, then they tried to
17 submit something here where they could start mining down there and not have the
18 seals in on the north barrier. I said, how the hell are you going to do that? I mean,
19 you've got to be able to ventilate --- you've got to be able to ventilate both places.
20 You can't do that.

21 Q. So he wanted to go directly down to the south barrier and start mining?

22 MR. PAVLOVICH:

23 Want to put the seal construction in a return then; right?

24 A. Or would have done that or ---.

25 MR. PAVLOVICH:

1 No ventilation inby?

2 A. Right. Well, it wasn't actually the way they originally submitted it. It wasn't
3 really a whole lot of ventilation where the seals were going to be constructed either, to
4 be honest with you, if I remember right. We just said no, you can't do that. We
5 weren't going to approve that, and we didn't.

6 MR. PAVLOVICH:

7 Okay.

8 BY MR. TEASTER:

9 Q. Was there any further discussion between you and Al or anyone else in the
10 district on that issue, that event, within the next couple of weeks?

11 A. Within the next couple of weeks? I mean, we went round and round with
12 those guys on the ventilation until they got their seals done. Some of that wasn't quite
13 right, you know, their initial submittals. But as far as --- not that I know of, no.

14 Q. Do you know how long it took them to seal that area?

15 A. After they got it approved? I don't know. I'd just make a guess. It was
16 probably three or four days is a guess. I don't know that for a fact.

17 Q. Do you know when it was approved? Do you know when it was approved?

18 A. Not off the top of my head. You should have that.

19 MR. PAVLOVICH:

20 Somewhere.

21 MR. TEASTER:

22 Do we have that, when the seals was approved?

23 A. I don't remember exactly. I mean, it was in March. It was after that event, but
24 I don't remember exactly.

25 MR. PAVLOVICH:

1 It looks like March the 16th. It says provisionally approved.

2 A. Right.

3 MR. PAVLOVICH:

4 And I guess what does that mean, Bill?

5 A. That was --- we were instructed by tech support to basically say that because
6 the approval that was granted was site specific for West Ridge, and because at that
7 time under Calvin's perusal and supervision each location had to have a specific seal
8 approval. Each specific individual seal location had to have a specific seal approved
9 for that location. And when tech support actually wrote that, I believe they actually put
10 right in there in their approvals --- even on those places where they submitted it was
11 provisionally approved or no, let's see. We're recommending provisional conditional
12 approval for this to the district manager or some such thing, some such wording as
13 that. That was from tech support. So we had to use that, basically that same wording
14 that was recommended by those guys.

15 MR. PAVLOVICH:

16 And so these were Minova cementation seals that were
17 approved; right?

18 A. Right.

19 MR. PAVLOVICH:

20 Which are a pumpable seal?

21 A. Yes.

22 BY MR. TEASTER:

23 Q. Was there any discussion of mining in the south barrier prior to discussion of
24 seals?

25 A. I believe there was, yeah. They were trying to get set up to go ahead and

1 start mining the south barrier.

2 Q. I meant in your discussion with them when they notified you to move the
3 evaluation point up to a certain point.

4 A. I'm not sure I follow what you're asking.

5 Q. You said that you had discussion that they wanted to start mining in the south
6 barrier right away. You told them no, they had to get the seals in first?

7 A. Right.

8 Q. And my question is was there any discussion of mining in the south barrier
9 prior to discussion of seals? In other words, when they still wanted to move the
10 evaluation point.

11 A. It didn't come up in that conversation that I recall. I don't know why it would
12 have at that point because it had sounded like they wanted to continue to mine in the
13 north.

14 Q. Well, ---.

15 A. And they had something submitted, I think, so that they were getting ready as
16 soon as they finished pillaring the north, then they could go down and start on the
17 south and they were trying to get out ahead of that curve to go ahead and start
18 developing that.

19 Q. Randy Gunderson, I believe it was Randy that went to the mine on or around
20 March 13th. Do you know, was he given any specific assignments to go up there or
21 do you know why he went to that area up in the ---?

22 A. I don't know. I can't answer that.

23 Q. Do you believe based on what you know now that that bump should have
24 been reported immediately?

25 A. After seeing this, they should have been.

1 Q. Do you know what the experience is with the company as far as reporting
2 bumps that are required to be reportable under Part 50?

3 A. Experience with this --- with Crandall or with ---?

4 Q. All of the mines that Crandall --- that Bob Murray currently owns, the West
5 Ridge, Aberdeen.

6 A. They have reported them in the past. I know that. I don't know what their --- I
7 mean, you're asking basically what's their track record about doing it each time or
8 whatever?

9 Q. Yes.

10 A. That I can't answer. I know they have, but I don't know about each time.

11 Q. What's your opinion as to why they would not report this one? Do you have
12 any opinion on that?

13 A. Unless there was, you know, I think they were under some --- the company,
14 the local managers, I guess, were under some pressure to try and keep mining, you
15 know, be able to put out coal. As far as why that was or who was putting the pressure
16 on, I don't know. I got that feeling, but I don't know why. You know, I don't know why I
17 got that feeling. Something indicated to me that they seemed like they were under
18 some pressure, but what ---.

19 Q. Did that issue ever come up in conversation between you and any other
20 district personnel within the next couple of months following your discussion with Laine
21 Adair?

22 A. Did what?

23 Q. Did you have further discussions with anyone in the district related to this
24 issue?

25 A. Related. I guess related to which issue?

1 Q. To the bump, to the bounce that occurred up there in March the 11th or 12th.
2 You had the discussions with --- after you learned about it, talking to them on the 13th,
3 you called AI to get the seals approved?

4 A. Uh-huh (yes).

5 Q. Was there any more discussions that you had with AI or anyone else in the
6 district regarding the information that you learned on that day about what occurred up
7 there in the north barrier?

8 A. I don't remember. I may have talked to Billy about it a little bit. I don't
9 remember exactly. I could have talked to Billy. He and I usually talk quite a bit about
10 different things.

11 Q. Do you know any information that Billy received regarding that event?

12 A. Not at that time.

13 Q. Around the same time period? He never discussed it around the 12th, 13th,
14 14th of March?

15 A. I had heard later that he had talked about it but not on that day that I
16 remember.

17 Q. Did you ever see any of the Agapito reports?

18 A. No.

19 Q. You're not aware of any information they submitted to the district in May that
20 talked about how severe, how much damage that that bump had done?

21 A. I found out I think it was after the --- I think it was after the accident I found out
22 that they'd had a couple reports. No, I didn't know what was in them or anything. I've
23 never read them.

24 MR. TESTER:

25 Do you have anything else on the bump, Joe?

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MR. PAVLOVICH:

No.

BY MR. TEASTER:

Q. Were the evaluation points --- are you familiar with mining in the south barrier? We don't have enough south barrier, but the south mains of the mine?

A. Uh-huh (yes). Some, yeah.

MR. TESTER:

Do we have those maps available we can show?

MR. PAVLOVICH:

Bill, I guess the big thing on this bump conversation, this phone call, I mean, your understanding was that not that the bump was so severe that that's the reason they were pulling out, but the fact that they didn't want to rehab this bleeder, they didn't want people going in there, they wanted you to move the evaluation point outby and you said absolutely not?

A. Right.

MR. PAVLOVICH:

I can't do that.

A. Right.

MR. PAVLOVICH:

And so they said, okay, help us get some seals then. And you really didn't discuss or did you discuss the intensity of the bump and why they were pulling out?

A. No, I didn't discuss that at all. I didn't.

MR. PAVLOVICH:

And you didn't ask them, did you report this bump to the field

1 office or anything? I mean, you were looking at it as a ventilation issue in a bleeder
2 entry?

3 A. Right.

4 MR. PAVLOVICH:

5 And that the bleeder was still open, but there was some ---?

6 A. Yeah, they walked it so it was still open.

7 MR. PAVLOVICH:

8 Okay. There was some stoppings that had some minor
9 damage according to what he told you, but he would have to do some roof support in
10 there and he didn't want to do that?

11 A. Right.

12 MR. PAVLOVICH:

13 So therefore if you don't let me move this out I'm just going to
14 seal it?

15 A. Right.

16 MR. PAVLOVICH:

17 Is that kind of how that went?

18 A. Right, right. That's what registered when I was talking to him.

19 MR. PAVLOVICH:

20 And is that what you conveyed to Al when you talked to him --

21 -

22 A. Yeah.

23 MR. PAVLOVICH:

24 --- that they want to build seals?

25 A. Because that's all I knew at the time.

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MR. PAVLOVICH:

Okay. So you basically said they want to build seals, they want to pull out of this area, they've lost a bleeder, the bleeder's at the point where it's deteriorated so they want to build seals, can we help them get the seals approved?

A. Right. Well, I told him about the evaluation point first.

MR. PAVLOVICH:

Okay. And the request for an evaluation point?

A. Right.

MR. PAVLOVICH:

Because you figured they might talk to him about that, so ---

A. Right.

MR. PAVLOVICH:

--- you talked to him about it?

A. I mean, he needed to know that.

MR. PAVLOVICH:

Okay. Okay. And that was pretty much the extent. You didn't say how many pillars bumped or they didn't tell you, Bill, we had 20 pillars that bumped or 10 pillars or ---?

A. No. No, we didn't talk anything about that. I was looking at strictly from the questions that they asked me, that being the issues with the valuation.

BY MR. TEASTER:

Q. One other thing related to that bump issue, Bill, is during the Congressional oversight hearings, the administrator, Kevin Strickland, told Congress that that area was abandoned because they couldn't get a bleeder evaluation point or because of the bleeder. I'm not sure of the exact words. But do you know who provided that

1 information to Kevin?

2 A. Do I know who provided? No. I mean, it probably came from --- could have
3 come from Billy. It could have come from Al. Could have made a circuitous route to
4 get to Kevin from one of those two. I have no way of knowing that. I never talked to
5 Kevin about any of that stuff.

6 Q. Based on what you know now, do you believe that --- what do you believe the
7 reason for them abandoning that area up in north barrier was?

8 A. Well, I think they knew that it was worse than what it was and I think --- I
9 believe that they truly thought that they could continue to mine from there out if they
10 had a --- if they had had a means to be able to evaluate that bleeder system.

11 MR. PAVLOVICH:

12 So you think if you told them, okay, Laine, you can go ahead
13 and move your bleeder evaluation out here to crosscut whatever where he wanted to
14 put it, 119 or so, that he would have tried to keep mining this way out of here ---

15 A. Yes, sir, I do.

16 MR. PAVLOVICH:

17 --- without a doubt in your mind?

18 A. I agree. I fully believe that.

19 MR. PAVLOVICH:

20 Because that's what he wanted; right?

21 A. Right. That's what he was looking for. That's what he was trying to get to.

22 MR. PAVLOVICH:

23 He wasn't worried about the deterioration in there, he just
24 wanted to move it out so he could mine some more?

25 A. That's what I believe, yes.

1 MR. PAVLOVICH:

2 And when you told him no, then he said, okay, I have to seal
3 it?

4 A. Yes.

5 MR. PAVLOVICH:

6 But that was his full intent. His intent was not to have an
7 excuse to pull out?

8 A. No, he wanted to continue to mine.

9 MR. PAVLOVICH:

10 Okay.

11 BY MR. TEASTER:

12 Q. Were you aware or are you aware that he pulled out a couple or three blocks
13 to re-establish another?

14 A. Afterwards I heard about that. I didn't know about it at the time, no.

15 Q. And that's when the bump occurred, when he just had mined a couple?

16 A. Yeah, and I didn't know that at the time, no. I found out that from Billy later
17 on.

18 MR. PAVLOVICH:

19 What were you going to ask?

20 BY MR. TEASTER:

21 Q. This is the south mains here; right? The evaluation points, where were the
22 evaluation points for that, for evaluating that system over there in the south mains?

23 A. I'll have to try and remember. I think they were here and here and here and
24 there, there, there, there, there, there (indicating). I'm trying to remember if there
25 were others.

1 MR. PAVLOVICH:

2 So you're pointing at the areas around panels 20 and 21, both
3 outby and inby, and at the corner of panel 19?

4 A. Right.

5 MR. PAVLOVICH:

6 Okay.

7 A. These two corners.

8 MR. PAVLOVICH:

9 Is that 18 or 19?

10 A. Well, that says panel 19.

11 MR. PAVLOVICH:

12 Okay.

13 A. And then up here, right there. Up on this corner if I remember right, and then
14 here, here, here, here, here, and here (indicating). I believe that's what they were.
15 The air was coming down --- this was sealed. The air was coming down here, around,
16 and then out through there.

17 BY MR. TEASTER:

18 Q. Is it common to have those seals in there that's mined by there and then just
19 ventilate, no travel to those seals?

20 A. Yeah. I mean, common from a standpoint that if they're pulling mains, pulling
21 a set of mains, it would be. As long as they can, again, determine the effectiveness of
22 the bleeder system and be able to have a means to, you know, see what's going on
23 with this.

24 Q. Do you feel that that evaluation points that you pointed out gave you a true
25 picture of what was transpiring in there as far as ventilating that area?

1 A. Based on the conditions and that, I think it was doing okay. I mean, it's not
2 one of my favorites. Let's put it that way. It's not.

3 Q. Did you raise any concerns with it as you recall when they asked for those
4 evaluation points to be approved?

5 A. I don't remember specifically. Probably so because like I say, this is not one
6 of my favorites.

7 MR. PAVLOVICH:

8 Bill, did they have a plan to seal those south main entries
9 when they finished pulling those pillars? Was there proposed seals across there?

10 A. Yeah, right up here.

11 MR. PAVLOVICH:

12 Did they ever build that and seal that?

13 A. No.

14 MR. PAVLOVICH:

15 Would you not have expected them to?

16 A. Yes.

17 MR. PAVLOVICH:

18 Was there ever a citation or anything written as to why they
19 didn't comply with that?

20 A. Well, it would have been difficult to write a citation if they were still continuing
21 to ventilate and evaluate, and that's one of the options.

22 MR. PAVLOVICH:

23 So if they show you that they're going to seal once we finish
24 this but they don't do it, as long as they're still evaluating it's okay, or was that
25 approved as a short-term evaluation past those sealed areas and all that stuff in there

1 with the intent that it's going to be sealed when they finish it?

2 A. Actually that was what we had in mind and that's what I think they had in mind
3 at the time, yes, was to --- as soon as they got done with all of this then to go ahead
4 and seal so that they could reestablish a wraparound and start mining of this back.

5 MR. PAVLOVICH:

6 Yeah, that's pretty easy to seal that.

7 A. That's what I think they --- yeah. I think that's what the original intent was.

8 MR. PAVLOVICH:

9 Because now you got about what, ten sets of seals in there
10 that can't be examined with pretty big gobs behind them.

11 A. Uh-huh (yes).

12 MR. PAVLOVICH:

13 And if they crush out ---?

14 A. Well, again, it would be picked up over here.

15 MR. PAVLOVICH:

16 Well, but ---.

17 A. It's not an ideal situation.

18 MR. PAVLOVICH:

19 Okay.

20 A. But it's not --- I mean, there's nothing that --- as long as there was a means to
21 evaluate what would ever happen there somewhere.

22 BY MR. TEASTER:

23 Q. You indicated this wasn't your favorite system. Was there any objections
24 raised by you, that you can recall, on this system and someone else said it's okay, go
25 ahead with it?

1 A. I don't honestly remember. That was a long time ago when this all started to
2 transpire. When did they pull this out? '05. When they started some of this was back
3 in '04 or '05, so ---.

4 Q. I think they finished mining there in October of '06 or something up there.

5 A. Yeah, that's what that says, but I mean, they started --- they had that --- set all
6 of this up when they started pillaring right through here.

7 Q. When were you notified of the Crandall Canyon accident, or were you
8 notified?

9 A. When I got to work, I guess, is when I was notified.

10 Q. So you wasn't notified, you just basically came to work and learned about it?

11 A. Right.

12 Q. Did you have any involvement at all with the rescue effort?

13 A. The actual rescue effort, no. From the port side I was getting documents and
14 things for headquarters.

15 Q. That was pretty important stuff. Everybody seemed to want information.

16 A. Yeah, all at once. Yep.

17 Q. How many times you been interviewed on this issue? You indicated earlier
18 you done some.

19 A. Actual interviews? Just you guys.

20 Q. Oh. Did they keep you abreast as to what was going on up at the mine as far
21 as the rescue effort?

22 A. Not real well, no.

23 Q. How did you keep --- who kept you informed of what was going on, what little
24 information you did get?

25 A. It was mainly off the news, things like that. We had the TV on a lot trying to

1 keep track of what's going on.

2 Q. Did you see Bob Murray any on the television?

3 A. Yeah.

4 Q. What was your opinion of him?

Ex. (b)(6) and Ex. (b)(7)(C)

5 A.

6 nothing.

7 Q. Are you familiar with the roof support systems that they were using there?

8 A. Specifically, no.

9 Q. Do you have any experience at all with use of rock props?

10 A. No, no.

11 MR. PAVLOVICH:

12 Bill, you realize that this was strata control problems with the
13 outburst; right?

14 A. Yeah, it's not a localized thing.

15 MR. PAVLOVICH:

16 It was a pretty big event?

17 A. Right.

18 MR. PAVLOVICH:

19 And obviously trapping six men, you heard the entries were
20 packed full?

21 A. Right.

22 MR. PAVLOVICH:

23 How long have you known Billy, Billy Owens?

24 A. Probably met him shortly after I started working here.

25 MR. PAVLOVICH:

1 Okay. He was the tech support center chief?

2 A. Uh-huh (yes). Well, it was before he was center chief.

3 MR. PAVLOVICH:

4 He was over strata control or roof?

5 A. Roof. He was in the roof control group.

6 MR. PAVLOVICH:

7 Okay. Would you say Billy had a lot of experience in roof
8 control, a lot of knowledge in bumps?

9 A. He did.

10 MR. PAVLOVICH:

11 So were you surprised when Billy didn't go to the mine?

12 A. Yeah.

13 MR. PAVLOVICH:

14 And did you ever ask Billy or anybody else why isn't Billy
15 there?

16 A. I never asked. I figured that was either Al's choice or Knepp's choice or
17 maybe Kevin's choice.

18 MR. PAVLOVICH:

19 So if I had a mine fire and picking up CO from bleeder points
20 and some other issue and I took Billy and left you sit here, would you wonder why am I
21 not there?

22 A. Yeah. I think he ---.

23 MR. PAVLOVICH:

24 Nobody ever explained ---?

25 A. I think he was wondering, too.

1 MR. PAVLOVICH:

2 Did Billy voice that to you, wonder why I'm not there?

3 A. I believe he did.

4 MR. PAVLOVICH:

5 Okay. Did he have any ideas why?

6 A. He didn't say if he did.

7 MR. PAVLOVICH:

8 Okay. So he felt that way also, to your knowledge?

9 A. As far as I know, yeah.

10 MR. PAVLOVICH:

11 Okay.

12 BY MR. TEASTER:

13 Q. Bill, there's a lot of people that have made public statements that you can look
14 at that area up there in the west mains with gobs on both sides, been mined out by the
15 longwall, that you could just look at that area and say you shouldn't be mining up
16 there. Did you have any particular thoughts when you looked at that area of the mine
17 that they wanted to --- I know you're looking at it from a ventilation standpoint, but did
18 you have any concerns about mining up in that area, that it shouldn't be done?

19 A. Well, just based on my mining experience years ago, I'm not a big fan of
20 barrier mining. Just, you know, we had bumps and bounces and the thinner the
21 barrier got the worse than the bounces got and those kinds of things. And so from that
22 standpoint, I'm not a real big fan of getting into some of these places where there are
23 barriers.

24 Q. Do you view the mining of those barriers in the south mains differently than
25 mining of those barriers up in west main?

1 A. I'm not sure I follow what exactly you're talking about.

2 Q. Well, they mined --- my question, they mined these barriers here on their way
3 out of the south main.

4 A. Right.

5 Q. How that differs from mining the barriers up in --- where you essentially was
6 flipping them and driving four inches?

7 A. Well, I think that's a whole different way of doing things, yeah. These are just
8 a couple of rooms you go in and in a crosscut and back out or something.

9 Q. Right. So if someone told you, well, we've mined barriers safely in south main
10 so therefore we should be able to mine them safely up there, it's two different things?

11 A. I think it's two different things.

12 Q. I agree with you.

13 A. I think same thing with some of these, you know, depending on how you do it
14 like here, they've got projections to mine these, okay. You go in a couple crosscuts
15 and you pull out, in a --- you know, and you got your mains and you got your belt and
16 you got everything right here and you're coming back as you need to as opposed to ---

17 .

18 MR. PAVLOVICH:

19 So barrier mining out here in the west under that kind of cover
20 would not be very common in your opinion? You wouldn't see that happen very often?

21 A. Not like that. I mean, you're going to have it like down here where you've got
22 the rooms off a crosscut or two, yeah. That's fairly common.

23 MR. PAVLOVICH:

24 Okay.

25 BY MR. TEASTER:

1 Q. Did you ever voice any concerns to anybody that maybe they shouldn't mine
2 those barriers up there?

3 A. I could have. I probably did, because again, everybody knows that I'm not a
4 big fan of mining barriers. I mean, just based on my experience at the mine.

5 MR. PAVLOVICH:

6 Who would you have voiced that to?

7 A. Billy, probably.

8 MR. PAVLOVICH:

9 Do you remember, did you tell Billy that?

10 A. I don't remember. If I had, I probably would have told Billy. Maybe Knepp,
11 too, but I don't remember if I talked with him about it.

12 MR. PAVLOVICH:

13 So you wouldn't remember what their response would have
14 been if you had remembered telling them that?

15 A. No.

16 BY MR. TEASTER:

17 Q. If you would have had a problem with that, would you have felt like you could
18 have went to Billy and said, Billy, I'm uncomfortable with this mining up here that I
19 don't think we should permit it?

20 A. We usually do that in areas where we have pillar mining and it starts getting
21 too wide for instance, or let's see, what other ---. I'm trying to think of some of these
22 other instances. I'm not a big fan of when you're pulling a pillar section back to have it
23 super wide because I think that can cause problems. Again, depending on the cover
24 there, of course, but ---. And I didn't realize the cover was that deep here either. That
25 was another thing. I mean, this mine has been no problem --- basically no problems

1 throughout most of its --- well, throughout all of its history that I can remember. This
2 hasn't been an issue, not a problem with, you know, roof control. It hasn't been an
3 issue with ventilation for the most part. I mean, it's been a pretty --- I don't know,
4 whatever you --- a mine that really hasn't --- hasn't been real high on the radar screen
5 all along.

6 MR. PAVLOVICH:

7 Bill, did you ever get any training on mine emergencies,
8 dealing with a mine emergency?

9 A. I've had them.

10 MR. PAVLOVICH:

11 With MERDS or something like that?

12 A. Actually, I think I was in one at the academy with you when you were --- yeah,
13 at one point.

14 MR. PAVLOVICH:

15 That's like 20 years ago.

16 A. I know. It's been a long ---.

17 MR. PAVLOVICH:

18 I'm talking recently.

19 A. Oh, recently I haven't, no.

20 MR. PAVLOVICH:

21 No, I'm just kidding. That would be more than five years ago?

22 A. Oh, yeah.

23 MR. PAVLOVICH:

24 Okay. And so there's not any regular program that, you know,
25 we train our supervisors or our managers on mine emergencies, organization of a

1 mine emergency, coordination of activities during a mine emergency. Had anything
2 like that lately? Have you ever had anything like that really to your knowledge other
3 than maybe a MERD?

4 A. I don't think so.

5 MR. PAVLOVICH:

6 So the experience you have on responding to a mine
7 emergency and the command center organization, all that is actual experience you got
8 at responding to a mine fire or heating or something to that effect; right?

9 A. Right.

10 MR. PAVLOVICH:

11 And however that command center was organized is what you
12 know?

13 A. Right.

14 MR. PAVLOVICH:

15 Okay. That's the last that I had. Ex. (b)(6) and Ex. (b)(7)(C) you got any questions
16 for Bill?

17 UNIDENTIFIED SPEAKER:

18 Just two things that came up a while back, Bill. You talked
19 about plans that are rushed, you know, sometimes you get plans and it seems like
20 everybody's scattered and there's a scramble and then there's a rush on. Would you
21 say a lot of those are just based on poor planning by the operator, you guys run into
22 that, or is it just based on conditions?

23 A. I think it's both. I would say it's both, and about a 50/50 mix on those.

24 UNIDENTIFIED SPEAKER:

25 What do you guys do?

1 A. A part of the problem is that you tend to be so far behind because we don't
2 have people dedicated that some of these amendments end up being rushes because
3 we just haven't --- you know, we've had other rushes before that and we haven't been
4 able to get to both, kind of things. And sometimes it's conditions.

5 UNIDENTIFIED SPEAKER:

6 What do you do when it's poor planning on an operator's part?
7 How do you guys deal with those? Do you try to have any way of trying to break them
8 of that? I think you know what I'm talking about.

9 A. Yeah, I just usually just throw it on the pile and wait, you know, and we'll get to
10 it when we get to it, kind of thing. And the problem becomes trying to educate them to
11 plan a little bit further ahead. It tends to be difficult because their whole --- their whole
12 system, their whole management system or whatever can't think more than a few
13 hours ahead of time. And so, you know, when you have a management system at the
14 mine that's that way, it then becomes hard to try and get it through their heads that,
15 you know, you got to do a little bit better with your planning here, guys, you know. And
16 then sometimes they just --- you know, they don't understand that. And I don't know
17 why that's such a difficult concept but we have some operators that are out there
18 ahead and they're always trying to plan ahead. Then they have issues that come up,
19 of course. And then you have these others that their whole --- you know, their whole
20 corporate philosophy, I guess, I don't know for lack of a better word, is to not deal with
21 things like that ahead of time.

22 UNIDENTIFIED SPEAKER:

23 Okay. The only other question I have, Bill. On your routing
24 systems or your plan approvals and ventilation, did you guys ever think about putting
25 a routing sheet on the top of each plan where you can add comments, things like that?

1 A. We've been asked about that before, and we've also discussed that before.
2 And we felt that with our system and with the surname block and that kind of thing and
3 any of those people that signs that can reject it, can send it back, that we didn't really
4 see a need to do that.

5 UNIDENTIFIED SPEAKER:

6 I guess why I'm asking is that we had the surname block also
7 on our letters, but we also have a routing sheet, and it's got a box. It's used, as a
8 matter of fact, roof control, it will say coordinated with roof control, you can check that.
9 So the ADM can look at it and can see kind of who's all looked at it, if there's any
10 comments. And it also has a box to check recommend or approve. So it kind of ties
11 those guys down also. Also has a box for --- we run it through the ADM on
12 enforcement just to give them a quick look at it to see if they have any issues with it
13 from the enforcement side, so that's kind of nice when the DM gets that package. He
14 kind of looks and sees who's looked at it and so then you know if anybody's acting,
15 you know, a name, it stands out to you a little more. And there's also a space for any
16 comments that may come up like that. I don't know if you think anything like that
17 would be helpful.

18 A. To me it looks like it would be somewhat redundant to do that based on the
19 way that we do things. Because like I said, anytime somebody doesn't like it, it gets
20 kicked back. So you got to fix it. You know, you got to fix it or explain why it's not the
21 way that they perceive it to be. So there's a lot of, you know, discussions that aren't
22 necessarily documented, but there are discussions that go on that resolve issues or,
23 you know, try and answer questions and things like that.

24 UNIDENTIFIED SPEAKER:

25 I guess maybe I was thinking, Bill, like with you having so

1 many remote offices, even if you had a plan that you discussed with the field office
2 supervisor. Say you got in a plan, you say I want to call Bill Taylor or Ted Farmer,
3 there's a place on there you can say discussed with field office supervisor. So the guy
4 reviewing it knows that you had those discussions.

5 A. Uh-huh (yes).

6 UNIDENTIFIED SPEAKER:

7 And you don't always capture that on a surname box.

8 A. That one you wouldn't capture, you're right. That's true.

9 UNIDENTIFIED SPEAKER:

10 Because you guys have so many remote offices, it's a little
11 tough. So I just wondered if you guys had tossed that around.

12 A. We have. We have. We've talked about it, you know, over the years, and
13 you know, with everybody --- I guess everybody's on the dead run all the time, you
14 know. It's just another step in the --- that it would take time to --- you know, to try and
15 get this done, get these done so we can move on to the next amendment or the next
16 project, whatever the case may be.

17 UNIDENTIFIED SPEAKER:

18 It's helpful when you have to go back in time.

19 A. Oh, yeah, I understand that. But it also puts us further behind, too, on things
20 and makes it more difficult to try and keep our head above water, I suppose.

21 UNIDENTIFIED SPEAKER:

22 Yeah, I understand because, I mean, I'm over plans, and you
23 know, we got about 70 mines and I've got two specialists --- two vent specialists.

24 A. And I think that's impossible.

25 UNIDENTIFIED SPEAKER:

1 A. --- approval was? It was the same day. That was still on ---.

2 UNIDENTIFIED SPEAKER:

3 That was on Tuesday?

4 A. That would have been --- yeah. Pretty sure it was Tuesday. Could have been
5 Wednesday, but I think it was Tuesday.

6 UNIDENTIFIED SPEAKER:

7 Do you know, because that may make a difference on
8 something that I'm working at?

9 A. I can look and see if I got it in my notes.

10 UNIDENTIFIED SPEAKER:

11 Okay. If you could get back with us on that, I'd appreciate it.

12 A. In fact, I think you guys have my notes.

13 UNIDENTIFIED SPEAKER:

14 Actually I think I am looking at your notes here. On me it
15 looks like this discussion on the 14th which would have been Wednesday. And you
16 can maybe look at this later and see if this is what you're talking about. Okay. It says
17 something about with Jim Poulson and must be exactly the same, prior negotiations
18 do not count, so no. Poulson reviewing submittal now. Those are your notes, Bill?
19 That's what it's referring to?

20 A. Yeah, that's it. That's the one I'm talking about, yeah.

21 UNIDENTIFIED SPEAKER:

22 Okay. Well, during that conversation, what do you have the
23 feeling that was going on at the mine? Was they moving everything out getting ready
24 to seal, or was they still up there thinking about anything else they could do?

25 A. I think that at that point the decision was to seal. It sounded to me like the

1 decision was to seal, so they were doing whatever they needed to do to make that
2 happen.

3 UNIDENTIFIED SPEAKER:

4 Okay.

5 A. Which would, you know, a part of that would have been removing the
6 equipment from that area, cleaning the entry to be able to put the seal forms in, things
7 like that.

8 UNIDENTIFIED SPEAKER:

9 Okay. All right.

10 MR. PAVLOVICH:

11 Going down the line Ex. (b)(6) and Ex. (b)(7)(C)

12 UNIDENTIFIED SPEAKER:

13 We got a bunch of SOPs from the different groups. None of
14 them have a date on them. Do you have any idea when the ventilation SOP went in
15 effect, when it was formulated? Is it something that's been around for a long time
16 or ---?

17 A. It's been around a while, but it gets revised as that checklist, which is the bulk
18 of that SOP --- as that checklist needs to evolve based on changes in policy and
19 changes in plan review or regulations and things like that. Then that part of it actually
20 evolves to ensure that we do what we need to do to get that --- to keep those plans up
21 to date as much as we can.

22 UNIDENTIFIED SPEAKER:

23 Is there normally like a cover memo on it to DM, the date?

24 A. I thought there was one.

25 UNIDENTIFIED SPEAKER:

1 Well, some of them have a memo, but none of them have a
2 date. That's why I was wondering like every time you get a new DM, do you redo your
3 SOP?

4 A. We haven't.

5 UNIDENTIFIED SPEAKER:

6 Okay. And do you update it to change a phase-out or do you
7 submit the whole thing again with a ---?

8 A. Well, basically I just print the whole checklist and add it right in.

9 UNIDENTIFIED SPEAKER:

10 So nothing you have has a date on it? I mean, none of the
11 ones we got have any dates on them at all.

12 A. I don't know. I'd say probably if you don't have it that has a date on it, it
13 probably doesn't then.

14 UNIDENTIFIED SPEAKER:

15 And if you do contact the field office about information on a
16 plan addendum, is there any way you can document that you made that contact?

17 A. Sometimes Joe had a backup document that Jeff had and he was using to
18 review those seals. And sometimes we'll just write on that, you know, on the notes
19 that we talked to the field office, you know, about it. But as far as a formal document,
20 no, we don't have that as far as I know. If it's in the backup information or in the
21 documentation that we use to try and evaluate that amendment, it might be there
22 where we just write it in handwriting in there. But as far as a formal, no.

23 UNIDENTIFIED SPEAKER:

24 Okay.

25 A. Not for the amendments.

1 UNIDENTIFIED SPEAKER:

2 Follow up on what ^{Ex. (b)(6) and Ex. (b)(7)(C)} was saying, I guess, in District 5 they
3 use a routing slip, and in 3 we use a surveying box, but our top box is contact the field
4 office and the date. It might be something that kind of fits in with what you're doing. It
5 kind of documents that we contacted the field office on this date about this
6 amendment. And you said that you hadn't done any six-month reviews for probably a
7 couple years. But when you did do them, how did they document the specialist that
8 did the review? Was there a memo or was there any kind of in-house form?

9 A. That checklist that's attached to the SOPs, that's filled out for every six-month
10 review.

11 UNIDENTIFIED SPEAKER:

12 Where does it go?

13 A. Goes in the file.

14 UNIDENTIFIED SPEAKER:

15 In the main file?

16 A. Yeah, in our ventilation files in fact.

17 UNIDENTIFIED SPEAKER:

18 So it's not like a memo to the DM, it's just a checklist of the
19 file?

20 A. Yeah, but he has that. He has that checklist when he does his signing. The
21 folder actually has another folder contained inside of it, and the folder that's contained
22 inside of it has all the backup documentation that we used to evaluate that plan, to
23 review that plan, including the checklist, including any 2000-204s, any information that
24 we've gotten from the field office, any --- you know, any of that kind of thing. And that
25 goes in as part of a packet. And that's all kept together as part of the six-month

1 review, okay. And then that whole file with all that information documented it then
2 gets stuck in behind the whatever we're approving or disapproving as the case may
3 be. So it's all in one folder. And then as it travels from the specialist to me and on up,
4 all of that information on what was used to review that plan is all in the same general
5 packet.

6 UNIDENTIFIED SPEAKER:

7 But that would never get to the uniform mine file? That would
8 just be ---?

9 A. No, that's just backup information. The only thing that goes to the uniform
10 mine file is the approval.

11 UNIDENTIFIED SPEAKER:

12 The plan itself?

13 A. Yeah. It's the approval stuff.

14 UNIDENTIFIED SPEAKER:

15 Okay. You said that you couldn't contact tech support about a
16 problem unless you write a memo through Al Davis to the chief division of safety?

17 A. Right. That's what --- in the last few years that's was our instructions from Mr.
18 Kaylitch (phonetic) and Mr. Urosek to go ahead and do that because tech support
19 didn't want to take the responsibility to prioritize projects nationwide.

20 UNIDENTIFIED SPEAKER:

21 Do you have that in writing? Is that in writing or ---?

22 A. No, it was at a meeting. There was a meeting of vent supervisors in Beckley.

23 UNIDENTIFIED SPEAKER:

24 Never heard of that before.

25 A. Well, Billy hadn't either.

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MR. PAVLOVICH:

So it's just for vent supervisors?

A. It was just for vent. Well, yeah, because it was --- Urosek was at the meeting and he's the one that spouted off about it, and then Kaylitch picked up on it and said, okay, well, this is the way that we'll have to deal with it.

MR. PAVLOVICH:

Okay. So it never came out in writing, it just was told you that at the vent supervisor's meeting?

A. No, right.

MR. PAVLOVICH:

Okay.

UNIDENTIFIED SPEAKER:

And that's been two, two and a half years?

A. Well, it's been at least --- I'd say it's been at least three years ago.

UNIDENTIFIED SPEAKER:

Three?

A. Three, four, something like that.

UNIDENTIFIED SPEAKER:

One last one. In 1997 there was two 101-Z petitions granted for Crandall Canyon. There was belt air and one to put the belt in return. And it was based on or justified by bump-prone area. Then when you look at the big map at the very north, there was a whole series of places where they drove five entry panels and pillars.

A. You're talking ---?

UNIDENTIFIED SPEAKER:

1 At the mine hole panels you have two-entry development?

2 A. Right.

3 UNIDENTIFIED SPEAKER:

4 And then to the --- this would be to the east of that but still up
5 north of main west.

6 A. Up here, up in here.

7 UNIDENTIFIED SPEAKER:

8 You know, where all these panels drove up five entries and
9 the pillars back, skip some pillars for whatever reason. Explain that to me. How can
10 we justify two entries because of bumps and then on the other hand we drive multiple
11 entries right next to it?

12 A. This particular mine actually had a stipulation in there where --- and I don't
13 remember the exact depths, but above a certain depth they had to use two entry,
14 between two depths they had to --- or they could use two entry but didn't have to, and
15 below certain depths they couldn't use the two entry, this particular mine. How that all
16 came to pass, I'm not real sure, to be honest with you. That was a ground control --- I
17 mean, it's a ventilation regulation, but it's a ground control issue. And exactly how that
18 came to pass, I honestly can't tell you. I don't remember. But this is the only mine in
19 the district that has a restriction on cover or had a restriction on cover for when you
20 could and when you couldn't use two entry.

21 UNIDENTIFIED SPEAKER:

22 Well, the way I read it was anything over 2,000 foot was
23 covered by the petition, but less than 2,000 foot could be approved by the district
24 manager anyway, is kind of the way the wording was.

25 A. But there was another one in there, too, where they ---.

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UNIDENTIFIED SPEAKER:

That's what I found. So they could still do it, but it had to be approved by the DM?

A. Yeah.

UNIDENTIFIED SPEAKER:

It did read a little different than what you're telling us.

A. It's different than every other one that we had. How that exactly came to pass and how they justified that, I really can't answer you there. I don't know. That petition's been out there since what, 2000, '99?

UNIDENTIFIED SPEAKER:

1997, 1997.

A. '97, okay.

UNIDENTIFIED SPEAKER:

Did you know of any petitions for two entry being disapproved or done away with because --- or maybe it no longer applied?

A. No, I don't think so.

UNIDENTIFIED SPEAKER:

So pretty much once they get one, they got it?

A. Yeah. Well, in fact, we had an issue come up kind of along those lines where Trail Mountain had the two entry petition granted to them, and then they shut the mine down, sealed the mine. And one of our procedures when they get a mine seal is to pull all their plans, all their vent plans, and send a memo to Arlington to pull all their petitions. And that particular mine, they wouldn't pull that petition even though the mine was sealed until they changed the assistant secretaries. And when they changed assistant secretaries we sent the memo in again and got it pulled.

1 MR. PAVLOVICH:

2 Those two entry systems are near and dear to their heart.

3 A. I know, but they don't need a petition. And we've run into some issues in the
4 past where not with the petition as much as with plans, if somebody --- if you don't
5 immediately pull all their plans once they seal the mine or whatever, then that may
6 come back to haunt you later. Well, this is what we had approved. This is still
7 approved, we're going to use this when we go to reopen and go back in. No, you can't
8 do that. That's all too old. It's old regulations, it's old this, you know. Now, from ---
9 you know, from then on, well, it was being done before that but this one particular
10 instance for some reason that plan didn't get pulled. I don't know why. But anyway,
11 so when these mines get done and they've got petitions that would pertain to
12 something that probably should get updated, then we worry about getting them pulled
13 as fast as we can. And then they have to submit it all new with all of the latest and
14 greatest and new stuff in it. Because once a petition is granted it's almost impossible
15 to get things upgraded, updated, upgraded in it. That's why you see so many different
16 variations of the same regulation depending on what year it got approved between the
17 various mines.

18 MR. PAVLOVICH:

19 Okay. Ex. (b)(6) and Ex. (b)(7)(C)

20 UNIDENTIFIED SPEAKER:

21 Bill, going back to a line of questioning about the DM
22 overriding you on plan approval issues and I believe you said it had occurred under all
23 three DMs which you worked under; correct?

24 A. Right.

25 UNIDENTIFIED SPEAKER:

1 A. We talked specifically about the ventilation-related issues.

2 UNIDENTIFIED SPEAKER:

3 Okay. And then when there was a question about when Billy
4 might have talked to them and you said not at that time, but you indicated that later
5 when you found out about what he talked to them about relating to that?

6 A. No, I don't know about what he talked to them about, but that I found out later
7 that he had talked to them. I don't know when or what about specifically.

8 UNIDENTIFIED SPEAKER:

9 Okay. That wasn't in the conversation with Billy whether he
10 related anything to you specific to that? You just found out in passing in some
11 relevant ---?

12 A. Right, right.

13 UNIDENTIFIED SPEAKER:

14 Okay. That's all I wanted to know, if you knew anything else
15 more about that.

16 MR. PAVLOVICH:

17 Ex. (b)(6) and Ex. (b)(7)(C)

18 Ex. (b)(6) and Ex. (b)(7)(C)

19 Q. I just have one quick question for you. You mentioned when Ernie asked you
20 about what your thoughts were when you looked at a map of gobs on the side in
21 mining those barriers and you said, well, everybody knows I'm not a big fan, and that
22 you may have had a conversation with Billy Owens. Is he receptive to people's input
23 without, you know, having specifically sought your comments on something like that?

24 A. Oh, yeah.

25 Q. He is?

1 A. Yeah. No, I've never had any trouble with that ever.

2 Q. So if you did have that conversation, you think he would have taken it under
3 consideration or advisement in his review?

4 A. Absolutely.

5 Q. Thank you.

6 A. Absolutely, he would have. We had a pretty good working relationship back
7 and forth, you know.

8 Q. Well, yeah. It sounds like you have.

9 A. And we really didn't have a whole lot of choice because it was kind of
10 interrelated, a lot of the stuff that we kind of do is interrelated. And so, you know, his
11 viewpoint and my viewpoint is that we really don't have a lot of choice. We have to
12 work together to try and get the best attainable plans both roof, vent, and any of the
13 others to address the health and safety of the miners.

14 Q. The two of you are peers or were peers?

15 A. Right, right.

16 Q. I guess is he as intimate with other people who may not be ---?

17 A. He's pretty open.

18 Q. Say coming from anybody, you know, take them under advisement, I
19 suppose?

20 A. Oh, yeah. Oh, yeah.

21 Q. Not territorial over it?

22 A. He's not. Uh-uh (no).

23 MR. PAVLOVICH:

24 Bill, that's all the questions we have. Is there anything that
25 you would like to share with us that we haven't brought up?

1 A. It sounds like you brought up pretty much everything, you know.

2 MR. PAVLOVICH:

3 Does that mean no?

4 A. I don't know that there's anything new.

5 MR. PAVLOVICH:

6 So there's things that we asked you weren't anticipating?

7 There were some things you anticipated that we didn't ask?

8 A. More the former rather than the latter.

9 MR. PAVLOVICH:

10 Would you like to answer the things that you anticipated that
11 we didn't ask?

12 A. No. No, I was anticipating some of them and you asked them all, you know.

13 There was others that you asked that I wasn't anticipating.

14 MR. PAVLOVICH:

15 Okay. Well, ---.

16 MR. TEASTER:

17 We appreciate your taking time out of your schedule. We
18 know you have a big workload and ---.

19 A. If you can get us some more people, I'd really appreciate it.

20 MR. PAVLOVICH:

21 Well, believe me ---.

22 MR. TEASTER:

23 That's something we're looking into.

24 A. It's very frustrating.

25 MR. PAVLOVICH:

1 I can --- well, I think we all can see your frustration with that
2 and the shuffling of people and the ability to approve and I think ---.

3 A. Probably. I know you did an interview --- at least I heard you did interviews
4 with Billy before, some time before.

5 MR. PAVLOVICH:

6 Right.

7 A. And ---

8 MR. PAVLOVICH:

9 Billy had notes we didn't know about.

10 A. --- I'm sure he probably said the same --- yeah. He has ---.

11 MR. PAVLOVICH:

12 He had Pete.

13 A. Yeah. And Pete, you know, he's a smart guy.

14 MR. PAVLOVICH:

15 But he couldn't do them.

16 A. He's a smart guy, but he doesn't have the background or the experience, the
17 training or anything else. He's a new kid just like my son is, you know. They're
18 learning.

19 MR. PAVLOVICH:

20 We appreciate ---.

21 A. And they have to learn, but ---.

22 MR. PAVLOVICH:

23 We appreciate your interview and your honesty with us and
24 certainly your dedication to your job that you've done for a lot of years here, Bill. I've
25 known you for a long time. I think you're very dedicated to what you do and very

1 forthright just to --- in putting forth your ---.

2 A. I just try. That's all I can do is try the best I can, but it does become --- you
3 know, in the last couple of years the frustration levels have been --- not only with me
4 but with everybody, you know. Especially with the issues with these new, new
5 regulations and some of the direction changes during review processes where now
6 you have to start over or start at least a portion of it over or lack of direction as the
7 case may be on this seal debacle all the way through. Boy, it's just been ---.

8 MR. TEASTER:

9 Well, we recognize you guys have got some unique situations
10 and circumstances out here and we're glad that we got folks like you out here doing
11 them.

12 A. Trying to anyway. Joe's been out here and knows some of the conditions and
13 some of the differences, I suppose. You probably more than anybody, differences
14 between our conditions here and the conditions in Kentucky and some of the other
15 places you've been.

16 MR. TEASTER:

17 Well, again, we thank you for coming and sharing, being
18 candid with us, and we'll again ask you not to discuss this interview until we've
19 completed all the interviews.

20 A. That's fine.

21 MR. TEASTER:

22 Wish you the best of luck.

23 A. Thanks a lot.

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